

STATE OF INDIANA)
) SS:
COUNTY OF CARROLL)

IN THE CARROLL CIRCUIT COURT

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

CAUSE NUMBER: 08C01-2210-MR-00001

STATE’S RESPONSE TO DEFENSE’S MOTION FOR TRANSFER

Now comes the State of Indiana, by Prosecuting Attorney, Nicholas C. McLeland, and respectfully informs the Court that the State has no preference of where the Defendant is held pre-trial, but the State believes it is in the best interest of the case, as an officer of the Court, to inform the Court of the exaggerations and inaccuracies outlined in the Defense’s 3rd Motion to Transfer. The State would ask the Court to consider the following:

1. That charges were filed against the Defendant, Richard Allen, on October 28th, 2022, for 2 counts of Murder, in violation of I.C. 35-42-1-1(2).
2. That the Carroll County Sheriff’s Department requested that the Defendant be transferred to the Indiana Department of Correction for safekeeping and said request was granted.
3. That the Defendant was transferred to Westville Correctional Facility on November 3rd, 2022.
4. That the Defense filed an Emergency Motion to Modify the Safekeeping Order on April 5th, 2023, which was denied.
5. That the Defense then filed a Motion to Reconsider and Request for Due Process Hearing on May 3rd, 2023.
6. That a hearing was held, after which, the Court denied the Defense’s Motion to Modify the Safekeeping Order stating that the allegations advanced by the Defense were not supported by the evidence presented. The Court added that the Defendant was being treated more favorably than other inmates housed at Westville Correctional Facility.
7. The Court made a finding that it is reasonable and necessary to house the

Defendant at Westville Correctional Facility to ensure the Defendant's safety to prevent serious bodily injury to himself.

8. That the Defense then filed a Verified Motion for Immediate Transfer of Custody, alleging additional mistreatment of the Defendant at Westville Correctional Facility.
9. That, once again, the Court stated the Defense's assertions were factually inaccurate and were refuted by the evidence that the State provided, therefor denying the motion.
10. That the Department of Corrections then transferred the Defendant from Westville Correctional Facility to Wabash Valley Correctional Facility.
11. That new counsel for the Defendant has now filed a 3rd Motion to Transfer.
12. That the State has no opinion where the Defendant is housed during the pendency of this case as long as he is kept safe. However, the State believes that it is imperative for the Court to have accurate information in order to make its decision, which is lacking from the Defense's Motion to Transfer.
13. That Counsel for the Defendant reference the Emergency Motion to Modify Safekeeping Order filed by prior counsel and how they find the allegations in that motion meritorious.
14. That the motion has already been litigated at length and the Court found the allegations outlined in that motion were without merit.
15. Counsel references a letter written by an inmate, Robert Baston, at Westville stating that the Defendant is being mistreated as a fact to be taken as true. However, prior counsel subpoenaed this inmate to testify at a hearing and the inmate refused to leave his cell to attend the hearing. The State has documented Robert Baston's history with the Court in prior hearings and filings with the Court. The allegations by Robert Baston are not reliable evidence provided as sworn testimony nor has he been subjected to cross-examination.
16. That Counsel for the Defendant reasserts that the Defendant is being mistreated by guards at Westville who practice Odinism.
17. Again, this issue has already been addressed in a previous motion and was found to not have merit and the motion was denied.


