

IN THE SUPERIOR COURT OF DEARBORN COUNTY, INDIANA

DANIEL BREWINGTON,	)	
	)	
Plaintiff,	)	Case No. 15001-1607-PL050
v.	)	
	)	
DEARBORN SUPERIOR COURT II	)	
JUDGE BRIAN HILL	)	
	)	
Defendants.		

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff Daniel Brewington ("Brewington") files this MOTION FOR SUMMARY JUDGMENT against Defendants Dearborn Superior Court II ("DSC") and Special Judge Brian Hill ("Hill") in accordance with Indiana Trial Rules of Trial Procedure and in support as follows.

**TIMELINE OF EVENTS**

1. "Grand Jury Audio" as discussed in Brewington's Motion for Summary Judgment refers to the audio record from the grand jury investigation of Daniel P. Brewington, which took place on February 28, 2011, March 1, 2011, and March 2, 2011.
2. On July 14, 2016, Brewington filed his pro se COMPLAINT UNDER INDIANA ACCESS TO PUBLIC RECORDS ACT ("APRA") AND FOR INJUNCTIVE AND DECLARATORY RELIEF seeking said audio per the advice of the Indiana Public Access Counselor ("PAC").

3. In a letter dated July 14, 2016 (postmarked July 15, 2016) Chief Court Reporter for DSC Barbara Ruwe (“Ruwe”) informed Brewington the audio disc containing the Grand Jury Audio was available at a cost of \$300.00. A copy of Ruwe’s letter attached hereto as “Exhibit A”. [Ruwe’s letter claims Brewington never confirmed he wanted copies of the grand jury audio, despite Brewington sending three letters to Ruwe dated May 23, 2016, May 23, 2016, and July 5, 2016. Ruwe also estimated the costs of preparing the audio to be \$150 - \$300 despite the audio files already being prepared. See “Appendix I” for copies of Brewington’s letters to Ruwe as well as information regarding how the DSC altered the official record of the grand jury audio prior to Brewington receiving the DSC order to release the audio.

4. Brewington obtained a CD-R allegedly containing the Grand Jury Audio on July 19, 2016. A copy of CD-R containing Grand Jury Audio attached hereto as “Exhibit B”.

5. Review of the Grand Jury Audio establishes the Dearborn County Superior Court II altered the grand jury audio, thus obstructing public access to the official record of the proceedings.

### **FACTS SURROUNDING THE INCOMPLETE RECORD**

6. It should first be noted that Hill and the DSC were both aware that the written transcription of the grand jury proceedings in question were incomplete and non-compliant with IC 35-34-2-3(d), yet took no action to address the issue. To the contrary, rather than investigate why Ruwe custom tailored the transcription of the

grand jury record that Dearborn County Prosecutor F. Aaron Negangard (“Negangard”) submitted to the trial court during a hearing on August 17, 2011, the Defendants continued to generate excuses as to why release of the official audio is not appropriate. The Defendants have also failed to provide any explanation for Ruwe making unauthorized changes to the official record of a grand jury investigation.

7. Failure to order the release of an unaltered copy of the official audio record of the grand jury record removes what few safeguards are available to the public against abuses of the grand jury process.

8. The audio sought is a public record subject to release per the Office of the Public Access Counselor.

9. There is no order by any court of law authorizing the omission or redaction of any material from the record of the grand jury investigation of Daniel Brewington.

10. There are no marked redactions in the transcription of the grand jury audio. A digital copy of transcripts attached hereto as “Exhibit C”.

11. The audio is *not* [emphasis added] a copy of the official audio record. The DSC omitted all audio in the grand jury proceedings that occurred prior to witness testimony.

12. The DSC changed the format of the original audio files, deleted file names and then combined and renamed the larger audio files. “Exhibit D” is a copy of the audio from regular court proceedings occurring on September 19, 2011 and October

24, 2011 in the Dearborn Superior Court II. See “Appendix II” for an explanation of the varying recording methods used by the DSC.

13. There are statements in the transcripts that do not appear in the audio, which means Ruwe added additional content while transcribing the record or the DSC omitted portions of the audio that were previously available during transcription. See “Appendix III”

14. In one instance of where the DSC edited the grand jury audio to match the transcripts from the same proceedings, the DSC removed over five minutes of audio, despite the transcripts portraying the dialogue on either side of the omitted audio to be uninterrupted. See “Appendix IV” for an explanation of how the DSC omitted portions of the grand jury proceedings by cutting and pasting the official record.

15. In an order dated April 20, 2016, Hill stated, “It is the Court's understanding that the Grand Jury impaneled for this matter also heard evidence in four to five other Grand Jury proceedings during this time, often going back and forth between all of the cases. The audio recordings being released shall contain only the matter regarding Daniel Brewington and no other Grand Jury proceedings.” Regardless of Hill’s order, the court reporter does not have the authority to make arbitrary alterations to the official record of a legal proceeding.

16. Despite the claims of Hill and the DSC, there are no other grand jury proceedings intertwined with Brewington’s proceedings because the audio is void of Dearborn County Prosecutor F. Aaron Negangard (“Negangard”) making any mention of being “back on record” in the investigation of Brewington. See “Appendix

IV” for a table documenting how the DSC allows Negangard to disappear and reappear on the official grand jury record without notice.

