

STATE OF INDIANA)
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COUNTY OF CARROLL) CAUSE NO. 08C01-2210-MR-0001

STATE OF INDIANA)
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RICHARD ALLEN)

MOTION FOR FRANKS HEARING

Comes now the accused, Richard Allen, by and through counsel, Andrew J. Baldwin and Brad Rozzi and files his request for this Court to set a Franks hearing. In support of said motion, defense counsel states the following:

1. On October 13, 2022, following a roughly an hour-and-a-half (1 ½) hour interview with the accused, Richard “Rick” Allen, Detective Tony Liggett signed an “Affidavit for Search Warrant”, which was a five (5) page document detailing information concerning said interview with Rick Allen, as well as information flowing from a five-and-a-half (5 ½) year investigation into the murders of Abigail Williams and Liberty German.
2. The “Affidavit for Search Warrant” was also “Approved” by a second signatory, prosecutor Nicholas C. McLeland before being sent to Judge Benjamin Diener for further review.
3. The purpose of said “Affidavit for Search Warrant” was to provide a sworn statement containing information from that lengthy investigation that would convince Judge Benjamin Diener that a reasonable belief existed that evidence of said murder would be found in Rick Allen’s home and vehicles.
4. The “Affidavit for Search Warrant” was apparently reviewed by Judge Diener who then signed a “Search Warrant” for Rick’s home and vehicles at 6:37 p.m. on October 13, 2023.
5. That on its face and within the four corners of the document, the “Affidavit for Search Warrant” was defective in that it did not provide the type of information that would cause any reasonable person to believe that it was more-likely-than-not that evidence of the murders of Abigail Williams and Liberty German would be found in Rick Allen’s home or vehicles, especially more than five years after they were murdered.
6. Because, on its face and within the four corners of the “Affidavit for Search Warrant” no reasonable person would believe that it was more-likely-than-not that evidence of the murders of Abigail Williams and Liberty German would be found in Rick Allen’s home or

vehicle, Judge Diener erred in signing said search warrant. Therefore, any search of Rick's home and vehicles was illegal. Therefore, all items seized pursuant to said illegal search should be suppressed.

7. However, making matters far worse, Detective Tony Liggett chose to hide crucial information from the search warrant affidavit and provided false statements in said Search Warrant Affidavit.
8. The defense is required to make a substantial preliminary showing that omitted or false statements were made knowingly or intentionally or with reckless disregard and if the trial court concludes that said omitted facts or false statements were necessary for the finding of probable cause, then the trial court should set a hearing on defendant's request. *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 2676 57 L. Ed.2d 667 (1978)
9. Furthermore, Indiana Courts have held that when material information is omitted from a probable cause affidavit, such omissions will invalidate a warrant if (1) the police omitted facts with the intent to make the affidavit misleading or with reckless disregard for whether it would be misleading and (2) the affidavit supplemented with the omitted information would have been insufficient to support a finding of probable cause. *Ware v. State*, 859 N.E.2d at 719-720.
10. Rather than hiding said information from Judge Diener, had Liggett actually included said information within the "Affidavit for Search Warrant", then Judge Diener most certainly would not have signed said warrant as the hidden and false information was the type of information that any reasonable person would have known 'was the kind of thing the judge would wish to know.' *Gerth v. State*, 51 N.E.3rd 368, 375 (Ind.Ct.App.2016)(quoting *Wilson v. Russo*, 212 F3d 781, 788 (3rd Cir. 2000). Also, *State v. Vance*, 119 N.E.3d 626, 632 (Ind Ct. of App. 2019).
11. The accused is filing contemporaneously herewith his "Memorandum in Support of his Motion for Franks Hearing" which will detail the long, long list of specific information in the Search Warrant Affidavit that Liggett chose to hide from Judge Diener, as well information contained in the Search Warrant Affidavit that are flat out falsehoods that Liggett swore and affirmed were true.
12. The defense would ask the Court to incorporate the attached memorandum into its motion.
13. Once the Court has reviewed the motion for Franks hearing, the memorandum in support of the motion for Franks hearing, as well as all of the attached exhibits that support the memorandum, Richard Allen, by and through counsel, would ask this Court to set this matter for a hearing in which the defense will be arguing that the search warrant was illegal. Then the defense will be requesting the Court to suppress all fruits of the illegal search.

WHEREFORE, Richard Allen, by and through his attorneys Andrew Baldwin and Brad Rozzi, would move this Court to set this matter for a Franks hearing.

Respectfully submitted,

/s/ Andrew J. Baldwin

Andrew J. Baldwin
Attorney for Richard Allen

/s/ Brad Rozzi

Brad Rozzi
Attorney for Richard Allen

CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing pleading has been provided to all counsel of record for the opposing party, via IEFS this same day of filing.

/s/ Andrew J. Baldwin

Andrew J. Baldwin
Attorney for Richard Allen

/s/ Brad Rozzi

Brad Rozzi
Attorney for Richard Allen