18. That Defense then make the allegation that the Defendant was denied recreational time and showers at Westville Correctional Facility.
19. That the Defendant has never been denied recreational time or showers at Westville Correctional Facility.
20. That when the Defendant was moved from Westville Correctional Facility to Wabash Valley Correctional Facility, he made statements about committing suicide. As a precaution he was examined by mental health professionals and they determined that he should not be given recreational time until they can be sure that he would not hurt himself. Once he was off of suicide watch, his recreational time resumed.
21. That Counsel next complain that the check in process at Wabash Valley Correctional Facility is too burdensome and time consuming.
22. That the State was able to review video footage from Counsel's visit with the Defendant at Wabash Valley Correctional Facility. Counsel for the Defendant arrived at the facility at 12:35 P.M. and were processed to visit with their client by 12:58 P.M. That the wait time was extended on this date due to a power outage at the facility, but in total lasted about 23 minutes, not the nearly one hour alleged in the pleadings.
23. That the facility typically does not allow face to face visits, but did accommodate counsel and set up the Defendant in a special room seated behind a door that was see through that had a slot where documents, papers or whatever could be passed back and forth. See photographs attached as State's Exhibits "1" and "2".
24. That a surveillance camera was present in the room that records movement only and no audio recording. The only thing that was recorded from the visit is when Counsel entered the room and when they left the room. That to the State's knowledge, any jail that attorneys visit to meet with their clients is video recorded or monitored in some fashion. That is the for the protection of the attorney and the Defendant.
25. That neither attorney brought a computer with them to provide the Defendant with review of video or audio discovery, even after DOC made accommodations for them to do so.

26. That Defense were told by legal counsel for the DOC that if they needed anything additional to meet with their client to just ask and accommodations would be made for them.
27. That each request that Counsel for the Defendant have made of Wabash Valley Correctional Facility has been granted.
28. All this is to say that the allegations that the Defense outline are exaggerated and misleading. They are able to meet with the Defendant, show him discovery in whatever format and meet with him in an effective way. This seems to be more of a motion about convenience for them instead of zealous representation of the Defendant.
29. That the State pulled the records from Wabash Valley Correctional facility, spoke to legal counsel for the Department of Corrections and reviewed the video surveillance from Wabash Valley Correctional facility and the allegations put forward by the Defense are inaccurate.
30. That the Defendant has a tablet in his cell that he can communicate with his counsel at any time and has had said tablet since he has been there.
31. That in addition, since the motion has been filed by the Defense, the DOC has set up video conferencing so that the Defendant can now meet with his counsel via video.
32. That the Defendant has commissary in his cell where other inmates do not.
33. That the Defendant is being treated far better than any other inmate in the DOC.
34. That the State also spoke to Sheriff Dan Mawhorr from Adams County and he is not willing to accept the Defendant into his facility. He does not have sufficient space or accommodations to house the Defendant. The Adams County Jail also does not have the mental health professionals available to address the Defendant's mental health needs.
35. That the State spoke to Sheriff Troy Hershberger from Allen County and he is willing to accept the Defendant in his facility but only at the expense of Carroll County. However, the Allen County Jail is currently overcrowded and Sheriff Hershberger would have to make special accommodations to house the Defendant. In addition, the Allen County Jail does not have face to face visits.

All visits are done via video, including attorney visits.

36. That the Defense continues to make unfounded accusations supported by insufficient proof.
37. That the Carroll County Sheriff's Department does not have the manpower to transport the Defendant or the room to house the Defendant in a manner that ensures his safety.
38. That the Carroll County Jail does not have mental health counselors or counseling to address any suicidal concerns that have been on-going.
39. That once again for the 3rd time, the colorful, dramatic language used by the Defense is an attempt to curry public favor for their client and try this matter in the public eye instead of in the courtroom, as has been a repetitive pattern in this cause.
40. That, again, the State has no opinion on where the Defendant should be housed awaiting trial, but the State does take offense to Defense, once again, filing a motion with this Court that is full of inaccuracies and allegations not supported by sufficient evidence in order to influence this Court to move the Defendant.
41. That the State has no objection to the Defendant being moved to a facility within the Department of Corrections, but the Court has already addressed that issue in a previous Orders.
42. That the Defense is consuming the limited resources of this office and this Court with repetitive motions that lack any factual basis.

Wherefore, now comes the State of Indiana, by Prosecuting Attorney, Nicholas C McLeland, and files their response to the Defendant's 3rd Motion for Transfer and would ask the court to consider the same when making its decision and for all other just and proper relief in the premises.



