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**SUPREME COURT OF THE STATE OF NEW YORK
QUEENS COUNTY**

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THE PEOPLE OF THE STATE OF NEW YORK, : By: STEVEN W. FISHER, J.
Part J-25
vs. :
Indictment No. 1845/2000
JOHN TAYLOR, : Indictment No. 1012/2001
Defendant. : Dated: , March 27, 2002

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DECISION ON DEFENDANT’S MOTION #22 & N

This is a motion by defendant John Taylor for an order directing that his trial be conducted at the Jamaica courthouse located at 88-11 Sutphin Boulevard.

In the two indictments before the court, defendant John Taylor stands charged with murder in the first degree and lesser crimes in connection with a robbery and shooting that left five persons dead and two injured inside a Wendy’s restaurant in Flushing, Queens. Pursuant to section 250.40 of the Criminal Procedure Law, the People have served and filed a notice of intent to seek the death penalty.

The defendant seeks to have the upcoming trial on the indictments transferred from the Kew Gardens facility of the Queens Supreme Court to its Jamaica facility. He argues that the transfer is necessary because of the presence of a Wendy’s restaurant across the street from the Kew Gardens courthouse, and a poster advertising the restaurant at a bus stop a block away. He argues that "[t]hese icons of the ‘Wendy’s Massacre’ – a constant reminder of the human toll in this case – are more than a mere symbol, for the restaurant itself will have real people walking in and out of its doors." (Motion #22, Defendant’s Memorandum of Law at p.1.) He fears that, "[t]hrough its transparent glass walls, Wendy’s employees will be visible from the street, garbed in the same attire worn by [the victims] when their work routines and lives were so terrifyingly interrupted and brought to an end by the acts [the defendant] stands accused of committing." (*Id.*)

The Jamaica courthouse, in which only civil and matrimonial cases are now heard, is undergoing a renovation project that is scheduled to continue for more than a year. As Administrative Judge of the Supreme Court, I conclude that the defendant's forthcoming trial, which in all likelihood will require the *voir dire* of hundreds of prospective jurors (*see, e.g.*, Defendant's Motion #27 & T, Affirmation of John Youngblood, Esq., at p. 4), cannot be accommodated in the Jamaica courthouse. Moreover, jurors and prospective jurors can be instructed not to enter or go near any Wendy's restaurant during the course of the proceedings.

Accordingly, the defendant's motion should be denied in all respects.

It is so ordered.

Justice