

STATE OF INDIANA            )  
  )ss:  
COUNTY OF CARROLL        )  
  
STATE OF INDIANA            )  
  )  
vs.                                )  
  )  
RICHARD M. ALLEN            )

IN THE CARROLL CIRCUIT COURT  
  
CAUSE NO. 08C01-2210-MR-000001

**VERIFIED MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

Comes now Attorney, Bradley A. Rozzi, and in support of his Motion for Temporary Restraining Order and Preliminary Injunction, now swears and affirms as follows:

1. On or about November 14, 2022, Attorney Rozzi entered his appearance on behalf of Defendant Allen;
2. On or about November 14, 2022, Attorney Baldwin entered his appearance on behalf of Defendant Allen;
3. Both Attorney Baldwin and Attorney Rozzi continue to represent Defendant Allen as of the date of this Motion;
4. Defendant Allen is currently incarcerated in the Westville Correctional Facility pursuant to the November 3, 2022, and April 14, 2023, Safekeeping Orders;
5. Defendant Allen remains incarcerated in the maximum-security unit of the Westville Correctional Facility where Attorneys Rozzi and Baldwin are required to travel to engage in in-person attorney-client communications;
6. At various times between November of 2022 and April of 2023, both Attorney Rozzi and Attorney Baldwin visited Defendant Allen in the maximum-security unit at Westville Correctional Facility. During the visits, Attorney Rozzi and Attorney Baldwin were allowed to possess their cellphones and computers to assist with their attorney-client dealings. Said visits typically occurred in the office of the Captain of the Westville Correctional Facility or other office spaces which appeared to be reserved for

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administrative uses. Other than the presence of an officer placed immediately outside the door of the various meeting spaces, until a visit on or about Friday April 21, 2023, some semblance of privacy was offered up to the Attorney(s) and Defendant Allen;

7. On or about April 5<sup>th</sup>, 2023, Attorneys for Richard Allen, filed an Emergency Motion to Modify Safekeeping Order. Said Motion contained various allegations regarding the unacceptable conditions under which Defendant Allen has and continues to be detained. In response to this Motion, the Court essentially, re-affirmed the original Safekeeping Order, deferring matters of Defendant Allen's incarceration to the Indiana Department of Corrections;

8. On or about Friday, April 21<sup>st</sup>, 2023, Attorney Baldwin and his staff member, visited Defendant Allen at the Westville Correctional Facility. At all times during the visit, Attorney Baldwin, his staff member and Defendant Allen were under the constant surveillance of correctional staff who also videotaped the attorney-client conference, through a window, just outside of the meeting room under conditions similar to that which are referenced in paragraph "9" below. Additionally, unlike the previous visits that occurred before filing the April 5, 2023 Motion, Attorney Baldwin was prohibited from bringing his cellphone into the visit;

9. On May 4, 2023, Attorney Rozzi and his staff member visited Defendant Allen at the Westville Correctional Facility. Attorney Rozzi and his staff member were placed inside an administrative office which was approximately 12 feet by 8 feet in size. The room contained approximately four separate padded chairs and a desk. On one end of the room, there were windows facing the outside and on the other end of the room, there was a window facing the interior hallway of the maximum-security unit. Attorney Rozzi offered up to Defendant Allen one of the padded seats in the room. The correctional staff required that Defendant Allen sit in a plastic chair, in the center of the room facing the interior window. Defendant Allen was approximately 8 feet from the window. The chair was situated such that Defendant Allen was facing directly at the interior window (and directly into the video camera). A correctional officer was then stationed on the opposite side of the window, in the hallway, with a video camera which pointed directly at Defendant Allen and also in the direction of Attorney Rozzi and his

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staff member who were sitting right next to Defendant Allen. Attorney Rozzi is of the belief that the entire visit, which lasted approximately one hour, was videotaped by prison staff. Never before has Attorney Rozzi experienced such an infringement on an accused's right to confidential communications with counsel;

10. It is also noteworthy that Attorney Rozzi was prohibited from possessing his cellphone and laptop computer during the visit. As a result of this, Attorney Rozzi had no ability to discuss with Defendant Allen, any part of the voluminous discovery that has been offered up to the defense in this case;

11. Accordingly, Attorney Rozzi respectfully requests that this Court issue a temporary restraining order, pursuant to Rule 65(B), prohibiting the Indiana Department of Corrections from videotaping the attorney-client visits as well as authorizing Attorney Rozzi and Attorney Baldwin to have access to their laptop computers and cellphones during said visits. Attorney Rozzi alleges the following in support of his request:

- a. that immediate and irreparable injury, loss, or damage will result to Defendant Allen in the absence of the issuance of such an Order;
- b. the moving party is reasonably likely to prevail on the merits as the Defendant has a fundamental right to confidential attorney-client communications at all times during the pendency of his case;
- c. the threatened injury to the moving party if an injunction is denied outweighs the threatened harm to the adverse party if the injunction is granted; and
- d. the public interest will be disserved if injunctive relief is not granted.

Attorney Rozzi further certifies that he has provided a copy of this notice to Elise Gallagher, Attorney for the DOC, simultaneously with the filing of this request;

12. Attorney Rozzi further requests that this Court issue a preliminary injunction, affording the relief requested in paragraph "11" above, after notice to the adverse party and a hearing on the merits of said request;

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