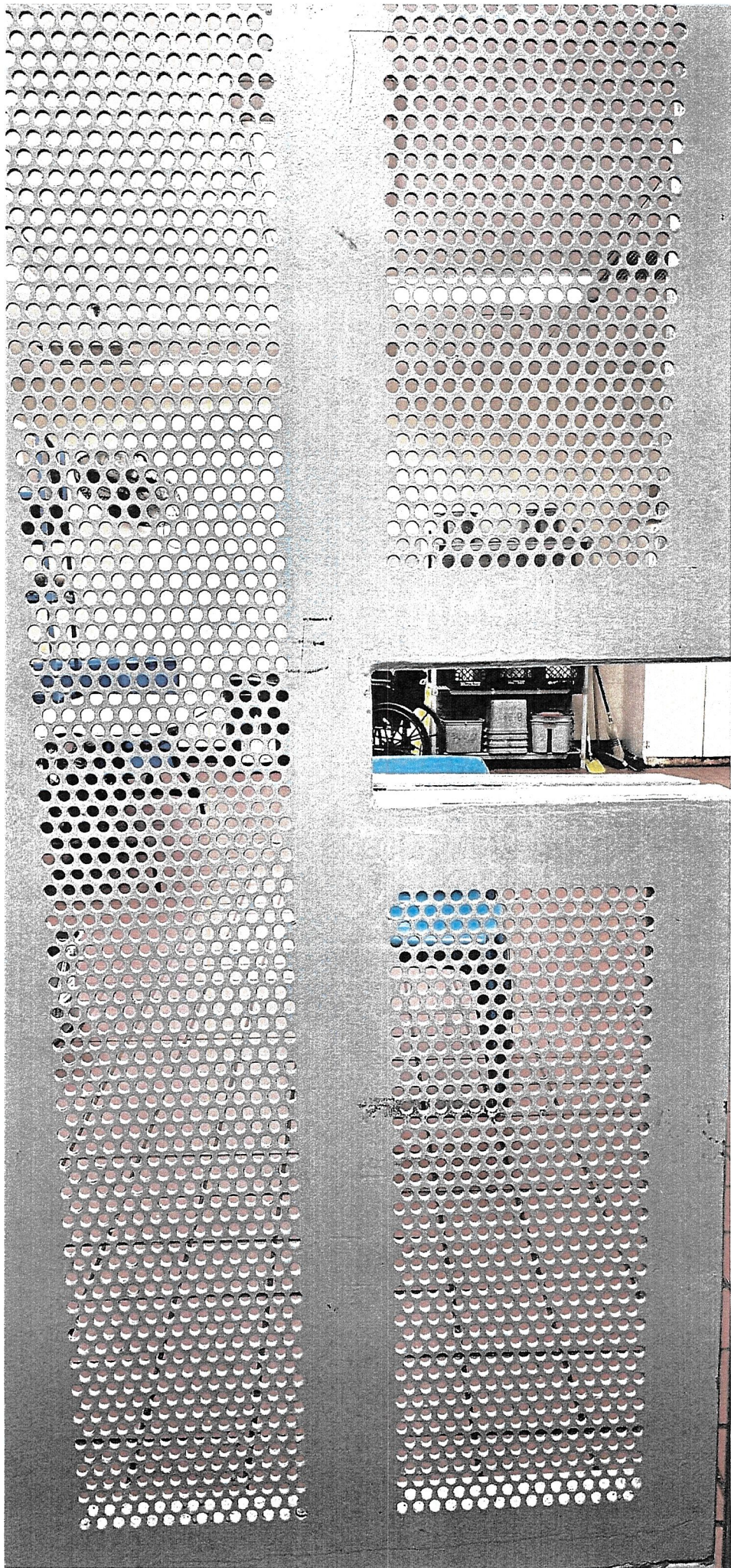
Nicholas C. McLeland
Attorney #28300-08
Prosecuting Attorney

