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APPEARANCES

ON BEHALF OF THE STATE:

JOSEPH KISOR  
CHIEF DEPUTY PROSECUTING ATTORNEY  
AND  
BRIAN JOHNSON  
DEPUTY PROSECUTING ATTORNEY  
215 WEST HIGH STREET  
LAWRENCEBURG, IN 47025

ON BEHALF OF THE DEFENDANT:

1           **DANIEL BREWINGTON – INITIAL HEARING – MARCH 11, 2011**

2       COURT:                       This is the matter of State of Indiana versus Daniel  
3                                       Brewington, Cause #15D02-1103-FD-084. We'll  
4                                       show for the record that Mr. Brewington is here in  
5                                       person without an attorney. The State is present by  
6                                       Mr. Kisor and we're here for initial hearing.

7       MR. KISOR:                Good morning Judge. I just want to note, Mr.  
8                                       Robert Kelley who I know from the State of Ohio is  
9                                       a practicing lawyer there is here just strictly to assist  
10                                      Mr. Brewington with I think a request for counsel to  
11                                      be appointed and to help him with his initial  
12                                      hearing.

13      COURT:                      Okay but he's not...

14      MR. KISOR:                ...I wouldn't, he's not licensed...

15      COURT:                      ...licensed here in Indiana...

16      MR. KISOR:                ...but I just want to let the Court.

17      COURT:                      Okay.

18      MR. KELLEY:               I'm not licensed your honor.

19      COURT:                      Okay.

20      MR. KELLEY:               I represented Mr. Brewington at his extradition  
21                                      hearing.

22      COURT:                      Okay.

23      MR. KELLEY:               In Ohio and I came over yesterday to try to get him  
24                                      a public defender and I came over...

25      COURT:                      Okay well we'll review that with him this morning.

1 MR. KELLEY: Right.

2 COURT: During his initial hearing.

3 MR. KELLEY: And then I was going to file a motion to appear on

4 his behalf.

5 COURT: Okay well my understanding is you cannot appear in

6 Indiana if you're not licensed in Indiana. There is a

7 process you can do without your license in Indiana

8 that you can apply for approval to appear but I don't

9 believe you've accomplished that yet today. Have

10 you?

11 MR. KELLEY: Right, I couldn't accomplish that this quick.

12 COURT: Okay.

13 MR. KELLEY: But I mean it's not possible to even speak on his

14 behalf today?

15 COURT: Well we're going to start with the initial hearing and

16 then if, I, we'll see if there's a place for you to

17 speak. Okay?

18 MR. KELLEY: That would be fine judge.

19 COURT: Alright. Now um, Mr. Brewington, you're here for

20 an initial hearing so we're going to be advising you

21 of your rights, the charges that have been filed and

22 the possible penalties. We're going to start first

23 with your constitutional and legal rights. Okay?

24 You will be presumed innocent unless and until the

25 State would prove you guilty beyond a reasonable

1 doubt on each essential element of the crime  
2 charged and you have a right to a public speedy trial  
3 by jury in the County in which the offense was  
4 allegedly committed. You have a right to face all  
5 witnesses against you, to see, hear, question, cross-  
6 examine them and to require witnesses to appear in  
7 any hearing or trial in your behalf and on your  
8 request, the Court would issue subpoenas to require  
9 witnesses to appear on your behalf at no cost to you.  
10 You have a right to remain silent. You cannot be  
11 required to testify against yourself at any hearing or  
12 trial and you have a right to be heard in your own  
13 defense but only if you so desire and anything you  
14 do say can be used against you. You have a right to  
15 retain and be represented by an attorney. You also  
16 have a right to proceed without an attorney if you so  
17 desire. If you did not have the money or means to  
18 hire an attorney, the Court would appoint one for  
19 you and if you wish to have court appointed  
20 attorney, you should either let me know during the  
21 hearing today or put a request in writing to the  
22 Court at a later date and if you are going to be  
23 represented by counsel it's best to do so within  
24 twenty (20) days because there are deadlines for  
25 filing motions and if those deadlines are missed,

1 legal issues or defenses that could have been raised  
2 will be waived or given up. Do you have any  
3 questions so far?  
4 MR. BREWINGTON: No ma'am.  
5 COURT: Okay, now next I need you to state your full name  
6 for the record.  
7 MR. BREWINGTON: Daniel Paul Brewington.  
8 COURT: And what is your address?  
9 MR. BREWINGTON: 2529 Sheridan Drive, Norwood, Ohio 45212.  
10 COURT: And what is your date of birth?  
11 MR. BREWINGTON: 11/16/73.  
12 COURT: Okay, now did you get copies of the charges that  
13 have been filed?  
14 MR. BREWINGTON: Yes your honor.  
15 COURT: Okay now there is also a motion by the State to  
16 amend an indictment. I'm not certain if this is an  
17 amendment of what?  
18 MR. KISOR: Your honor I believe it strictly simply adds language  
19 at the end where we're talking about the uh...  
20 COURT: Is it an amendment of Count I?  
21 MR. KISOR: It is an amendment of Count I and...  
22 COURT: Alright.  
23 MR. KISOR: ...and it adds additional language after that line that  
24 uh...  
25 COURT: Okay.