17. In *Brewington v. State*, 7 N.E.3d 946 (2014), current Chief Justice Loretta H. Rush wrote that during trial, “the prosecutor argued two grounds for Defendant’s convictions, one entirely permissible (true threat) and one plainly impermissible (‘criminal defamation’ without actual malice). See Tr. 455-56.” at 973. The DSC omitted the true threat instruction from the grand jury record and only included the “plainly impermissible (‘criminal defamation’ without malice)” instruction. The Office of the Dearborn County Prosecutor instructed Brewington to rely entirely on the grand jury transcripts in order to subject the prosecution’s case to adversarial testing, while withholding the constitutionally permissible grounds for prosecution. Negangard and the DSC allowed Brewington’s public defender to prepare a defense against a prosecutorial argument that both Negangard and the DSC knew, or should have known, was “plainly impermissible.”

### **SUMMARY JUDGMENT IS APPROPRIATE**

18. “Summary judgment is appropriate only where the designated evidence shows there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. T.R. 56(C). For summary judgment purposes, a fact is ‘material’ if it bears on the ultimate resolution of relevant issues.” *Sony Dadc U.S. Inc. v. Thompson*, 84A01-1507-CT-892 (July 13, 2016)

19. Over twenty [20] days have expired since the commencement of the above action, per Trial Procedure Rule 56(a)

Any arguments against the above declarations requires the admission of  
Defendant's illegal conduct

20. An attempt to dispute this Motion for Summary Judgment places Defendants' Counsel, Deputy Attorney General Joshua R. Lowry, in a precarious situation because Lowry must argue his clients, Dearborn County Prosecutor F. Aaron Negangard, and possibly others engaged in a conspiracy to deprive civil rights.

21. No judge authorized the modification of the grand jury record during Brewington's proceedings.

22. Any contention that Hill's April 20, 2016 order gave Ruwe the authority to arbitrarily modify the official audio from the grand jury audio in copying the official record is an oxymoron as the copy is no longer "official".

23. Hill and the DSC cannot encroach on the public's right to access public records by simply claiming non-releasable records are intertwined with otherwise releasable records. The DSC cannot deny access to public records due to incompetence by the DSC court reporter's failure to hit "stop" and "record" between any alleged unrelated grand jury proceedings, which would have automatically created separate digital files.

24. The grand jury record shows Negangard instructing the grand jury that Negangard and his staff believed Brewington violated Indiana's intimidation statute by making "over the top" and "unsubstantiated statements" about officials operating within the Dearborn County Court System, which the Indiana Supreme Court deemed to be an unconstitutional prosecutorial argument. The DSC excluded

the “true threat” instruction given to the grand jury and forced Brewington to trial in the absence of any “true threat” accusation.

25. Any claim Ruwe received judicial approval to modify the grand jury record would have been ex parte in nature. Such order could have only come from Judge Sally McLaughlin (“McLaughlin”) or Hill. An ex parte order limiting a criminal defendant’s access to charging information would amount to a conspiracy by the DSC and Negangard to sabotage a defendant’s right to a fair trial.

26. Any argument by the Deputy Attorney General that the audio is complete acknowledges a conscious effort between Negangard and Ruwe to selectively record only portions of the official proceeding that Negangard deemed “beneficial” to the record. In the alternative, Negangard initiated a grand jury investigation and obtained indictments against Brewington under an unconstitutional criminal defamation premise then introduced an entirely different prosecutorial argument during trial, thus obliterating any potential defense by Brewington.

27. Any contention the audio is complete also acknowledges the DSC employs a different process of recording grand jury proceedings than trial proceedings, which fails to meet the requirements of IC 35-34-2-3(d): “The evidence and proceedings shall be recorded in the same manner as evidence and proceedings are recorded in the court that impaneled the grand jury.” The official record in any DSC proceeding does not begin at witness testimony and includes all dialogue between the prosecutor, judge, and members of the jury, unlike the grand jury record in question.

28. An argument that the audio is complete also implicates Dearborn County Sheriff Michael Kreinhop in misconduct, as Kreinhop was the witness before the grand jury in the timeframe spanning the five minutes of grand jury audio removed by the DSC. If the audio record is complete, Sheriff Kreinhop observed Negangard eliciting questions from jurors for Sheriff Kreinhop off the record and then instructing Ruwe to begin recording the proceedings at Prosecutor Negangard's discretion; giving the appearance in the transcription that the questions appeared in real-time. The record of the grand jury proceedings demonstrate how Sheriff Kreinhop touted his experience as a law-enforcement officer and experience with the court system to assist Negangard in seeking indictments against Brewington; however, that experience would also make Kreinhop aware of the criminal aspect of a court reporter selectively recording grand jury proceedings to assist future prosecutions.

### **NO ALTERNATIVE REMEDIES AVAILABLE**

29. This Motion for Summary Judgment has established the DSC withheld an unknown amount of the audio from the grand jury investigation of Daniel Brewington.

30. There is no "greater-good" standard in the State of Indiana that allows a public agency to secretly alter and/or withhold portions of public records while simultaneously maintaining the records to be complete.

31. The record of the grand jury proceeding is void of any indication of "four to five" other intervening grand jury proceedings as claimed by Hill and the DSC. Such



claim requires a declaration on record of the present case being presented to the grand jury. The absence of such declaration makes it impossible to determine the target of the grand jury investigation at any given time, thus reducing the accuracy of any transcription, not to mention potential confusion to grand jurors.

32. Placing any further trust in Hill and the DSC to accurately represent the grand jury record maintained by the DSC is akin to placing Bernie Madoff in charge of auditing his own investment practices in the criminal investigation of Madoff's investment fraud.

33. The only means to determine whether the DSC withheld portions of the grand jury audio or whether Ruwe selectively recorded the proceedings at the direction of Negangard, is to release the entire unedited record.

