

STATE OF INDIANA)
)SS:
COUNTY OF CARROLL)

IN THE CARROLL CIRCUIT COURT 1
CAUSE NO.08C01-2210-MR-000001

STATE OF INDIANA)
)
 v.)
)
RICHARD ALLEN)

AMENDED MOTION TO COMPEL and REQUEST FOR SANCTIONS

Comes now the accused, Richard Allen, by and through counsel, Andrew Baldwin and Bradley Rozzi and amends the Motion to Compel and Request for Sanctions which was filed on March 12, 2024. In support of said motion, the accused states the following:

1. On March 12, 2024 the accused filed his motion to compel the State of Indiana to provide certain answers concerning the existence of certain discovery and if it existed, to provide the actual discovery.
2. On March 8, 2024, the State of Indiana did in fact provide some of the answers to some of the questions concerning some of the discovery. Counsel's unawareness of this response is a result of a flurry of communications and filings that have occurred between the State, the defense, and the Court since Attorney Baldwin and Rozzi were reinstated by the Indiana Supreme Court.
3. However, there is still outstanding discovery that the State of Indiana claims does not exist, when common sense causes the defense to believe that the evidence must exist.
4. Therefore, based upon the State of Indiana's March 8, 2024 correspondence answering a certified letter overnighted to the prosecution on February 20, 2024, the defense can pair down its request concerning certain documents as the State of Indiana has answered certain questions concerning certain discovery previously found in paragraph 69 of the Motion to Compel and Request for Sanction.
5. Therefore, the defense would amend paragraph 69 of the original Motion

to Compel and Request for Sanction and ask the Court to compel the State to produce the following:

- a. The State of Indiana provided two undated reports never seen by the defense:
 - i. The first report provided some detail as to how the State of Indiana explained that certain videotaped recordings between February 14, 2017 and February 20, 2017 (which would include Brad Holder's interview) were erased. Therefore, that request has been satisfied.
 - ii. However, the other report details how all videos between April 28, 2017 and June 30, 2017 were also lost. This is news to the defense as the defense was aware that certain videos did not contain audio, but was unaware that videotaped interviews between April 28, 2017 and June 30, 2017 were missing. This is most concerning.
 - iii. Additionally, it appears to the defense that the report is incomplete as it details attempts to recover the lost interviews, including purchasing some type of equipment from China to assist in recovering the lost interviews. However, that is where the report ends. It is unknown whether the equipment from China was ever purchased or if an attempt to recover the missing interviews was attempted.
- b. Based upon paragraph 5aii above, the defense requests the Court to compel the State of Indiana to provide the **complete** report of law enforcement attempts to recover the missing videotaped interviews.
- c. Based upon paragraph 5aii above, the defense would be requesting the Court to compel the State of Indiana to provide a listing of all persons whose interview was videotaped but lost, but unfortunately according the State of Indiana, "There is no comprehensive written log that was used to document date, time, subject and participants for each interview room." The Defense seeks supplemental information as to which law enforcement individuals may have interviewed suspects and or witnesses during that time period and any reports reflecting the occurrence of such interviews and summaries thereof.
- d. Again, it is extremely concerning to the defense and Mr. Allen that potential exculpatory witnesses and statements are apparently

forever lost and not even a log of which witnesses were interviewed exists. Furthermore, it is very disconcerting that the defense just learned of this lost evidence and only upon request of the defense of such a report and more than 14 months after the defense should have learned of this lost evidence.

- e. Totaling the missing days of interviews (February 14-February 20, 2017 and April 28 – June 30, 2017) would show that the State of Indiana has lost 70 days' worth of interviews and claims to have no ability to fully account for who was interviewed during those 70 days.
6. In its March 8, 2024 response, the State of Indiana failed to produce similar reports explaining how the audio is missing on certain videos. The Defense would request the Court to compel the State of Indiana to issue a report detailing why no audio exists.
7. The defense requested the existence of certain phone dump data from certain phones.
8. In response, the State of Indiana claims that no phone dump evidence exists from Kelsey German's phone(s), nor Mike or Becky or Cody Pattys' phones and furthermore that the Prosecutor's office does not possess any phone dump data from those phones.
9. However, it is still unknown whether that phone dump evidence did exist at some point in time, which question is more than fair considering the loss of 70 days of investigative activity as referenced above. It would be hard to believe that law enforcement would not have obtained the phone dump data from the parties identified in this paragraph (Kelsey German, Mike, Becky and Cody Patty) to at least determine timelines.
10. Because the State of Indiana has lost other important pieces of evidence (i.e. 70 days' worth of videotaped interviews). The defense would therefore ask this Court to compel the State of Indiana to answer as to whether phone dump data ever existed and if so, what came of it.
11. The defense would compel the Court to order the State of Indiana to provide all geofencing data and the names of the actual person or persons that interpreted the geofencing data, including the person or persons that reduced the geofencing data to a map that has been provided to the defense.
12. In preparing for trial and for a contempt hearing and reviewing newly

discovered evidence, the defense and its limited staff has had limited time to fully review the State of Indiana's response and to compare it to the requests of the defense.

13. However, for now, the defense would request the Court to compel the State of Indiana to produce the items detailed in paragraphs 5-11 above.

Wherefore, the accused moves this court to amend its first motion to compel, and to compel the State of Indiana to respond to paragraphs 5-11 above.

Respectfully submitted,

/s/ Andrew J. Baldwin
Andrew J. Baldwin, #17851-41

/s/ Bradley A. Rozzi
Bradley A. Rozzi, #23365-09

CERTIFICATE OF SERVICE

I certify that I have served a copy of this document by the County e-filing system upon the Carroll County Prosecutor's Office on 17th day of March, 2024.

/s/ Andrew J. Baldwin
Andrew J. Baldwin, #17851-41
BALDWIN, PERRY & WILEY, P.C.
150 N. Main Street
Franklin, Indiana 46131

/s/ Bradley A. Rozzi
Bradley A. Rozzi, #23365-09
HILLIS, HILLIS, ROZZI & DEAN
200 Fourth Street
Logansport, Indiana 46947