1 MR. KISOR: ...that s says to wit; issuing a custodial evaluation  
2 regarding Daniel Brewington's children. The  
3 indictment stops the sentence right there.  
4 COURT: Okay.  
5 MR. KISOR: The amended uh Count would add...  
6 COURT: Okay.  
7 MR. KISOR: ...the language that's there which would be  
8 (indiscernible).  
9 COURT: Alright. Now did you get a copy of the amended  
10 Count I?  
11 MR. BREWINGTON: No your honor.  
12 COURT: Do you have a copy to provide to Mr. Brewington?  
13 MR. KISOR: Mr. Kelley do you have that? I gave that to Mr.  
14 Kelley I believe.  
15 COURT: Okay. Alright. Now what we're going to do is go  
16 through each of these counts and review those with  
17 you. We're going to start first with the amended  
18 Count I. It states on or about between August 1,  
19 2007, and February 27, 2011, Daniel Brewington  
20 did communicate a threat to another person to wit:  
21 Dr. Edward Connor with the intent that Dr. Edward  
22 Connor be placed in fear of retaliation for a prior  
23 lawful act to wit; using a custodial evaluation  
24 regarding Daniel Brewington's children and/or  
25 being a witness in the matter of Melissa Brewington

1 and Daniel Brewington. And that's alleged to be in  
2 violation of Indiana Code 35-45-2-1(a)(2),  
3 Intimidation, a Class A Misdemeanor. Count II is  
4 entitled "Indictment for Intimidation". It states the  
5 grand jurors of Dearborn County, State of Indiana,  
6 good and lawful men and women and legally  
7 impaneled; charged and sworn to inquire into  
8 felonies and misdemeanors in the name of and by  
9 authority of the State of Indiana on their oaths or  
10 affirmations, do present that on or about or between  
11 August 1, 2009, and February 27, 2011, Daniel  
12 Brewington did communicate a threat to another  
13 person, to wit: Heidi Humphrey with the intent that  
14 Heidi Humphrey be placed in fear of retaliation for  
15 a prior lawful act, to wit; that her spouse James,  
16 Judge James D. Humphrey issued an order  
17 regarding the dissolution of marriage between  
18 Daniel Brewington and Melissa Brewington. That's  
19 alleged to be in violation of Indiana Code 35-45-2-  
20 1(a)(2), a Class A misdemeanor. And that was  
21 actually Count III. Count II reads Indictment for  
22 Intimidation of a Judge. The Grand Jurors of  
23 Dearborn County, State of Indiana, good and lawful  
24 men and women and legally impaneled, charged and  
25 sworn to inquire into felonies and misdemeanors in

1 the name of and by the authority of the State of  
2 Indiana on their oaths or affirmations, do present  
3 that on or about or between August 1, 2009, and  
4 February 27, 2011, Daniel Brewington did  
5 communicate a threat to another person, to wit:  
6 Dearborn-Ohio County Circuit Court Judge, James  
7 D. Humphrey, with the intent that James D.  
8 Humphrey be placed in fear of retaliation for a prior  
9 lawful act, to wit: issuing an order regarding the  
10 dissolution of marriage between Daniel Brewington  
11 and Melissa Brewington and James D. Humphrey is  
12 the Judge of Dearborn and Ohio Circuit Court. And  
13 that's alleged to be in violation of Indiana Code 35-  
14 45-2-1(A)(2)(b)(1)(B)(ii), a Class D Felony. Count  
15 IV reads that the Grand Jurors of Dearborn County,  
16 State of Indiana, good and lawful men and women  
17 and legally impaneled, charged and sworn to inquire  
18 into felonies and misdemeanors in the name of and  
19 by the authority of the State of Indiana on their  
20 oaths or affirmations, do present that on or about or  
21 between August 1, 2007, and August 1, 2009,  
22 Daniel Brewington, acting with the culpability for  
23 the crime of Obstruction of Justice, did engage in  
24 conduct that constituted a substantial step toward  
25 the commission of the crime of Obstruction of



1 Justice, to wit; did intimidate and/or harass Dr.  
2 Edward Connor, who was a witnesses in an official  
3 proceeding. And that's alleged to be in violation of  
4 Indiana Code 35-44-3-4, a Class D Felony. Count  
5 V alleges that the Grand Jurors of Dearborn County,  
6 State of Indiana, good and lawful men and women  
7 and legally impaneled, charged and sworn to inquire  
8 into felonies and misdemeanors in the name of and  
9 by the authority of the State of Indiana, on their  
10 oaths or affirmations, do present that on or about  
11 February 28, 2011, Daniel Brewington did make a  
12 false, material statement under oath or affirmation  
13 knowing the statement to be false or not believing it  
14 to be true. This is alleged to be in violation of  
15 Indiana Code 35-44-2-1, Perjury, a Class D Felony.  
16 And Count VI alleges the Grand Jurors of Dearborn  
17 County, State of Indiana, good and lawful men and  
18 women and legally impaneled, charged and sworn  
19 to inquire into felonies and misdemeanors in the  
20 name of and by the authority of the State of Indiana,  
21 on their oaths or affirmations, did present that on or  
22 about February 28, 2011, Daniel Brewington, did  
23 knowingly disclose information from Grand Jury  
24 proceedings in violation of Indiana Code 35-34-2-  
25 10. And this Mr. Kisor, says a Class A