34. Anything short of an order demanding the release of the audio in its original format, gives the DSC another opportunity to obstruct the release of records from a grand jury investigation where Prosecutor F. Aaron Negangard abused the grand jury process in order to punish protected speech. Unless this Court wishes to accept the notion that the Dearborn County Superior Court II is exempt from maintaining a record of the entire grand jury process (minus deliberations) as required by Indiana law, the Dearborn Superior Court II sponsors unconstitutional and illegal grand jury investigations.

35. Given the criminal nature associated with altering grand jury records, First Amendment retaliation, and the actions by Hill and the DSC to obstruct public inquiry into such actions, a potential conflict may arise with the Office of the

Indiana Attorney General serving as counsel for the Defendants. Deputy Attorney General Joshua R. Lowry is faced with the potential conflict of representing the Defendants in a civil case where the existence of criminal conduct by the Defendants, or at least known by the Defendants, is likely, thus jeopardizing the ability of the Indiana Attorney General to investigate the matter. The best-case scenario in this situation is Ruwe and Negangard conspired to produce a partial record of a grand jury proceeding to advance the prosecution of protected speech. The worst-case scenario is Judge Brian Hill and Judge Sally McLaughlin (formerly Blankenship) played an active role in the First Amendment retaliation and then actively obstructed the public's access to the audio from the grand jury proceedings to cover-up the illegal conduct.

36. Defendants have a history of referring to alleged paranoia and Brewington's criminal convictions rather than addressing the above issues. Brewington's requests for the grand jury audio came as a member of the public. Brewington only raises the issue of his criminal proceedings as they are relevant to this request and Brewington's above statements are far from baseless or excessive suspicions given the unauthorized modifications to the official record of the grand jury proceeding. Rather than listen to Defendants' allegations of perceived paranoia or ulterior motives, Brewington requests this Court to keep the Defendants' focus on issues relevant to this cause of action, such as the DSC making unauthorized modifications to the official record of grand jury proceedings.

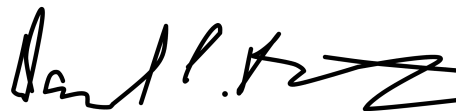
### **Remedy**

37. Brewington seeks disclosure of an unedited copy of the Official Audio Record from the Grand Jury proceedings relating to Cause No. 15D02-1103-FD-00084.

38. Brewington requests all fees and expenses associated with bringing this action.

**WHEREFORE**, Brewington requests that this Court: (1) issue Summary Judgment in Brewington's favor declaring that the DSC failed to comply with the laws of the State of Indiana and the rules and procedures defined by the APRA; (2) enter an injunction ordering the Court Reporter of the Dearborn Superior Court II to promptly produce the entire unedited audio record (in its original format) of the Grand Jury Proceedings relating to Cause No. 15D02-1103-FD-00084; (3) award Brewington any attorneys' fees and costs in prosecuting this action; and (4) award Brewington any other appropriate relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel P. Brewington", with a stylized flourish at the end.

---

Daniel P. Brewington  
3 W Central Avenue  
Delaware, Ohio 43015

contactdanbrewington@gmail.com

## Exhibit A

July 14, 2016

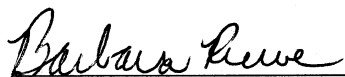
Daniel Brewington

Mr. Brewington:

The Court has not received a response from you regarding the letter dated April 27, 2016, that was sent to you indicating what the estimated cost of the disc would be. The Court was waiting for a letter in writing from you (as indicated in the letter) to inform us if you still wanted the disc as requested by you. A copy of the April 27, 2016, letter is attached.

The charge will be \$300.00. The Court has spent many hours in getting the disc ready plus the cost that was incurred from our IT person.

The disc may be picked up in the auditor's office at your convenience.



Barbara Ruwe, Chief Court Reporter  
Dearborn Superior Court II

attachment

April 27, 2016

Daniel Brewington

Mr. Brewington:

The cost of copying the discs is estimated to be between \$150.00 to \$300.00. Please inform the Court in writing if you want the Court to copy the discs and after the Court receives that, I will notify you in writing when they would be ready to be picked up.

A handwritten signature in cursive script, reading "Barbara Ruwe".

---

Barbara Ruwe, Court Reporter  
Dearborn Superior Court II

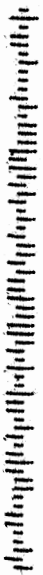


DEARBORN SUPERIOR COURT II  
Sally A. McLaughlin, Judge

Courthouse  
215 West High Street  
Lawrenceburg, IN 47025

Daniel Brewington

45212-173029



CH. 15 JUL 15 PM 3:11

NEOPOST  
07/15/2016  
FIRST-CLASS MAIL  
US POSTAGE \$000.46



ZIP 47025  
041M11272911

## **APPENDIX I**

### **The DSC Altered Grand Jury Audio prior to Contacting Brewington**

Ruwe's July 14, 2016 letter to Brewington (Exhibit A) states:

"The Court has not received a response from you regarding the letter dated April 27, 2016, that was sent to you indicating what the estimated cost of the disc would be. The Court was waiting for a letter in writing from you (as indicated in the letter) to inform us if you still wanted the disc as requested by you. A copy of the April 27, 2016, letter is attached.

The charge will be \$300.00. The Court has spent many hours in getting the disc ready plus the cost that was incurred from our IT person.

The disc may be picked up in the auditor's office at your convenience."

Ruwe's April 16, 2016 letter states:

"The cost of copying the discs is estimated to be between \$150.00 to \$300.00. Please inform the Court in writing if you want the Court to copy the discs and after the Court receives that, I will notify you in writing when they would be ready to be picked up."

