

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 SUPPLEMENTAL MOTION FOR DISCOVERY AND
REQUEST FOR RULE 404 AND 405 EVIDENCE**

Now comes the State of Indiana, by Prosecuting Attorney, Nicholas C. McLeland, and respectfully files it's response to the Defendant's Supplemental Motion for Discovery and Request for Rule 404 and 405 Evidence. The State's responses to the numbered requests are as follows:

1. Discovery is automatic per the Carroll County Local Rules and this information will be forwarded to the defense as part of discovery.
2. This information will be forwarded to the Defense as part of discovery per local rule.
3. This information will be forwarded to the Defense as part of discovery per local rule.
4. This information will be forwarded to the Defense as part of discovery per local rule.
5. This information will be forwarded to the Defense as part of discovery per local rule.
6. At this time no promises have been made by the State to any witnesses.
7. This information will be forwarded to the Defense as part of discovery per local rule.
8. There was not a grand jury held in relation to this matter.
9. Any statements made by witnesses and/or the Defendant will be forwarded to the Defense as part of discovery per local rule. The State does not intend to draft a summary of those statements or give the Defense a summary of the State's

opinions or thoughts about those statements. Those statements will be provided to the Defense in their entirety. The Defense seems to be asking the State to do their work for them and formulate a defense for them. The State objects to the Defense's requests that the State draft a separate summary of those statements.

10. Any telephone calls made by the Defendant will be turned over to the Defense as part of discovery per local rule. The State objects to drafting a memorandum of the conversation. Again, the State incorporates the response to Number 9 into this response. If there are transcripts of the phone calls, the State will produce those as part of discovery per the local rule.
11. This information will be forwarded to the Defense as part of discovery per local rule.
12. This information will be forwarded to the Defense as part of discovery per local rule.
13. The State objects to providing criminal records for the Defenses witness lists, in that the State does not even know who is going to be on their witness list. If the Defense requests criminal records of specific people, the State is happy to assist in gathering those records.
14. This information will be forwarded to the Defense as part of discovery per local rule.
15. This information will be forwarded to the Defense as part of discovery per local rule.
16. This information will be forwarded to the Defense as part of discovery per local rule.
17. The State objects to said request by the Defense. Any information that the State has pertaining to the case will be forwarded to the Defense as part of discovery, both exculpatory and inculpatory. A memorandum explaining those is outside the scope of discovery. The Defendant's request is essentially an interrogatory asking the State to divulge its legal analysis or impressions of the case and assist the Defense in assembling its evidence, which is barred by *State ex rel. Grammer v. Tippecanoe Circuit Court*, 377 N.E.2d 1359, 1364-65 (Ind. 1978).
18. This information will be forwarded to the Defense as part of discovery per local

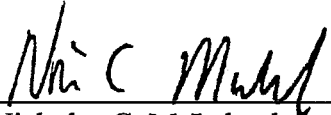
rule.

19. This information will be forwarded to the Defense as part of discovery per local rule.
20. This information will be forwarded to the Defense as part of discovery per local rule.
21. The State objects to this request by the Defense. TR 34 states that a request for production has to be for items in the possession, custody or control of the party upon whom the request is served. TR 26(B)(1) goes on to state that the Court can limit discovery if the information is obtainable from some other source that is more convenient, less burdensome or less expensive. The State of Indiana is not in possession of the information that the Defense is requesting, nor was the State a party to any lawsuits filed against the Carroll County Sheriff's Department, Tobe Leazenby, Tony Liggett or Michael Thomas. To impose of the State to have to track all these items down is unreasonably burdensome. In addition, it is the State's belief that this request goes beyond the scope of discovery. There is no reason that the State is aware of where this information would be relevant in any way to the investigation or prosecution of the Defendant.
22. The State objects to this request. Please incorporate the State's response in number 21 to this response.
23. The State objects to this request. Please incorporate the State's response in number 21 to this response.
24. This information will be forwarded to the Defense as part of discovery per local rule.
25. This information will be forwarded to the Defense as part of discovery per local rule.
26. State objects to said request. If the State choses to use any evidence that would fall under Indiana Rules of Evidence Rule 404(b), the State will file notice with the Court per the rule. Further, the request by the defendant must be "reasonably understandable and sufficiently clear" to alert the prosecution that the defendant is requesting pre-trial notification. *Abdul-Musawwir v. State*, 674 N.E.2d 972, 975 (Ind. Ct. App. 1996). This request is neither reasonably understandable or

sufficiently clear. The request seems to be a blanket request for any and all evidence that may be out there for the Defendant and any defense witnesses, which they have yet to name. Nor has the Defense asserted any kind of affirmative defense to put the State on notice that character evidence may be at issue.

27. State objects to said request. Please incorporate the State's response in number 26 to this response.
28. The State objects to this request. Per Indiana Rule of Evidence Rule 405, the defense must first notify the State that they intend to introduce admissible character evidence and what that evidence is going to be before the State is obligated to disclose what character evidence will be used on behalf of the State. The Defense has yet to provide any kind of pretrial notice to the State to require a response.
29. The State objects to this request. Any information produced by the State would be considered work product and exempt from discovery.

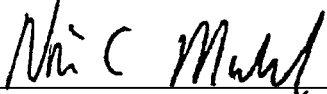
Wherefore, now comes the State of Indiana, by Prosecuting Attorney, Nicholas C McLeland, and files their response to the Defendant's request and ask the Court to take no action in part and then deny in part the request from the Defense and for all other just and proper relief in the premises.



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 __ 12th __ day of January, 2023.



Nicholas C. McLeland
Attorney #28300-08
Prosecuting Attorney