1 misdemeanor in the body and then says a Class B  
2 Misdemeanor in the heading. So which is the  
3 correct?  
4 MR. KISOR: If I may have just a moment your honor. Your  
5 honor it should be a Class B Misdemeanor in both  
6 places.  
7 COURT: So are you...  
8 MR. KISOR: I would move to amend the body of the indictment.  
9 COURT: So we're going to show that as a Class B  
10 Misdemeanor and these are the charges, indictments  
11 that are present. Next I'm going to ask Mr. Kisor to  
12 read the statutes under which these charges are  
13 brought and then we will review the penalty. Okay  
14 Mr. Kisor?  
15 MR. KISOR: Yes your honor. The first three (3) counts uh as  
16 you've read them are all brought under the  
17 intimidation statute, found at Indiana Code 35-45-2-  
18 1. Counts I and III are brought under subsection  
19 (a)(2). That subsection reads: a person who  
20 communicates a threat to another person with the  
21 intent that the other person be placed in fear or  
22 retaliation for a prior lawful act, commits  
23 Intimidation, a Class A Misdemeanor. Uh, Count II  
24 is brought under that section as well as subsection  
25 (b)(1)(B)(ii) of the same Intimidation statute. That

1 second section (b)(1)(B)(ii) reads, however the  
2 offense is a Class D felony if the person to whom  
3 the threat is communicated is a Judge or Bailiff of  
4 any Court. I believe Count IV is the Obstruction of  
5 Justice your honor. It is brought under Indiana  
6 Code 35-44-3-4. It reads: a person who knowingly  
7 or intentionally induces by threat, coercion or false  
8 statement, a witness or informant in an official  
9 proceeding or investigation to; withhold or  
10 unreasonably delay in producing any testimony  
11 information, document or thing, avoid legal process,  
12 summoning him to testify or supply evidence or  
13 absent himself from a proceeding or investigation to  
14 which he has been legally summoned; knowingly or  
15 and that's subsection (1)(a)(b)(c). Subsection 2  
16 reads: knowingly or intentionally in an official  
17 criminal proceeding or investigation; withholds or  
18 unreasonably delays in producing any testimony,  
19 information, document or thing after a Court orders  
20 him to produce the testimony, information,  
21 document or thing; avoids legal process,  
22 summoning him to testify or supply evidence or  
23 absents himself from a proceeding or investigation  
24 to which he has been legally summoned. Number 3,  
25 alters, damages or removes any record, document or

1 thing, with intent to prevent it from being produced  
2 or used as evidence in any official proceeding or  
3 investigation; or makes, presents, or uses a false  
4 record, document or thing with intent that the  
5 record, document or thing material to the point in  
6 question, appear in evidence in an official  
7 proceeding or investigation to mislead a public  
8 servant or 5; communicates, directly or indirectly,  
9 with a juror otherwise than as authorized by law,  
10 with intent to influence the juror regarding any  
11 matter that is or may be brought before the juror;  
12 commits obstruction of justice, a Class D felony.  
13 Subsection (b) provides an exception to that statute:  
14 a person who qualifies, I'm sorry, says that,  
15 subsection (a)(2)(a) does not apply to a person who  
16 qualifies for a special privilege under I.C. 34-46-4  
17 with respect to the testimony, information,  
18 document, or thing; or #2; a person who is an  
19 attorney, physician, member of the clergy or  
20 husband or wife is not required to testify under  
21 Indiana Code 34-46-3-1. Um, the Count that I've  
22 just read the statute for is alleged to be an attempt.  
23 The attempt statute is brought under Indiana Code  
24 35-41, I believe it's 5-2 your honor. It reads, I'm  
25 sorry it's 5-1. It reads a person attempts to commit

1 a crime when acting with the culpability required  
2 for commission of the crime, he engages in conduct  
3 that constitutes a substantial step toward  
4 commission of the crime. An attempt to commit a  
5 crime is a felony or a misdemeanor of the same  
6 class as the crime attempted, however an attempt to  
7 commit murder is a Class A felony, subsection (b)  
8 provides it is no defense that because of  
9 misapprehension of the circumstances, it would  
10 have been impossible for the accused person to  
11 commit the crime attempted. The Perjury Count is  
12 brought under Indiana Code 35-44-2-1 and it reads  
13 (a) a person who (1); makes a false, material  
14 statement under oath or affirmation, knowing the  
15 statement to be false or not believing it to be true; or  
16 (2) has knowingly made two (2) or more material  
17 statements in a proceeding before a court or grand  
18 jury, which are inconsistent to the degree that one  
19 (1) of them is necessarily false; commits perjury, a  
20 Class D felony. Subsection (b) provides in a  
21 prosecution under subsection (a)(2) of this section;  
22 (1) the indictment or information need not specify  
23 which statement is actually false; and (2) the falsity  
24 of a statement may be established sufficient for  
25 conviction by proof that the defendant made

