

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

STATE OF INDIANA)
)
vs.)
)
RICHARD M. ALLEN)

**DEFENDANT’S RESPONSE TO STATE’S MOTION TO ENTER
PROTECTIVE ORDER FOR EVIDENCE GATHERED FROM
THE INDIANA DEPARTMENT OF CORRECTION**

Comes now the Defendant, Richard M. Allen, by Attorney, Bradley A. Rozzi, and respectfully requests that this Court deny the State’s Motion to Enter Protective Order for Evidence Gathered from the Indiana Department of Correction file-marked March 17, 2024. In support of said Motion, Defendant Allen states as follows:

1. On March 17, 2024, the State filed a Motion to seek a protective order limiting the Defense from conducting discovery during forthcoming depositions of DOC employees;
2. Three DOC employees are currently scheduled to be deposed by the Defense on March 22, 2024, in Carroll County, Indiana;
3. TR 26 authorizes parties to obtain discovery by way of depositions upon oral examination. Defendant Allen’s attorneys have made arrangements to depose DOC employees J. Galipeau, R. Jones, and J. Robinson. Subpoenas were issued in this regard;
4. TR 26(B) defines the scope of discovery as follows:

(B) Scope of discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:
(1) In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject-matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

5. TR 26 authorizes a defendant to conduct discovery regarding matters that may not even be admissible at trial. Therefore, the rules are titled in favor of a liberal fact finding process by the deposing party;

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6. All three potential deponents have exercised some dominion and control over the detention of Richard Allen while incarcerated at the Westville Correctional Facility. It is believed that this has included, but not been limited to, transporting Defendant Allen within the grounds of the Correctional Facility. It also appears to have included contact with Defendant Allen in a private solitary setting (within the confines of the maximum security unit at WCF) wherein the deponents would have had the ability to communicate with Defendant Allen in a private manner;

7. It is also true that during Defendant Allen's detention at the Westville Correctional Facility, at least two of the deponents (R. Jones and J. Robinson) have worn patches on their prison uniforms and hence, publicly displayed their connection with Norse Pagan spiritual/religious beliefs. Evidence of the existence of these patches were provided as Exhibits to the Franks Motions previously filed with this Court. One particular sect of the Norse Pagan belief system is called "Odinism;"

8. The connection of either one or both of the Officers to Odinistic practices is undisputed and corroborated by a patch worn by one of the Officers which read "In Odin We Trust." Again, this information has been offered up to the Court by way of the former Franks filings and Exhibits attached thereto;

9. It has also been established by the Defense throughout this legal proceeding, that law enforcement have expended resources investigating a number of individuals potentially involved in the crimes in question. Law enforcement determined that these individuals were engaged in Odinistic practices, the same spiritual occult which is at the very least, indirectly associated with the patches found on the uniforms of Jones and Robinson. The uniqueness of these two connections would make it very unlikely that this is nothing more than a coincidence;

10. The State now wishes to limit Defense Counsel from pursuing one of its theories of Defense through the use of Trial Rule 26(C);

11. The State makes a general claim that permitting the Defense to conduct discovery regarding the personal beliefs and practices of the three deponents would somehow be oppressive or unduly burdensome on the deponents;

12. The State's claim is contradicted by its own October 10, 2023, filing titled "Response to Defendant's Verified Motion for Immediate Transfer of Custody." Attached to said response were three separate Affidavits which were signed by the prison employees referenced above. The Affidavits executed by R. Jones and J.

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Robinson communicate that they do in fact have connections to Norse Pagan spiritual practices. The extent of those practices is clearly in dispute;

13. The Affidavit by J. Galipeau also acknowledges his belief regarding the presence of Odinistic practices at his Correctional Facility;

14. The State of Indiana has offered this information up in their own public pleadings and now desires to limit the Defense's discovery in this very regard. This is to say that State is actually seeking to shield the DOC employees from scrutiny regarding their own sworn, and publicly filed statements;

15. It is also assumed that both R. Jones and J. Robinson wear these patches on their public uniforms on their way to and from the work-place. More evidence of their public display of their personal beliefs;

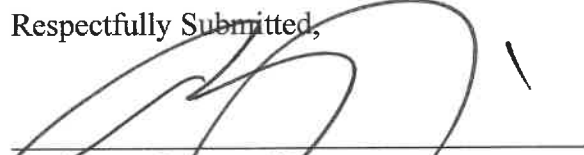
16. The Defense's ability to question any of the three State employees regarding affiliations with Odinism or other similar Norse Pagan practices is not only relevant, it is material to Richard Allen's defense;

17. The State has offered up no specific proof/facts that there is any oppression or unduly burdensome circumstance that would justify limiting Richard Allen's discovery practices, just general references to the standard articulated by the rule;

18. To the extent the Court desires to protect what the State has already publicly broadcasted through its pleadings, Defendant Allen would be willing to agree, by way of TR 26(C) to some form of Order that would prohibit the future dissemination of the personal practices of either one or more of the deponents unless by way of a sealed pleading or unless it is otherwise admissible at trial; and

19. It is for these reasons that Defendant Allen requests that this Court deny the State's Motion to Enter Protective Order filed March 17, 2024, and for all other just and proper relief in the premises.

Respectfully Submitted,

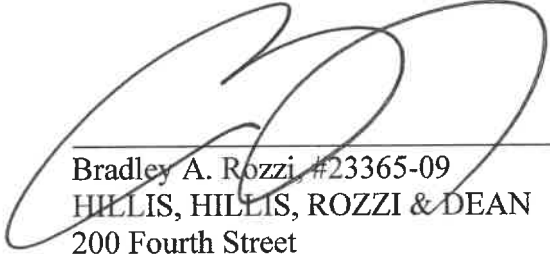

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CERTIFICATE OF SERVICE

I certify that I have served a copy of this document by the County e-filing system upon the Carroll County Prosecutor's Office and Andrew J. Baldwin the 19th day of March, 2024.



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