

VERIFIED MOTION FOR APPOINTMENT OF SPECIAL PROSECUTOR

Comes now the Defendant, by his counsel , and pursuant to I.C. 33-39-10-2(b)(5) respectfully requests that the Court appoint a Special Prosecutor in the above captioned matter and, in support thereof, says:

1. [Set out relevant timeline and facts]

5. On [date], the State, filed a Verified Motion for Appointment of Special Prosecutor, acknowledging [above facts] and that “[t]o avoid the appearance of impropriety it is thus necessary to appoint a Special Prosecutor to prosecute this matter.”

Defense counsel agreed that appointment of a Special Prosecutor was necessary.

6. On [date], the Court granted the Motion and [name] was appointed Special Prosecutor herein.

7. On [date] an Amended Information was filed herein, alleging the identical Counts as the original Information. [name] was again listed as a witness.

9. The undersigned counsel learned in early January that Marion County did not intend to request the appointment of another Special Prosecutor and, on January 8, 2020, was advised that the case would be prosecuted by [deputy prosecutor].

10. A Special Prosecutor should be appointed to litigate this matter for the following reasons:

a. Appointment of a Special Prosecutor is necessary to avoid an actual conflict of interest, as provided in I.C. 33-39-10-2(b)(2); and

b. Appointment of a Special Prosecutor is required if a previously appointed Special Prosecutor withdraws and the facts that established the basis for the initial appointment of a special prosecutor still exists, as provided in I.C. 33-39-10-2(b)(5).

11. A Special Prosecutor should be appointed to prosecute this case in order to avoid the appearance of impropriety that existed on June 21, 2018 when a Special Prosecutor was originally requested herein and that still exists today as the operative facts requiring the appointment of a Special Prosecutor are unchanged.

12. Any doubts regarding the necessity for the appointment of a Special Prosecutor

should be resolved in favor of disqualification.

WHEREFORE, the Defendant respectfully requests that a Special Prosecutor be appointed to prosecute this case and that the defendant be granted such further relief as may be just and proper in the premises.

Respectfully Submitted,

VERIFICATION

I hereby affirm that the foregoing statements are true and accurate to the best of my knowledge and are based on the records and pleadings filed in this case and the statements of the principals herein.