1 irreconcilably contradictory statements which are  
2 material to the point in question. The final Count of  
3 Unauthorized Disclosure of Grand Jury Information  
4 offense reads as follows: (a) except when required  
5 to do so by law, a person who has been present at a  
6 grand jury proceeding and who knowingly or  
7 intentionally discloses (1); any evidence or  
8 testimony given or produced; (2) what a grand juror  
9 said; or (3) the vote of any grand juror, to any other  
10 person, except to a person who was also present or  
11 entitled to be present at that proceeding or to the  
12 prosecuting attorney or his representative, commits,  
13 unauthorized disclosure of grand jury information, a  
14 Class B misdemeanor. Subsection (b) provides the  
15 transcript of testimony of a witness before a grand  
16 jury may be produced only (1); for the official use  
17 of the prosecuting attorney or (2); upon order of  
18 (A); the Court, which impaneled the grand jury; (B);  
19 the Court trying a case upon an indictment of the  
20 grand jury or (C); a Court trying a prosecution for  
21 perjury but only after a showing of particular rise  
22 need for the transcript.

23 COURT: Okay and then Mr. Brewington, the potential  
24 penalties for Count I and III is A misdemeanors.  
25 The penalty would be zero (0) to one (1) year in jail,

1 a fine of zero (0) to five thousand dollars  
2 (\$5,000.00), for Count II, IV and V, Class D  
3 felonies, the penalty is six (6) months to three (3)  
4 years in jail, a fine of zero (0) to ten thousand  
5 dollars (\$10,000.00) and under certain limited  
6 circumstances, a D felony on conviction can be  
7 entered as an A misdemeanor and for Count VI, the  
8 B misdemeanor, the penalty range would be zero (0)  
9 to a hundred and eighty (180) days in jail and a fine  
10 of zero (0) to a thousand dollars (\$1,000.00). Do  
11 you have any questions about the charges, possible  
12 penalties or the statutes under which these charges  
13 are brought?

14 MR. BREWINGTON: Uh, no ma'am, no your honor.

15 COURT: Okay, and then um, are you intending to be  
16 represented by counsel in this matter?

17 MR. BREWINGTON: Yes I need a public defender please.

18 COURT: Okay, then I'll need to ask you some questions  
19 regarding your finances under oath. Is that okay?

20 MR. BREWINGTON: Yes.

21 COURT: Raise your right hand. Do you swear or affirm  
22 under penalties for perjury the testimony you give  
23 will be the truth, the whole truth and nothing but the  
24 truth so help you God?

25 MR. BREWINGTON: Yes.

1 COURT: Okay. Do you currently own any real estate?

2 MR. BREWINGTON: No.

3 COURT: Do you have any checking or savings account?

4 MR. BREWINGTON: No.

5 COURT: Do you have any motor vehicles titled in your

6 name?

7 MR. BREWINGTON: Yes but there's a lien on it.

8 COURT: Okay and what type of vehicle is it?

9 MR. BREWINGTON: Uh, F250 Ford pickup truck.

10 COURT: And what year is it?

11 MR. BREWINGTON: 2005.

12 COURT: Okay and um, what is the approximately amount of

13 lien on the vehicle?

14 MR. BREWINGTON: Twenty thousand dollars (\$20,000.00).

15 COURT: Okay and do you have any source of income at this

16 time?

17 MR. BREWINGTON: No.

18 COURT: Is there anything that would prevent you from

19 working?

20 MR. BREWINGTON: Uh, incarceration in terms of?

21 COURT: Okay. Um, are you able-bodied?

22 MR. BREWINGTON: Uh, yes.

23 COURT: Okay. Now are there anyone who has offered to pay

24 for your attorney fees?

25 MR. BREWINGTON: Uh, no, not as of yet.



1 COURT: And are there any other assets or sources of funds  
2 that you have that could be utilized to pay for an  
3 attorney?  
4 MR. BREWINGTON: No.  
5 COURT: Okay, then I'm going to go ahead and find that a  
6 public defender should be appointed at this time.  
7 I'm going to review this and um, I will appoint a  
8 public defender within the next couple of hours.  
9 Okay and you'll get notice of that appointment in  
10 writing. Um, now we're going to enter a plea of not  
11 guilty on your behalf. Mr. Kisor, do you have  
12 anything in regards to bond?  
13 MR. KISOR: Your honor, a couple of things. #1, Mr. Johnson  
14 has given the court reporter protective orders that  
15 we're asking to be entered in favor of Dr. Edward  
16 Connor and Judge James D. Humphrey and his  
17 family as a condition of bond at this time. Uh, the  
18 State's position, your honor, is that a high bond  
19 would be appropriate; not only is Mr. Brewington a  
20 resident of the State of Ohio, um, we believe that  
21 the allegations are extremely serious and he does  
22 present a danger to the community. Uh, in addition  
23 to that request your honor, we are asking that the  
24 Court consider making conditions of his bond that  
25 he not access the internet, uh, or if the Court would

1 believe that to be too broad, which I'm not sure the  
2 State would not concede that but if that were to be  
3 considered too broad, we would ask the Court to  
4 make a condition of bond that Mr. Brewington not  
5 continue to blog about the substance, uh, at least his  
6 version of the substance of the case that is here  
7 before this Court. Um, I do have some exhibits. I  
8 just want to highlight a little bit and show them to  
9 Mr. Brewington before I offer them, but I personally  
10 reviewed a uh, blog this morning on the Dearborn  
11 County public forum at 8:02 this morning, uh, there  
12 was a blog post that says, "if I am detained in  
13 Dearborn County jail because I do not receive a  
14 hearing or if Negangard gets a ridiculously high  
15 bond placed on me, facebook users can get updates  
16 from my family and friends from my facebook  
17 group, 'help Dan Brewington see his girls.' I will  
18 have someone posting information on this case that  
19 Negangard tries to lock me up or in the case that  
20 Negangard tries to lock me up and throw away the  
21 keys. All are welcome to join. Thanks for the  
22 support." So we're asking that that order be made  
23 no direct or indirect postings regarding this case.  
24 MR. BREWINGTON: Excuse, I'm sorry. I didn't hear. What time was  
25 that?