CERTIFICATE OF SERVICE

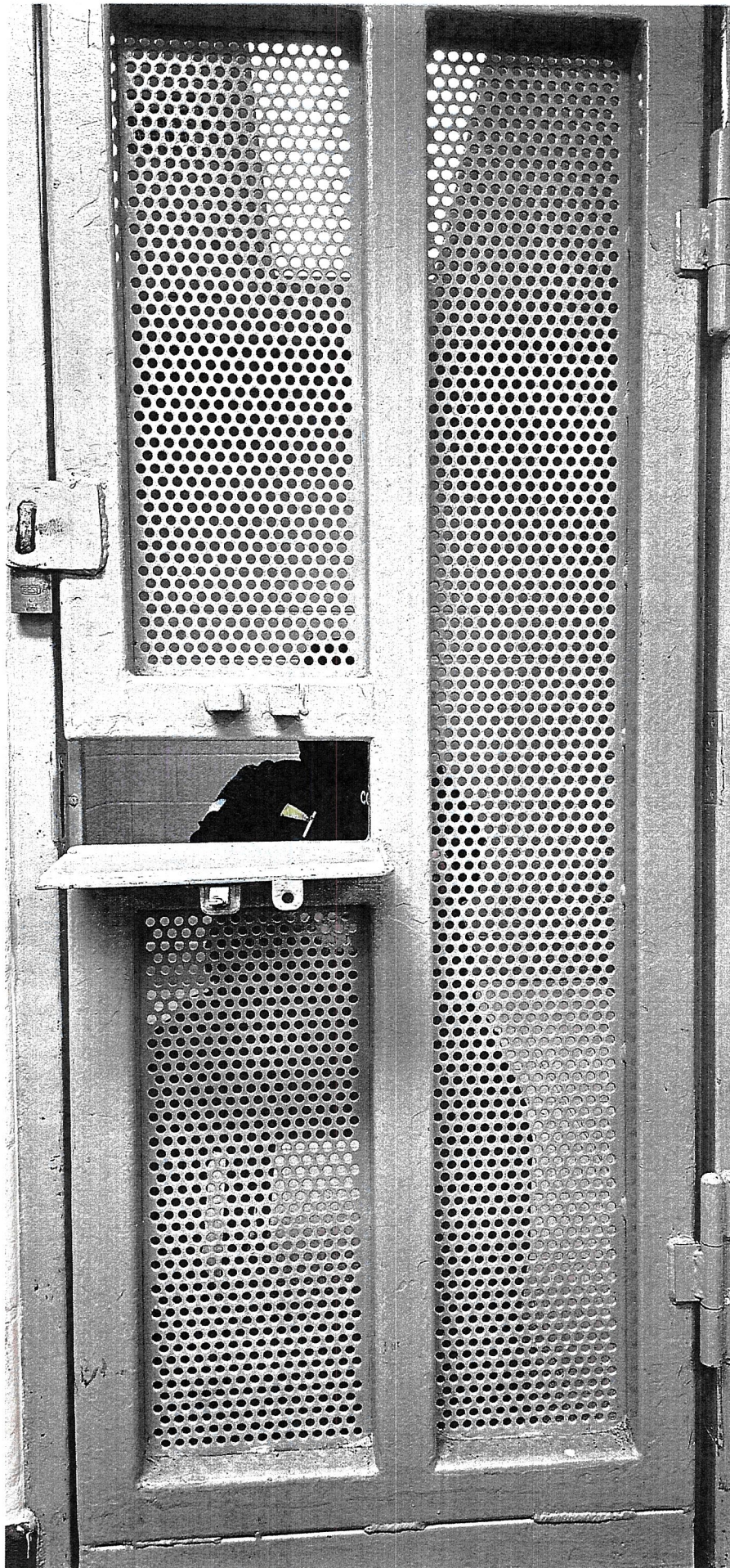
The undersigned certifies that a copy of the foregoing instrument was served upon the Defendant's attorney of record, through personally delivery, ordinary mail with proper postage affixed or by service through the efilng system and filed with Carroll Circuit Court, this 29th day of January, 2024.



Nicholas C. McLeland
Attorney #28300-08
Prosecuting Attorney



PENGAD 800-631-6963
**STATE'S
EXHIBIT**
1



PENGAD 800-631-6989
STATE'S
EXHIBIT
2