

STATE OF INDIANA) IN THE CARROLL CIRCUIT COURT
) ss:
COUNTY OF CARROLL) CAUSE NO. 08C01-2210-MR-000001

STATE OF INDIANA)
Plaintiff)
v.)
)
RICHARD ALLEN,)
Accused)

VERIFIED PETITION FOR RECUSAL OF PROSECUTOR FROM CONTEMPT PROCEEDINGS

Come now Attorneys Baldwin and Rozzi, by counsel, and respectfully petition the Court to recuse Prosecutor McLeland from any contempt proceedings. In support of this Petition counsel states:

1. On January 29, 2024, the elected prosecutor of Carroll County, filed a “Verified Information of Contemptuous Conduct”
2. All of the alleged acts or omissions in that pleading are more than a year old.
3. That pleading was filed the day after Attorneys Baldwin and Rozzi were reinstated as appointed counsel for the Accused.
4. Mr. McLeland made no effort to seek punishment for defense counsel in the intervening one year.
5. Whether defense counsel were disqualified or not, if Mr. McLeland truly felt they should be punished for acts and omissions he would have filed his pleading sooner.
6. The facts and circumstances of the filing, the delay, the timing and the allegations all indicate a personal, vindictive attack on defense counsel or ulterior purpose. That filing also does not comport with the rules, statutes and caselaw regarding contempt proceedings.
7. The allegations are frivolous and unfounded.

8. Mr. McLeland accessed, read and quoted a defense pleading that was filed *ex parte*.
9. Mr. McLeland's theory on one of his accusations is that defense counsel should have voluntarily communicated with him and the Court an accidentally misdirected e-mail. Yet, he did not voluntarily report that he had accessed an *ex parte* pleading
10. Despite Mr. McLeland's protestations of an innocent mistake in a later filing: a) no other attorney of record could access that pleading, b) the CCS clearly stated *ex parte*, which Mr. McLeland would have seen before opening the document, c) Mr. McLeland is a lawyer with nearly fifteen years' experience and knew, or should have known, that *ex parte* means not to be accessed by or shared with opposing counsel and e) Mr. McLeland having opened the pleading would have seen the title which specified *ex parte* but he read it anyway because he quoted a portion deep in the document. The concept of innocent mistakes by attorneys will be a part of the evidence at any contempt hearing.
11. Mr. McLeland had communications with a person that had confidential information which they publicly disseminated and claimed who their sources were but Mr. McLeland did not report that information or direct anyone to investigate it. Those exchanges will be evidence at any contempt hearing.
12. Prior to filing his request for contempt Mr. McLeland had not received or reviewed all of the results and interviews related to his accusations. That will be a part of the evidence at any contempt hearing.
13. Mr. McLeland was present at unrecorded conferences with the Court that impact his allegations and will be part of the evidence at any contempt hearing. He will be called as a witness to corroborate the testimony of other witnesses.
14. Mr. McLeland will be called as witness at any contempt hearing. He has been so advised yet

has not withdrawn as counsel for the State for any such hearing or designated either of the two other prosecutors on the case to litigate his contempt allegations.

WHEREFORE; counsel prays the Court to bar Prosecutor McLeland from participating in any contempt proceedings.

Respectfully submitted

/s/ David R. Hennessy

VERIFICATION

I swear, under penalties for perjury, that the foregoing representations are true to the best of my knowledge and belief.

/s/David R. Hennessy

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon all counsels of record at the time of filing.

/s/ DAVID R. HENNESSY

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