1 MR. KISOR: 8:02:16.

2 MR. BREWINGTON: Oh okay, yell I was incarcerated at that time.

3 MR. KISOR: And it indicates in it, I will have someone posting  
4 information in the case and I'm certainly, I'm sure  
5 Mr. Brewington, if he wants to dispute this is him,  
6 that's his right, but I'm just reading what's been  
7 posted under his name and what's, the same name  
8 that he's been apparently posting on for many years.  
9 Um, he's indicated also in a post from uh, March  
10 10<sup>th</sup> at uh, it's noted here 15:37:30, which I believe  
11 would be 3:37 yesterday, um, indicating that what  
12 else would I have to write about, well without  
13 lengthy, the substance of it is that he's going to  
14 continue to write about this case on these blogs.  
15 Um, I've noted there's other recent posts and this is;  
16 he testified before the grand jury on March the 7<sup>th</sup>, I  
17 believe. I was not present, um, he's made postings  
18 after he turned himself in Ohio; I'm out, silly  
19 Negangard. He thought jail would somehow  
20 intimidate me; more to come. So I think it's clear  
21 um, that he intends to try this case on his blog and I  
22 think that not only could be detrimental to the State.  
23 It might even be detrimental to him. But in any  
24 event, it's not appropriate and lastly, he's, I want to  
25 point out on March 2<sup>nd</sup>, well I'm not sure I've got

1 this right as far as the dates. It says yesterday I  
2 swore under oath that I would not talk about what  
3 went on in the grand jury hearings. The Prosecutor,  
4 Negangard, seemed concerned that I would tell  
5 people what happened. Well I am going to tell  
6 people whether Negangard likes it or not. I'm going  
7 to ask; I'm going to show this to Mr. Brewington  
8 but I'm not going to offer it at this time. The last  
9 letter states (inaudible) Negangard.

10 COURT: Okay.

11 MR. KISOR: There's also a posting in a separate exhibit again  
12 where, what I would consider the relevant part and  
13 this, I think, is from uh, sometime, it's dated at least  
14 posted on the blog as 2/28/11. It says, "I can't say  
15 what happened in the grand jury but if Negangard  
16 takes the matter to trial, I will be sure to get the  
17 grand jury information on the public court". This is  
18 the court where this case needs to be tried; not the  
19 public court, your honor. Um, so again I don't  
20 know if he's going to say these aren't his but I want  
21 him to have an opportunity to look at it. That's  
22 State's Exhibit 1, I read from previously. 2, I just  
23 read from about the public court. Um, State's  
24 Exhibit 3, your honor, is the Judgment of the  
25 Divorce Court in the Circuit Court of this County

1 from Judge Humphrey that is background to how  
2 we end up here today. State's Exhibit 4 is a copy of  
3 the Court of Appeals opinion of Mr. Brewington's  
4 appeal of that case; that judgment and lastly State's  
5 Exhibit 5 is a letter from Dr. Ed Connor to Judge  
6 Taul who was the original Judge in his divorce court  
7 who recused himself um, after being accused of  
8 conspiring with Dr. Connor. So I'm going to, again  
9 I'd like to show these exhibits to uh, have Mr.  
10 Brewington have an opportunity to review them but  
11 at this time I think the substance of them are that  
12 you will see, Mr. Brewington has disdain for any  
13 court; anybody that he sees as an enemy, including  
14 his own former attorneys, he will attack. He will  
15 attack them in his blog, he will attack them in  
16 himself and through other people and I don't think  
17 again, if that's the proper way for this case to  
18 proceed. So the State is asking to, your honor,  
19 admit State's Exhibits 1 through 5 in consideration  
20 of setting the bond and the conditions and again the  
21 State's request is for a high bond and with the  
22 prohibition that he not be permitted to use the  
23 internet.

24 COURT: Okay.

25 MR. KISOR: Or discuss this case in any other form.

1 COURT: Alright now, um, Mr. Brewington, you've been  
2 advised you do have a right to remain silent and  
3 what you say could be used against you. Is there  
4 anything you would want to state in regards to what  
5 Mr. Kisor said or it has been mentioned that there is  
6 an attorney who's not licensed in this State who is  
7 present. Would you want him to make any  
8 statement on your behalf?  
9 MR. BREWINGTON: Uh, yell I do. May I say one word before Mr.  
10 Kelley speaks?  
11 COURT: You may speak, yes.  
12 MR. BREWINGTON: Okay, uh...  
13 COURT: But if you are going to make a statement, I need to  
14 remind you that I have placed you under oath and  
15 you would remain under oath.  
16 MR. BREWINGTON: Yes, yes.  
17 COURT: Okay.  
18 MR. BREWINGTON: Uh...  
19 COURT: Okay now those who are here...  
20 MR. BREWINGTON: Okay.  
21 COURT: ...need to not speak um, this, if um, the attorney  
22 from Ohio wishes him not to speak, you may let  
23 him know that.  
24 MR. BREWINGTON: Uh...  
25 COURT: But if you wish to speak Mr. Brewington, you're

1 free to do so. Okay.