### **Controversy Surrounding Ruwe's Letters**

1. Despite Ruwe's claim that Brewington failed to provide written confirmation, Brewington sent three letters to Ruwe regarding the copying of the grand jury audio. [Brewington's letters dated May 23, 2016, May 23, 2016, and July 5, 2016 are attached hereto] Brewington's letters addressed whether the DSC would provide the entire audio record or only the abridged version represented by the transcripts. Ruwe, the DSC, and Hill have consistently refused to address the issue regarding the omission of the record from opening of the grand jury proceedings.
2. The file properties of the CD-ROM containing the grand jury audio released to Brewington [Exhibit B] show the folders and files were "last modified" on Wednesday April 27, 2016 so the files were already available the same date as Ruwe's April 27, 2016 letter to Brewington.
3. The main directory folder containing subfolders and audio files is simply titled, "Dan", which in itself is not an official file name of DSC record.
4. Hill issued the order to release the Grand Jury Audio on Wednesday April 20, 2016. Hill presides over the Superior Court of Rush County Indiana.
5. The heading of the order lacks any fax information found on Hill's other orders while serving as Special Judge for the DSC.

6. The DSC charged Brewington \$300.00 for IT services and the “many hours” claimed Ruwe claimed were necessary to prepare a copy of the grand jury audio, which fails to match the written record of the transcripts.
7. Despite the sensitive nature of the grand jury audio, the timeframe established by the grand jury audio file properties, Hill’s orders, and Ruwe’s letters, demonstrate that it took less than five business days for the review, modify, copy, and rename nearly seven hours of grand jury audio. This is the same audio that the DSC claimed to be heavily intertwined with the audio from “four to five” other grand jury proceedings.
8. Previous requests for unedited trial court audio from the DSC took nearly 30 days to fulfill.
9. Despite the inflated fee charged for copying the records, the DSC failed to provide a copy of the official audio from the grand jury proceedings.
10. All correspondence from Ruwe and the DSC, regarding placing the financial burden on Brewington to absorb the costs of making unauthorized modifications to official grand jury records, were communicate across state borders via the United States Postal Service.



Re: Grand Jury Audio in Cause No. 15D02-1103-FD-00084

May 23, 2016

Dearborn County, Indiana Superior Court II  
Chief Court Reporter Barbara Ruwe  
215 W High St  
2nd Floor  
Lawrenceburg, IN 47025  
812.537.8800

Dear Ms. Ruwe,

Pursuant to the order of Special Judge Brian Hill order dated, April 20, 2016, I am interested in obtaining the audio record from the grand jury proceedings pertaining to Cause No. 15D02-1103-FD-00084; however, I am seeking clarification as to what information will be provided. Judge Hill's order stated that I was entitled to receive "all audio recordings regarding your proceedings." Will you be providing only the portions of the audio transcribed for the criminal trial or will the audio also include the audio record of all interaction between the prosecution and members of the grand jury prior to witness testimony? Please pardon any confusion on the matter but I was initially told the transcripts were complete. In addition, can you please provide me with the name of the judge, or other authority, authorizing the transcription of only certain segments of the grand jury record?

A copy of this letter can be found on [www.danbrewington.blogspot.com](http://www.danbrewington.blogspot.com) for your convenience. Feel free to contact me with any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Dan B Brewington", with a stylized flourish at the end.

Daniel P. Brewington

[contactdanbrewington@gmail.com](mailto:contactdanbrewington@gmail.com)

Re: Grand Jury Audio in Cause No. 15D02-1103-FD-00084

May 23, 2016

Dearborn County, Indiana Superior Court II  
Chief Court Reporter Barbara Ruwe  
215 W High St  
2nd Floor  
Lawrenceburg, IN 47025  
812.537.8800

Dear Ms. Ruwe,

I apologize for any potential confusion but this is the second of two letters, dated May 23, 2016. In referencing a quote by Special Judge Brian Hill in my previous letter, I accidently cited the wrong document from which the quote appeared. I stated the following in the first letter:

“Pursuant to the order of Special Judge Brian Hill order dated, April 20, 2016, I am interested in obtaining the audio record from the grand jury proceedings pertaining to Cause No. 15D02-1103-FD-00084; however, I am seeking clarification as to what information will be provided. Judge Hill’s order stated that I was entitled to receive ‘all audio recordings regarding your proceedings.’”

Though Judge Hill’s April 20, 2016 order authorized the release of the grand jury audio, the correct source of the quote is a letter I received from Special Judge Brian Hill, dated May 6, 2016 stating [Attached hereto]:

“Pursuant to the Court's Order following the opinion of the Public Access Counselor, you are entitled to receive all audio recordings regarding your proceedings.”

Sorry for any confusion but I am just seeking clarity in determining if you are providing me with all the audio from the entire grand jury proceeding or only the audio from which transcripts of the proceedings. Regardless of which you provide, I still request the name of the entity responsible for authorizing the partial transcription of the official grand jury record.

A copy of this letter can be found on [www.danbrewington.blogspot.com](http://www.danbrewington.blogspot.com) for your convenience. Feel free to contact me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dan Brewington', with a long horizontal flourish extending to the right.

