

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

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

**MOTION TO CONTINUE HEARINGS ON ALL MATTERS CURRENTLY SET
TO BE HEARD MAY 21-23, 2024**

Comes now the accused, Richard Allen, by and through counsel Brad Rozzi and Andrew and moves this Court to continue all pending motions currently set to be heard on May 21, 22 and 23, 2024. In support of said motion, the accused states the following:

1. Following a brief hearing on May 7, 2024, in which the jury trial on this matter was continued from May 13, 2024 until October 14, 2024. At that same hearing, the Court set several pending matters for hearing on May 21, 22 and 23, 2024.
2. During that May 7, 2024 hearing, the accused’s counsel indicated that they would be filing a motion to disqualify Judge Gull and at that time had a prepared motion that they intended on filing that day.
3. However, certain issues have arisen both during and after the hearing which have caused defense counsel to add to the motion that the defense had prepared.

4. The defense has therefore been adding to that motion, as well as re-editing the motion taking additional time to prepare said motion for filing.
5. Also, the new motion required Richard Allen's signature and because Richard Allen has been moved back to Wabash Valley Correctional Facility, it is logistically difficult for Richard Allen to review the document and sign the document so that it comports with the legal requirements of a request for disqualification.
6. Richard Allen has just signed the documents as needed and therefore the defense files its motion to disqualify at the same time as this motion to continue next week's hearings.
7. As the Court is aware, at the time Richard Allen petitions this Court for change of venue from the judge, this Court will be "without jurisdiction to do anything other than rule on the motion." *Lucas v. State*, 249 Ind. 637, 648 (S.Ct.1968), *citing Weer v. State*, 37 N.E.2d 537 (1941).
8. Additionally, the defense is requesting Judge Gull to issue "Findings of Fact and Conclusions of Law" if she issues a ruling denying the defense motion to have her disqualified.
9. Therefore, Judge Gull will not be able to conduct a hearing or rule on any matters until she has reviewed the motion to disqualify and entered findings of fact and conclusions of law.

10. Additionally, on May 15, 2024, the State of Indiana just turned over a new phone extraction that had been conducted this past weekend.
11. The defense received possession of that new phone extraction less than 1 week before the motion in limine hearing was set and needs more time to review the phone extraction data.
12. Based upon a quick review of the phone extraction, It is likely that the defense will use the new phone extraction as part of its evidentiary presentation arguing against the prosecution's motion in limine to not discuss third party suspects as it appears that the new phone extraction provides favorable evidence for the defense; but the defense needs additional time to review the entire phone extraction in order to be prepared to argue against the prosecution's motion in limine.
13. Additionally, the witness who extracted the phone data last weekend has indicated that he will be issuing a report on his findings as well as investigating matters identified by the defense that the defense believes provide important information concerning third-party suspects.
14. The defense would therefore request that at a minimum, the hearing on the motion in limine be rescheduled until after the aforementioned report is filed as it would be judicially economical to hear all the evidence for the motion in limine at one time in one hearing and would additionally prevent the Court from prejudging the evidence presented

until all the evidence can be presented at the same time in the same hearing.

15. The trial has been continued until October 14, 2024, which should provide an abundance of time to find new dates to conduct said hearings.

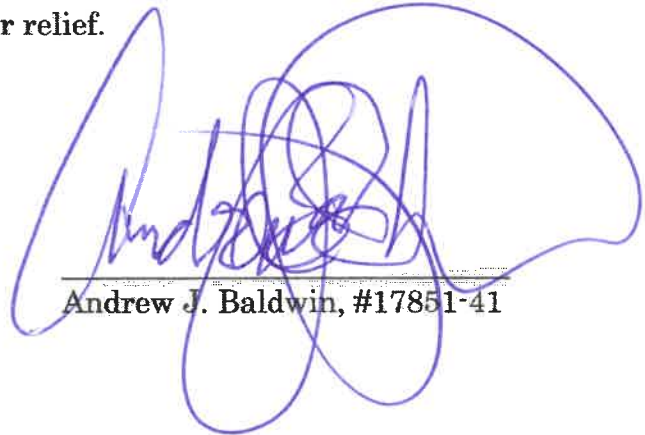
16. Since Judge Gull cannot rule on any motions until after she rules on the defense motion to disqualify, it would be judicially economical to continue the matters scheduled for May 21 – 23, 2024 until after Judge Gull has a chance to review the motion to disqualify and issues findings of facts and conclusions of law should she deny the defense motion to have her disqualified as Judge on the case.

17. The prosecution has been contacted and does object to this request.

WHEREFORE, the accused, Richard Allen, files his motion to continue the hearings on all matters currently set to be heard May 21 -May 23, 2024 and all other just and proper relief.



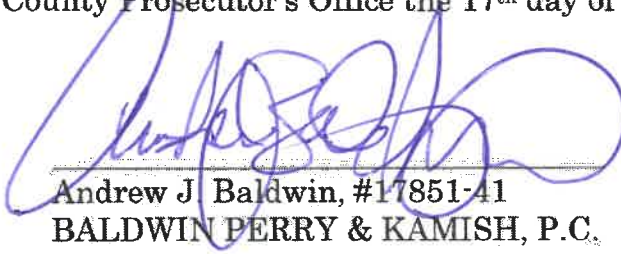
Bradley A. Rozzi, #23365-09



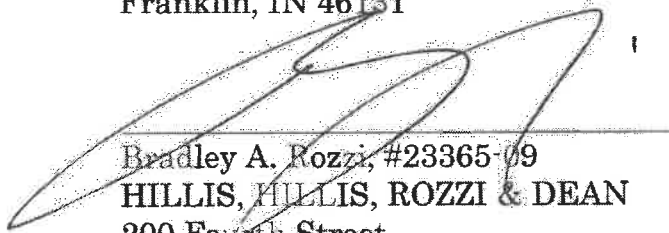
Andrew J. Baldwin, #17851-41

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 the 17th day of May, 2024.



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