2 MR. BREWINGTON: Okay.

3 COURT: Alright. Now just have a seat there. Mr.

4 Brewington, do you want to make a statement on

5 your own knowing that you could have counsel and

6 you have not had counsel appointed yet or are you

7 wishing that this Mr. Kelley make some statement

8 on your behalf in regards to the bond?

9 MR. BREWINGTON: Uh, just one thing on the bond is that uh, I only have

10 until March, uh March 17<sup>th</sup> of this month to prepare

11 a, a, to prepare something for the U.S. Supreme

12 Court on issues dealing with uh, my, the Decree of

13 Dissolution, so, um, you know, incarceration would

14 really hamper my ability to do that.

15 COURT: Okay.

16 MR. BREWINGTON: And that, that's all, because I represent myself on

17 those issues and then so uh, then whatever Mr.

18 Kelley has to say now.

19 COURT: Okay and you're wanting him to speak on your

20 behalf?

21 MR. BREWINGTON: Yes.

22 COURT: Okay.

23 MR. BREWINGTON: Thank you, your honor.

24 COURT: Then Mr. Kelley, why don't you come forward here

25 and state what you would wish to state regarding

1 bond.

2 MR. KELLEY: Your honor.

3 COURT: And just identify your name for the record.

4 MR. KELLEY: My name is Robert Kelley. I'm the attorney for Mr.

5 Brewington and I'm licensed to practice in Ohio. I

6 anticipate filing the necessary paperwork with

7 Indiana to get appointed to appear on his behalf pro

8 bono to assist whoever the court appointed counsel

9 is if that can be arranged and we couldn't get it done

10 by today because we couldn't get the public

11 defender appointed. Mr. Brewington's thirty-seven

12 (37) years of age. He's divorced at the present time.

13 He's unemployed. He's lived in Norwood, Ohio or

14 Milan, Indiana his entire life. He has no criminal

15 record whatsoever in any court system. The only

16 criminal record he has is now in this court. He's

17 um, he has no missed court dates of any kind,

18 whether for his divorce, whether as a result of the

19 notice from Prosecutor, Negangard. He voluntarily

20 appeared, voluntarily waited his turn for

21 approximately six (6) hours to appear for that uh

22 grand jury proceeding. He voluntarily surrendered

23 here today, this morning, as a result of a bond being

24 posted in the State of Ohio for his release on the

25 extradition warrant and upon the representation to



1 those court authorities that Mr. Brewington would  
2 surrender himself. He was released by Hamilton  
3 County and that was also discussed with Prosecutor,  
4 Negangard, that he would be surrendered by 6:00  
5 this morning. He was surrendered by 6:00, so it  
6 would be impossible for him to make that post at 8  
7 unless they're giving him access at the jail. So I  
8 said no prior criminal history. There's no threats of  
9 violence on any of these charges that have been  
10 filed which I think would be one of the big issues as  
11 far as intimidation. Uh, there's no in person contact  
12 between Mr. Brewington and Judge Humphrey or  
13 Judge Humphrey's wife at any time other than in a  
14 courtroom where Mr. Brewington represented  
15 himself. That's been the only in person contact with  
16 Judge Humphrey at any time. The only in person  
17 contact with Dr. Connor was either a result of his  
18 visit with Dr. Connor for an evaluation or if Dr.  
19 Connor was subpoenaed for a criminal action that  
20 was filed by his ex-wife in Ohio. We tried to  
21 subpoena Dr. Connor and Dr. Connor refused to  
22 appear in the Hamilton County Municipal Court.  
23 Those charges were thrown out by the Judge in  
24 Ohio and he has had no contact, in person contact  
25 with Dr. Connor whatsoever. He's uh, participated

1 in all judicial or quasi-judicial proceedings. He has  
2 filed complaints against Dr. Connor because he  
3 does have a valid claim against Dr. Connor that he's  
4 pursuing at the present time which we anticipate  
5 will be filed Monday in Federal Court concerning  
6 this matter and these charges here today. Um, he's  
7 represented himself throughout the litigation, done  
8 research on his case and reported that. Um, and  
9 some of these charges that are alleged in the  
10 indictment, even reviewing them, you can't identify  
11 what, the actual facts, the dates, the times, any of  
12 these things occurred but I can guarantee you that  
13 Mr. Brewington's welcomed this date and will  
14 appear at every hearing. He presents no harm to  
15 anyone. I've known his family for over forty (40)  
16 years. I was a prosecutor in the city of Norwood.  
17 I'm a prosecutor in the village of Addyston at the  
18 present time and quite frankly your honor, I think  
19 that after Mr. Brewington has his day in Court, it's  
20 going to be quickly discerned that there's no  
21 substance to these charges and if everybody's going  
22 to be indicted who blogs on a post, they might as  
23 well start indicting everybody. If that woman in the  
24 back corner writes the wrong thing on her paper and  
25 the Prosecutor gets upset about it, she could be