**Daniel P. Brewington**

[contactdanbrewington@gmail.com](mailto:contactdanbrewington@gmail.com)

**Attachments:**

**Judge Hill order filed April 20, 2016**

**Judge Hill letter dated May 6, 2016**

**Original letter to Barbara Ruwe dated May 23, 2016**

STATE OF INDIANA

DEARBORN SUPERIOR COURT II

COUNTY OF DEARBORN

CAUSE NO. 15D02-1103-FD-084

STATE OF INDIANA,  
Plaintiff

**FILED**

vs

APR 20 2016

DANIEL BREWINGTON,  
Defendant

*Rm AT*  
CLERK OF DEARBORN CIRCUIT COURT

**ORDER ON REQUEST FOR RELEASING AUDIO COPIES (AS TO GRAND JURY PROCEEDINGS OF FEBRUARY 28, 2011, MARCH 1, 2011, AND MARCH 2, 2011)**

Based on an Advisory Opinion issued by the Public Access Counselor, Luke H. Britt, on April 14, 2016, the Court issues the following Order regarding the audio recordings of Grand Jury proceedings conducted in this Court on February 28, 2011, March 1, 2011 and March 2, 2011, hereby amending a previous Order regarding these recordings issued on February 4, 2016.

The Court now **ORDERS** as follows:

1. The Court Reporter is hereby **ORDERED** to prepare a compact disc of audio recordings of the Grand Jury proceedings regarding this matter conducted on February 28, 2011, March 1, 2011, and March 2, 2011.
2. It is the Court's understanding that the Grand Jury impaneled for this matter also heard evidence in four to five other Grand Jury proceedings during this time, often going back and forth between all of the cases. The audio recordings being released shall contain only the matter regarding Daniel Brewington and no other Grand Jury proceedings.
3. Daniel Brewington shall be responsible for reasonable copying fees pursuant to I.C. 5-14-3-8. Additional costs may be required due to the

nature of the Grand Jury proceedings, because of efforts made to maintain the confidentiality of the other proceedings that were conducted simultaneous with the matter regarding Daniel Brewington.

4. The release of these audio recordings are hereby specifically limited to the personal review by Daniel Brewington. The recipient, Daniel Brewington, is barred from broadcasting or in any other way publishing these records in any manner. Violation of this Order may result in contempt proceedings.

**ALL OF WHICH IS ORDERED** this 20<sup>th</sup> day of April, 2016.

  
BRIAN D. HILL, Special Judge  
Dearborn Superior Court II

Distribution:  
Honorable Brian D. Hill  
Prosecuting Attorney  
Daniel Brewington

Brian D. Hill, Judge  
**Rush Superior Court**  
101 East Second Street, Courthouse  
Rushville, Indiana 46173  
Phone: (765) 932-2829 / (765) 932-3520  
Fax: (765) 932-2856

Sandra A. Land, Court Administrator

Tonya Muckerheide, Court Reporter

May 6, 2016

Daniel Brewington

**RE: Response to Amended Request for all Audio from Grand Jury**

Dear Mr. Brewington:

I have just received your Amended Request for all Audio from Grand Jury. Pursuant to the Court's Order following the opinion of the Public Access Counselor, you are entitled to receive all audio recordings regarding your proceedings. You are not, however, entitled to receive any audio recordings from other Grand Jury proceedings that may have been conducted on those same days with the same Grand Jurors.

Sincerely,



BRIAN D. HILL, Judge  
Rush Superior Court

BDH:sl

cc: Dearborn Superior Court II  
215 W High Street  
Lawrenceburg, IN 47025

Re: Grand Jury Audio in Cause No. 15D02-1103-FD-00084

May 23, 2016

Dearborn County, Indiana Superior Court II  
Chief Court Reporter Barbara Ruwe  
215 W High St  
2nd Floor  
Lawrenceburg, IN 47025  
812.537.8800

Dear Ms. Ruwe,

Pursuant to the order of Special Judge Brian Hill order dated, April 20, 2016, I am interested in obtaining the audio record from the grand jury proceedings pertaining to Cause No. 15D02-1103-FD-00084; however, I am seeking clarification as to what information will be provided. Judge Hill's order stated that I was entitled to receive "all audio recordings regarding your proceedings." Will you be providing only the portions of the audio transcribed for the criminal trial or will the audio also include the audio record of all interaction between the prosecution and members of the grand jury prior to witness testimony? Please pardon any confusion on the matter but I was initially told the transcripts were complete. In addition, can you please provide me with the name of the judge, or other authority, authorizing the transcription of only certain segments of the grand jury record?

A copy of this letter can be found on [www.danbrewington.blogspot.com](http://www.danbrewington.blogspot.com) for your convenience. Feel free to contact me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dan B Brewington", with a stylized flourish at the end.

Daniel P. Brewington

[contactdanbrewington@gmail.com](mailto:contactdanbrewington@gmail.com)

Re: Grand Jury Audio in Cause No. 15D02-1103-FD-00084

July 5, 2016

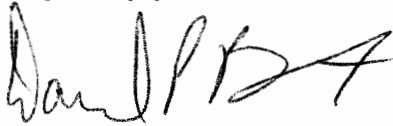
Dearborn County, Indiana Superior Court II  
Chief Court Reporter Barbara Ruwe  
215 W High St  
2nd Floor  
Lawrenceburg, IN 47025  
812.537.8800

Dear Ms. Ruwe,

This letter pertains to my prior requests for the Grand Jury Audio in Cause No. 15D02-1103-FD-00084. I have not received a copy of the requested audio nor have I received any correspondence from the Dearborn Superior Court II regarding *the completion of the requested public record*. In the case there is any misunderstanding on the part of your office, I am requesting a copy of the audio record from the grand jury proceedings in Cause No. 15D02-1103-FD-00084, even in light of the possible extra fees associated with Judge Hill's order to alter the official grand jury audio record as the Court Reporter deems appropriate. Please prepare the record as soon as possible.

