

Daniel P. Brewington



contactdanbrewington@gmail.com

January 5, 2018

Jane Henegar
Executive Director
ACLU of Indiana
1031 East Washington Street
Indianapolis, IN 46202-3952

Dear Executive Director Henegar,

I am contacting the Indiana ACLU to make you aware of the legal situation regarding grand jury investigations in Dearborn County, Indiana. In 2011, I was indicted and convicted on a variety of crimes stemming from my public criticism of officials within the Dearborn County Court System. I was marched to trial despite, on multiple occasions, informing the trial judge that my public defender refused to ever meet with me to discuss my case. A week before my trial, my public defender mailed a copy of the 340-page grand jury transcript to me while I was incarcerated in the Dearborn County Law Enforcement Center on a \$500,000 surety/\$100,000 cash bond. I was given only a week to read the 340-page transcript, which served as the only means by which I was to determine what actions I was required to defend. As the indictments of my case covered several years and mentioned no specific actions, and since my public defender refused to meet with me, I appeared at my criminal trial with no understanding of my case. On several occasions, I explained to Special Judge Brian Hill, Rush Superior Court, that my public defender, Rush County Chief Public Defender Bryan Barrett, refused to speak to me outside of the courtroom. I explained I had no idea what actions I was required to defend. I filed three pro-se motions addressing these issues on the morning of my trial. Judge Hill refused to even ask Barrett if my accusations were true. Judge Hill only offered me the opportunity to represent myself. As I had no understanding of my case, I obviously declined. After serving a 2.5-year sentence, I discovered I was not provided a copy of the entire transcript from the grand jury proceeding because the transcript began at witness testimony. As the prosecution offered the transcription into evidence during a hearing in my criminal proceedings, in 2012 my family requested a copy of the grand jury audio per the Access to Public Records Act ("APRA"), but was denied. I made the same request in 2016 but again was denied. After filing a complaint with the Indiana Public Access Counselor, the PAC issued

an advisory opinion dated April 14, 2016 stating the audio was a releasable record. It was then that the Dearborn Superior Court II began claiming that other grand jury proceedings were intertwined with mine and Special Judge Brian Hill directed the court reporter to prepare a copy of audio that pertained only to my investigation. The Court changed the file format and names of audio files and copied and pasted the grand jury audio; presumably to match the transcript that was prepared five years prior. Most concerning is the fact the transcripts contain more information than the audio from which it was originally transcribed.

I am currently taking two legal paths in trying to clear my name. The criminal/PCR courts have no interest in protecting my rights. I am currently appealing the blanket denial of my verified petition for post-conviction relief. Special Judge W. Gregory Coy denied all twenty grounds I raised for post-conviction relief without a hearing by simply stating: "There is no factual basis to support any of Brewington's claims and/or allegations against the judges and attorneys involved in his case." [See attached order] Of course my petition explained I had no assistance of counsel outside of the courtroom and I had no understanding of the indictments when the trial started. Just like Judge Hill, Judge Coy ignored my claims and granted summary disposition in favor of the State, on the Court's own motion. Judge Coy granted summary disposition in favor of the State despite the State arguing a hearing was necessary because issues of material fact made summary disposition/judgment unavailable.

I am pursuing a second avenue via an APRA lawsuit against the Dearborn Superior Court II. I've just filed a motion to set a hearing on the matter. [See attached petition] To this date, the Defendants claim there is no record of the grand jury proceedings occurring prior to witness testimony. Complicating matters is the prosecutor who conducted the grand jury investigation was F. Aaron Negangard, current Chief Deputy to Attorney General Curtis Hill. During my criminal trial, the prosecution instructed me to rely on the "complete" transcription of the grand jury investigation to determine what actions the State alleged to be criminal. Unbeknownst to me at the time, Barbara Ruwe, court reporter for the Dearborn Superior II, omitted Negangard's opening statements and instructions to the grand jury occurring prior to witness testimony. Now the Defendants claim that there is no record of my grand jury investigation prior to witness testimony. The Dearborn Superior Court II claims a record of the investigation prior to witness testimony does not exist but the court is fighting the release of the original audio files claiming that other grand jury proceedings are intertwined with my proceeding. For this to be true, the court reporter would have had to let the recording device run throughout all the proceedings without stopping. This contention might be plausible if there were verbal cues in the record such as "we are back on the record of Brewington." In the absence of such cues, it would be impossible to accurately

transcribe any one investigation that was intertwined with others. Of course, the Dearborn Superior Court II has made no mention of whether the grand jury record was never recorded, deleted, or whether Negangard simply began presenting evidence and witnesses without any explanation of the alleged crime(s). It seems apparent that Indiana Attorney General Curtis Hill has no intention of protecting the public from this type of activity because the Indiana Attorney General is serving as opposing counsel in both the appeal of my post-conviction petition and my APRA lawsuit. Despite clinging to the claim that I face a fair criminal trial and appellate process, no one wants to address how the missing grand jury records prohibit me from knowing exactly why Negangard made me a target of a grand jury investigation and being able to defend which of my actions Negangard argued were unlawful.

At every turn, Indiana judges and lawyers have done everything to steer clear of this situation because it represents what is known in some circles as the “Indiana way” of doing things. I’m not overly optimistic that the Indiana Chapter of the ACLU has the “resources” (aka: legal and political capital) to address a case as toxic as this. Any assistance on these issues would be greatly appreciated but not expected.

Very truly yours,



Daniel P. Brewington

[Redacted]
[Redacted]
[Redacted]

contactdanbrewington@gmail.com

Enclosed:

Copy of Brewington Motion to Set Hearing

Copy of PCR Court’s Order granting sua sponte summary disposition in favor of State