1 indicted. I mean it's his first amendment right to  
2 get on there and type as long as he's not threatening  
3 physical harm to someone and Dr. Connor has no  
4 relationship to any case that's pending at the present  
5 time; none whatsoever. Neither does Doctor, Judge  
6 Humphrey. Judge Humphrey doesn't have any  
7 involvement with any case involving Mr.  
8 Brewington at the present time except for maybe the  
9 appeal of his divorce case to the Supreme Court, the  
10 U. S. Supreme Court. And that's all we would say  
11 but he presents no risk to anybody other than the  
12 fact that when he has a computer, he likes to sit  
13 down and type and I, and if you take, I'll tell you  
14 what, if you take this document, the State's Exhibit  
15 where it states that he's gonna state what happened  
16 at the grand jury and if you can pull it up on your  
17 computer, you'll see that he didn't say anything  
18 about what occurred in the grand jury whatsoever.  
19 It was absolutely a play on words and a reference to  
20 a Jack Nicholson and um, Tom Cruise movie and he  
21 just switched the roles from Jack Nicholson to  
22 Negangard, uh Jack Nicholson was Mr. Brewington  
23 but I mean the, the whole process here, he's got an  
24 absolute first amendment right to get on the  
25 computer if he wants to blog, he can blog.

1 COURT: Okay, now are you appointed in the State of Ohio or  
2 have you been retained?  
3 MR. KELLEY: No. I'm doing it pro bono in the State of Ohio  
4 because they want you to donate time and that's  
5 exactly what I'm doing. I'm donating my time to  
6 his defense and my representation of him, not only  
7 in this action would be free of charge to him but my  
8 representation in the civil litigation that's going to  
9 be filed on Monday is also free of charge to him.  
10 COURT: Now Mr. Kisor, do you have anything further?  
11 MR. JOHNSON: Your honor, the only, the only concern would be  
12 um, it was stated explicitly to Mr. Brewington in the  
13 grand jury proceedings that he was not to put  
14 anything on his blog concerning anything that  
15 happened in the grand jury and he proceeded to go  
16 and whether he put on his blog information, you  
17 know, regarding the proceedings and whether  
18 people, people would not know whether that  
19 occurred or not. The problem is, is that Mr.  
20 Brewington does not follow instructions that need to  
21 be followed. That is our big issue here.  
22 MR. KELLEY: Judge, if...  
23 COURT: Just a moment.  
24 MR. KELLEY: Okay.  
25 COURT: Okay did you have anything else?

1     MR. KISOR:                   I would just add that Mr. Kelley's correct. You can  
2                                   go to that blog. I went to it this morning, um, but I  
3                                   think if you follow that through and I don't know if  
4                                   the Court really wants to do that or not but if you  
5                                   do, the postings he has, to me, show an absolute  
6                                   disdain for the Court and for the prosecution and  
7                                   certainly that's okay with the first amendment as  
8                                   long as it doesn't affect with everybody, affect  
9                                   everybody's right to a fair trial and that's why we've  
10                                  asked for those conditions your honor.

11    COURT:                    Okay, now are you, are you, the Court's going to  
12                                  admit these Exhibits 1 through 5 if you want to  
13                                  bring those forward. Okay and Mr. Kelley did you  
14                                  have something further you wish to state?

15    MR. KELLEY:               I just have, I just have one additional thing to say.  
16                                  In the fact that Mr. Brewington may have disdain  
17                                  for the Prosecutor I think is actually his right. He  
18                                  could even have disdain for the Court and that  
19                                  would be his right. Now as an officer of the Court,  
20                                  if I had disdain for the Court or showed some lack  
21                                  of respect or didn't urge somebody to be compliant  
22                                  with the Court's order, that would absolutely be a  
23                                  problem but he's got a right not to sit there if  
24                                  somebody says well don't write anything bad about  
25                                  the Prosecutor. He's got a right to put down

1                   whatever he wants. If it's actionable slander or  
2                   liable, they can, they can sue him but quite frankly  
3                   they haven't. What they've done is they've indicted  
4                   him because they're in control of that.

5       COURT:                   Okay, well what I'm going to do, there are going to  
6                   be conditions of bond that are going to include that  
7                   you maintain contact with your attorney, that you  
8                   notify the Court in writing of any change of address  
9                   within forty-eight (48) hours, that you not commit  
10                  any criminal offenses, that you appear at all  
11                  hearings scheduled by the Court. The Court is  
12                  going to grant the protective order as to having no  
13                  direct or indirect contact with Dr. Edward Connor,  
14                  Judge James Humphrey and all members of his  
15                  family and these are going to include that you have  
16                  no contact with those individuals in person, by  
17                  telephone or letter, through an intermediary or any  
18                  other way directly or indirectly except through an  
19                  attorney of record while released from custody  
20                  pending trial. This includes but is not limited to  
21                  acts of harassment, stalking, intimidation, threats  
22                  and physical force of any kind and that would  
23                  include any um, e-mails, any type of utilizing their  
24                  names on the internet or things of that nature while  
25                  this case is pending. You would have no firearms,

1                               deadly weapons or ammunition in your possession  
2                               and you would not visit the following locations:  
3                               you would not go to the residence of either of these  
4                               individuals or go to their place of employment and  
5                               unless it is for official business. Okay, um on your  
6                               part.