A copy of this letter can be found on [www.danbrewington.blogspot.com](http://www.danbrewington.blogspot.com) for your convenience. Feel free to contact me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dan P. Brewington', with a stylized flourish at the end.

Daniel P. Brewington

[contactdanbrewington@gmail.com](mailto:contactdanbrewington@gmail.com)



## APPENDIX II

### “Varying” Recording Methods by DSC

Exhibit B contains the grand jury audio from the investigation of Daniel Brewington. Exhibit D contains regular courtroom audio from the Dearborn Superior Court II. As indicated by the file names of the grand jury audio, the proceedings held on March 1, 2011 and March 2, 2011, were conducted in the courtroom of the Dearborn Superior Court II. Exhibit D contains audio from regular court activities occurring on September 19, 2011 and October 24, 2011. When viewing the properties of the files in Windows Explorer, the following conflicts exist between the two exhibits.

1. The file names of the two main directories in Exhibit D are 20110919 and 20111024, apparently consisting of the date of the hearings.

2. File 20111024 has one subfolder titled “Criminal.” File 20110919 has two subfolders labeled “Criminal” and “Civil.” For comparing Exhibits B and D, Brewington focuses on the properties of the files found in directory 20110919 under the sub-folder, “Criminal”:

- a. Twenty-seven individual audio files reside in the sub-folder “Criminal.”
- b. The audio files are “.wav” format.
- c. The audio files do not exceed 3,527kb in size.
- d. The audio files do not exceed five minutes in length.
- e. All the audio files depict both the “Date created” and “Date modified” as being 09/19/2011.
- f. The file names correspond with both date and time. The file “Criminal\_9-19-11 1-37\_01cc76d141e79440” shows Date created/modified as 09/19/2011 at 2:42 pm.
- g. “Criminal\_9-19-11 1-42\_01cc76d1f50268c0” shows Date created/modified as 09/19/2011 at 2:47 pm. Most of the audio files follow this pattern.

- h. Assuming the file naming structure of the DSC system does not follow daylight savings; courtroom audio is automatically stored in five-minute files and named accordingly, when the new audio file begins.
  - i. The date created and date modified properties of the file indicate the audio files are automatically saved five minutes after being created and then are no longer altered in any way.
  - j. The file size of some audio files are smaller and are less than five-minutes long.
  - k. "Criminal\_9-19-11 9-52\_01cc76b1d21c49e0" is 1,358KB and lasts only one-minute fifty-five seconds (00:01:55) but still correlates with the timeframe by which the file was created/modified; 09/19/2011 at 10:54am.
  - l. Despite being roughly two minutes in length, the properties of the audio file adjust accordingly showing that the file was created/modified two minutes after the naming of the file.
  - m. This establishes the court reporter has the ability to record court audio in varying lengths less than five minutes.
3. Exhibit B has only one primary directory. The name of the primary folder is "Dan." The following properties of "Dan" greatly differ from that of Exhibit D.
- a. The properties of "Dan" represent the folder being created/modified on April 27, 2011 at 4:13pm.
  - b. "Dan" contains three sub-folders, "2-28-11", "3-1-11", and "3-2-11", which show as being created/modified at 4:13pm.
  - c. The audio files in the subfolders are in different format, ".wma".
  - d. The audio files in "2-28-11" contain the prefix "[JUVENILEWS]" presumably because the hearings took place in the courtroom where juvenile proceedings take place. All the audio files in "3-1-11" and "3-2-11" contain the prefix "Superior 2."

- e. The grand jury audio files vary in length from five seconds (00:00:05) to two hours, eight minutes, forty-four seconds (02:08:44). File size ranges from 64,000kb all the way down to 55kb.
- f. A problem arises regarding when viewing when grand jury proceedings were created or modified.
- g. The file properties of the first audio file from the grand jury proceedings on February 28, 2011 represent the creation of the audio file occurring at 3:32pm on April 27, 2016.
- h. The properties of the final audio file occurring at the end of the grand jury investigation on March 2, 2011, represent the creation of the file occurring at 4:03pm on April 27, 2016.

#### Conclusions Drawn from the Above Information

Though technical and somewhat mundane, much can be derived from the above information. Primarily, the DSC altered the audio in some form. Even accepting the above information at face value, either the DSC employs a different process of recording official proceedings when dealing with confidential grand jury investigations or the DSC changed the format of the grand jury audio so the DSC could modify the audio. If one disregards the notion the DSC tampered with grand jury audio, the following *must* be true:

1. The DSC opted not to use the same automated file naming/saving process that saves court audio in five-minute segments.
2. Given the claim by the DSC that “four to five” other grand jury proceedings intertwined with the grand jury proceedings involving Brewington, the court reporter allowed the recording of the audio record to continue nonstop throughout the day without stopping.
  - a. If the court reporter stopped the audio record of the Brewington investigation before the prosecution switched to a different grand jury investigation, the individual files would have remained separate; thus alleviating the need for the alleged IT professional.

- b. Ruwe simply could have copied the files that only applied to Brewington.
- 3. As the audio is almost devoid of any audible cues from the prosecution's current case before the grand jury, the DSC was left to guess what portions of audio belonged in the Brewington record. If the audible cues on the record exist, the DSC failed to include the prosecutor's cues in the released audio.
- 4. If the duration of the alleged "four to five" other intertwining grand jury proceedings had a combined duration half the length of Brewington's proceedings, the length of continuous audio requiring editing by the DSC exceeded ten hours.
- 5. The DSC accomplished the unthinkable task in less than five business days.

