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IN THE SUPERIOR COURT OF WALKER COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA

\*

V.

\*

CASE NO: # 03-CR-20884; 03-CR-00885  
03-CR-20886; 03-CR-20887

TOMMY RAY-BRENT MARSH

\*

**FILED IN OFF**

JAN-07 2004

MOTION TO QUASH SUBPOENA AND  
NOTICE OF INVOCATION OF O.C.G.A. §. 24-9-23

*Bice madam*  
Clerk

COMES NOW, Venessa Marsh, by and through Counsel of Record, James M. Setters,  
hereby makes a special limited appearance to contest the following:

- 1 Order commanding her to appear on behalf of the Court ; and
2. Subpoena issued by the State of Georgia

and gives this Honorable Court notice under O.C.G.A. § 24-9-23 of her respectful refusal to testify in this criminal proceeding concerning the defendant, to wit: Tommy Ray-Brent Marsh.

Petitioner further shows this Honorable Court that the spousal witness privilege in Georgia is a complete bar against the compulsion of testimony from a witness called to testify either for or against the spouse of the called witness, even if the underlying marriage is moribound. Brown v. State, 261 Ga. 66 (1991) see division 5 (d). Furthermore, the privilege not to testify may be invoked by the witness spouse even if he or she has testified for or against the defendant spouse in a previous hearing.” Brown v. State, 261 Ga. 66 (1991) see division 5(c).

Petitioner further shows this Honorable Court that any Order or Subpeona compelling her to testify is in violation of said code section and should be rescinded or quashed.

Wherefore Petitioner prays:

- 1) that this Honorable Court Rescind its order requiring her to Testify; and

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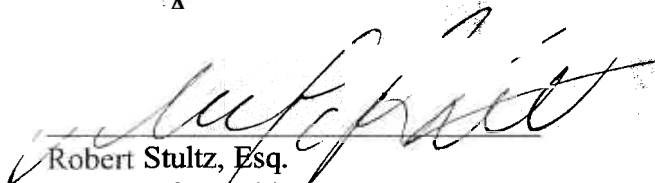
2) Quash any and all subsequent Subpoenas that have been issued against her.

Respectfully Submitted this 7<sup>th</sup> day of January, 2004.



James M. Sattars, Esq.

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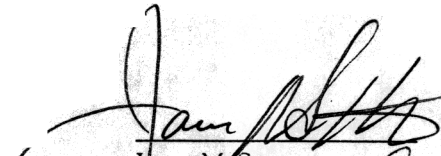
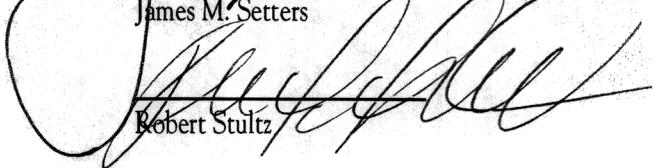
Robert Stultz, Esq.  
Attorney for Petitioner  
376 Cloud Springs Road  
Fort Oglethorpe, GA 30742

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Quash Subpoena and Notice of Invocation of OCGA 24-9-23 has been delivered to Herbert E. (Buzz) Franklin, Jr., District Attorney, or one of his lawful Assistant District Attorneys, Walker County Courthouse, Lafayette, Georgia.

This 7<sup>th</sup> day of January, 2004.

  
James M. Setters  
  
Robert Stultz  
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