

[CAPTION]

**VERIFIED MOTION FOR FUNDS TO HIRE IMMIGRATION EXPERT**

The Defendant, by counsel, moves the Court to provide the Defendant's counsel with adequate funds with which to hire a specialized immigration counsel to assist Defendant's counsel in determining the immigration consequences of the particular possible convictions in this cause. The amount of funds needed may vary from a low estimation of [insert amount] to a high estimation of [insert amount] depending on the amount of work necessary. The Defendant sets forth the following grounds in support of his Motion:

1. The Defendant is indigent and not a United States citizen charged with [insert offense(s)].
2. In *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010), the U.S. Supreme Court held that criminal defense counsel are constitutionally required to advise their alien clients that a conviction will render them eligible for deportation when the law is clear. Where, as here, the immigration consequences are less clear, the Sixth Amendment requires defense counsel to advise their clients to seek immigration advice from an immigration expert. Indeed, immigration law is “ambiguous” and “may be confusing to practitioners not versed in the intricacies of immigration law.” *Id.* at \_\_\_\_\_ (Alito, J., concurring). Every new requirement represents just one more thing to forget and one more opportunity to commit ineffective assistance of counsel.
3. The State has offered defendant the following plea agreement: [set forth plea]. In order to make a knowing and intelligent decision, the defendant needs information about the immigration consequences before accepting this plea offer.
4. Defendant’s attorney does not have the expertise in the intricacies of immigration law to adequately inform Defendant of deportation consequences. Moreover, it will take undersigned counsel much more time to determine the immigration consequences of this guilty plea, whereas an immigration specialist can efficiently assist counsel in determining all collateral consequences at multiple points in this case. If the Defendant were not an indigent and could afford to hire an immigration specialist, his

attorney would advise the hiring of such an expert. Only with the use of an immigration specialist can the Defendant obtain an adequate defense and enter into a knowing, voluntary and intelligent guilty plea.

5. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution guarantees to a criminally accused indigent the right to be free from financial circumstances which would hinder his defense. As stated by Justice Black in Griffin v. Illinois (1956), 351 U.S. 12, 17-18, 76 S.Ct. 585, 100 L.Ed. 891:

In criminal trials a State can no more discriminate on account of poverty than on account of religion, race, or color. Plainly the ability to pay costs in advance bears no rational relationship to a defendant's guilt or innocence and could not be used as an excuse to deprive a defendant of a fair trial.

. . . .  
. . . There can be no equal justice where the kind of trial a man gets depends on the amount of money he has. (emphasis added)

The State of Indiana grants an accused the right to put forth a defense. It would be constitutional error to refuse to allow the Defendant to present as complete and adequate a defense as a more prosperous defendant solely because of his inability to hire an expert investigator. Tate v. Short, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130 (1971); Christian v. United States, 398 F.2d 517 (10th Cir. 1968).

WHEREFORE, the Defendant, by counsel, requests that this Court order that funds be made available to Defendant's counsel to hire an immigration specialist, and for all other relief just and proper in the premises.

(Signature)