Any argument that the court reporter for the DSC did not let the audio recording run continuously throughout several intertwining grand jury proceedings dismisses any need for an IT professional because Ruwe could simply have chosen the files relating to Brewington's investigation and copied them to disk. An argument that the digital audio recording system used by the DSC prevents selective file copying calls into question why a rigid court reporting system would allow a court reporter to dismiss the fundamental purpose of the technology. Allowing a court reporter to arbitrarily turn the digital audio recording system into a glorified tape recorder would not only present liability risks for the manufacturer or distributor of the equipment, it would also serve a severe blow to integrity of the record in any civil or criminal proceeding. If one abandons the notion that the court reporter would abandon a digital recording system specifically engineered for accuracy and convenience, it becomes obvious that the only reason for Hill and the DSC to allow modification of the record is to have the ability to cover-up misconduct.

### APPENDIX III

#### Discrepancies between the Written and Audible Record

Audio file	Time in Audio (approx.)	Page	Line	Statement/Discrepancy	Additional
[JUVENILEWS]_20110228-1055_01cbd736060e5700: Testimony- Sheriff Kreinhop Duration 0:21:38.366	Beginning of audio file	1	1	“Official” Audio begins at witness testimony. The Dearborn Superior Court omitted all audio prior to witness testimony	
[JUVENILEWS]_20110228-1055_01cbd736060e5700: Testimony- Sheriff Kreinhop	End of audio file	16	20	Transcripts represent Negangard stating: “We’ll get to that later.” Audio is void of such statement.	Recording abruptly stops during Kreinhop testimony with no mention of going off record.
[JUVENILEWS]_20110228-1055_01cbd736060e5700: Testimony- Sheriff Kreinhop	End of audio file	16	20	Transcripts represent Negangard stating, “We’ll get to that later.” Audio is void of such statement	There is no audible cue to court reporter to turn off record.
[JUVENILEWS]_20110228-1122_01cbd739c22dbcb0 Testimony- Sheriff Kreinhop	End of audio file	18	9	Transcripts represent Negangard stating: “We’ll take a break while I get the next witness.”	Audio abruptly stops mid-sentence after Negangard states “Um, okay at this...”
[JUVENILEWS]_20110228-1259_01cbd7475c37c600	-	67	9-11	Transcripts represent Negangard stating “I want to break for lunch at this point.”	Audio represents Negangard stating, “I want to break for lunch.”

JUVENILEWSJ_20110228-1431_01cbbd7542147f620 Testimony- E. Connor	0:00:08.01	67	12-13	Transcripts represent Negangard stating, "Mr. Foreman" to which the Foreman swore in the witness.	Audio represents Negangard stating, "Please swear the witness in."
<b>Superior 2_20110301-0923_01cbbd7f25f3bc080</b>	<b>?</b>	<b>?</b>	<b>?</b>	<b>This Audio file lasts only 5.340 seconds. There are no voices, only two "click" sounds in the audio.</b>	
Superior 2_20110301-0933_01cbbd7f3b3e47630 Testimony- A. Loechel	End of audio file	284	9	Transcripts represent Negangard stating, "I would remind you that you cannot disclose anything about the grand jury proceedings to anyone. Okay?"	Audio is void of Negangard stating "Okay?"
Superior 2_20110301-0933_01cbbd7f3b3e47630 Testimony- A. Loechel	End of audio file	284	9	Transcripts represent witness Loechel stating, "Okay, thank you." Audio is void of such statement.	
Superior 2_20110301-1144_01cbbd805ffe7ab80 Testimony- Sheriff Kreinhop	End of audio file	307	22	Transcripts represent Negangard stating, "It's five after twelve (12:05) and <i>we'll take a lunch break.</i> "	Audio represents Negangard stating, "It's five after twelve (12:05) and <i>I'll let you guys get to lunch.</i> "
Superior 2_20110301-1342_01cbbd81684dac100 Testimony- J. Humphrey Duration 0:44:08:096	Beginning of audio file	307	22	Audio represents Negangard stating, "Are we on record." Negangard's statement does not appear in transcript.	This establishes the subjectivity of what information the DSC believes to be part of the "official record."
Superior 2_20110301-1606_01cbbd82ab1003d00 Testimony-	End of audio file	336	23	The audio ends with Negangard stating, "I don't have any further questions at this time."	There is no mention of going off the record.

Sheriff Kreinhop					
Superior 2_20110301-1622_01cbdd82cedc39690 Testimony- Sheriff Kreinhop Duration	Beginning of audio file	336	24	The Transcripts represent Negangard's statement, "Okay one of the Grand Jurors has a question for Sheriff Kreinhop" as directly following Negangard statements on page 336, line 23, however, the statement is on an entirely different audio file.	Any correspondence between Negangard and a juror is or should be part of the record. Negangard would not know a juror had a question for Kreinhop without speaking to the juror.
Superior 2_20110301-1622_01cbdd82cedc39690 Testimony- Sheriff Kreinhop Duration 0:01:33.984	End of audio file	338	1-2	Transcripts represent Negangard stating, "I have no further questions and we'll recess <i>for the day</i> ."	Audio represents Negangard stating, "I have no further questions and we'll recess."
Superior 2_20110302-1054_01cbdd8c834bc3700 Negangard closing	End of audio file	338	24	Transcripts represent Negangard stating, "That's with regard to Dan Brewington." The audio states, "That's with regard to."	One of many instances where the audio stops and Court Reporter Barbara Ruwe fills in the gaps.