7       MR. BREWINGTON:       Yes your honor.

8       COURT:                   Um, you would not be to be going to the Circuit  
9                               Court offices. There should not need to be for that  
10                              but if there's a reason for you to be in the  
11                              courthouse for a hearing or matter involving your  
12                              case, you're in a different court, so you would be  
13                              reporting here. I just want to make that perfectly  
14                              clear.

15      MR. BREWINGTON:       Yes your honor.

16      COURT:                   Okay, also as to Dr. Connor, you would not go to  
17                              his place of residence or his business while this case  
18                              is pending. If you would see any of these  
19                              individuals in a public place, you would be required  
20                              to leave without having any communication  
21                              whatsoever and you cannot allow anyone to make  
22                              communication on your behalf except your attorney  
23                              of record, so if it would be found that you were  
24                              having a third party make entries um, directed  
25                              towards them or do any type of harassing or stalking

1 or other type of behavior on any of these three (3)  
2 individuals that would be a problem. It could be a  
3 violation of the protective order.

4 MR. BREWINGTON: Yes your honor.

5 COURT: Now this is going to remain in effect the entire time  
6 that this case is pending, unless there is further  
7 order of the Court and it will be in effect even if you  
8 are not released from lawful detention. Do you  
9 understand that?

10 MR. BREWINGTON: Yes your honor.

11 COURT: Okay, violation of this order constitutes a violation  
12 of Indiana Code 35-33-8-3.2 which could result in  
13 revocation of bond or release on a personal  
14 recognizance. Violation of this order also  
15 constitutes the violation of Indiana Code 35-46-1-  
16 15.1 and may also subject you to federal  
17 prosecution. This order is valid in all fifty (50)  
18 states, the District of Columbia, tribal lands in  
19 United States territory. Violation of this order is  
20 punishable by confinement in jail, prison and/or  
21 fine. And do you have any questions regarding  
22 this?

23 MR. KELLEY: Will he receive a copy of that your honor?

24 COURT: He's going, first I'm finding does he have questions.

25 MR. BREWINGTON: Uh, no your honor.



1 COURT: Okay, then I'm going to have you sign this  
2 indicating I have reviewed the essential parts of this  
3 and that you will be receiving a full copy of these  
4 orders with your paperwork and there's two (2)  
5 separate orders; one (1) as to Judge Humphrey and  
6 his family and the other is to Dr. Edward Connor.  
7 Okay then um, we're going to set this for an  
8 omnibus and pre-trial hearing on April 26<sup>th</sup> at 1:30.  
9 I'm going to review this a little further before I  
10 make a decision on bond or further conditions. I  
11 will make that decision by the end of the court date  
12 today in writing.

13 MR. KELLEY: Your honor, did you say April 26<sup>th</sup>?

14 COURT: April 26<sup>th</sup> at 1:30 will be an omnibus and pre-trial  
15 hearing on this matter.

16 MR. KELLEY: Can I ask you one other question your honor? If  
17 bail's determined when you set the bond...

18 COURT: ...yes...

19 MR. KELLEY: ...where will that be posted?

20 COURT: Where will, where will what be posted?

21 MR. KELLEY: The bond.

22 COURT: Uh, it will depend if the Court determines it's a cash  
23 bond or a surety bond or a combination. Okay and  
24 then at this time Mr. Brewington's remanded to the  
25 custody of the Sheriff and I will have this order out

1 by the end of the court date today.

2 MR. KISOR: Thank you, your honor.

3 MR. KELLEY: Thank you, your honor.

4 COURT: You're welcome.

5 MR. KELLEY: For permitting me to speak. Your honor, just one

6 other thing.

7 COURT: Okay well I really can't, you know maybe address

8 that to Mr. Kisor or something but I really can't take

9 statements off the record.

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1 STATE OF INDIANA  
2  
3 COUNTY OF DEARBORN  
4  
5 State of Indiana  
6  
7 vs.  
8  
9 DANIEL BREWINGTON  
10 Defendant

11  
12 IN THE DEARBORN SUPERIOR II COURT

13  
14 REPORTER'S CERTIFICATE

15  
16 I, Barbara Ruwe, Reporter of the Dearborn Superior Court II, Dearborn  
17 County, State of Indiana, do hereby certify that I am the court reporter of said  
18 Court, duly appointed and sworn to report the evidence of causes tried therein.  
19

20 That upon the Initial Hearing on March 11, 2011, I transcribed all of the  
21 statements by counsel, the evidence given during the hearings of this cause, and  
22 the rulings of the Court upon such objections.  
23

24 I further certify that the foregoing transcript, as prepared, is full, true,  
25 correct, and complete.  
26

27 IN WITNESS THEREOF, I have hereunto set my hand and affixed my  
28 Seal this \_\_\_\_ day of November, 2012.  
29  
30  
31

32  
33 \_\_\_\_\_  
34 Barbara Ruwe  
35 Dearborn Superior Court II  
36 Dearborn County, Indiana