## APPENDIX IV

### The DSC Altered Grand Jury Audio to Match Transcripts

The DSC copied and spliced the record of the grand jury proceedings in a subtle manner. The following excerpt from Dearborn County Prosecutor F. Aaron Negangard appears on page 336, lines 23-25 of the grand jury transcripts [Digital Copy of grand jury transcripts attached hereto as “Exhibit C”]:

“I don't have any further questions at this time. Okay one of the Grand Jurors has a question for Sheriff Kreinhop.”

The transcripts from the March 1, 2011 proceeding fail to show that Negangard's second statement occurs at a later place in time. The file naming process explained in Appendix II will assist this Court in understanding that at least five minutes of time elapse between Negangard's two statements. Negangard's statement on line 23 of the transcripts is the last statement appearing on the audio file named “Superior 2\_20110301-1606\_01cbd82ab1003d00” [Audio file part of “Exhibit B”]. Negangard's statement appearing on line 24 exists in audio file “Superior 2\_20110301-1622\_01cbd82cedc39690”. The first audio file began at 16:04 (4:06 pm) and the second at 16:22 (4:22 pm). The length of the audio in the first file is 10 minutes, 36 seconds (00:10:36), which would have ended at roughly 16:17 (4:17 pm). The earliest point that Negangard's second statement appearing on line 24 of the transcripts could have occurred is at 16:22 (4:22 pm). The grand jury proceedings randomly stop and start between Negangard's statements in the absence of any verbal cues by Negangard acknowledging the beginning or end of the record. The fact the audio was not physically spliced does not make it any less egregious because Ruwe spliced the record in the transcripts.



## APPENDIX V

Examples where DSC fails to note when Negangard sporadically goes on and off Record

Audio file	Time in Audio (approx.)	Page	Line	Statement/Discrepancy	Additional
[JUVENILEWS]_20110228-1055_01cbd736060e5700: Testimony- Sheriff Kreinhop Duration 0:21:38.366	Beginning of audio file	1	1	“Official” Audio begins at witness testimony. The DSC omitted the beginning of the proceedings where Negangard informed jurors why Brewington was a target of the grand jury investigation and an explanation of the grand jury process.	
[JUVENILEWS]_20110228-1055_01cbd736060e5700: Testimony- Sheriff Kreinhop	End of audio file	16	20	Transcript/Audio Discrepancy Transcripts represent Negangard stating: “We’ll get to that later.” Audio is void of such statement.	Recording abruptly stops in the middle of Kreinhop testimony with no mention of going off record.
[JUVENILEWS]_20110228-1122_01cbd739c22dcbc0 Testimony- Sheriff Kreinhop Duration 0:1:51.817	Beginning of audio file	16	21	Negangard states “Back on record to show we’re addressing handgun issue” after on line 21 page 16. No mention of returning to Brewington case.	
Lines 9-13 from page 67 of the transcripts consist of the following three (3) audio files:		67	9-13	Negangard’s statements differ from the transcripts and audio, neither providing any identifying information of the	Negangard’s statement, “116 is the Court of Appeals decision regarding

“[JUVENILEWS]_20110228-1147_01cbd73d41605400”; “[JUVENILEWS]_20110228-1259_01cbd7475c37c600”; “[JUVENILEWS]_20110228-1431_01cbd7542147f620”.				case currently before the grand jury. Negangard’s statements consist of thirty-eight (38) words, eight (8) of which do not appear in the audio.	the decision of Judge Humphrey. I want to break for lunch” is a separate audio file appearing in time with the preceding file.
[JUVENILEWS]_20110228-1259_01cbd7475c37c600	-	67	9-11	Transcript/Audio Discrepancy Audio shows Negangard stating, “116 is the Court of Appeals decision regarding the decision of Judge Humphrey. I want to break for lunch,”	
[JUVENILEWS]_20110228-1431_01cbd7542147f620 Testimony- E. Connor Duration 1:11:14.632	Beginning of audio file	67		Negangard states, “I would call Dr. Edward Conner to the stand.” No mention of returning to Brewington case.	
[JUVENILEWS]_20110228-1603_01cbd7610c058900 Testimony- D. Brewington	2:08:00.000	239	8	Audio runs for approximately forty-five 45 seconds after Brewington’s testimony.	No explanation as to why audio recording finally ends.
[JUVENILEWS]_20110228-1603_01cbd7610c058900 Testimony- D. Brewington	End of audio file	239	8	Transcripts represent testimony as last to occur on February 28, 2011. Audio record is void of any mention of adjourning for the day.	
Superior 2_20110301-0933_01cbd7f3b3e47630 Testimony- Sheriff Kreinhop Duration: 0:59:30.603	Beginning of audio file	239	10	Transcripts show Kreinhop testimony is first to occur on March 1, 2011, though audio is void of any mention of date or time	

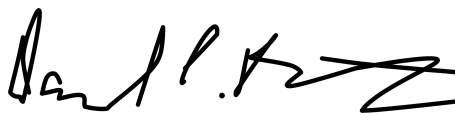
Superior 2_20110301-0933_01cbd7f3b3e47630 Testimony- Sheriff Kreinhop 0:00.000 - 0:3:23.000 Total file duration- 0:59:30.603	Beginning of audio file	239	10	Audio begins with “Would you please state your name for the record?” Audio is void of any introduction or instruction for the day.	Audio is void of any mention of calling Kreinhop to testify. The record portrays Kreinhop as miraculously appearing on the witness stand.
Superior 2_20110301-0933_01cbd7f3b3e47630 Testimony- A. Loechel	End of audio file	284	9	Audio is void of any mention of going to break.	
Superior 2_20110301-1125_01cbd80367e8c280 Testimony- H. Humphrey Duration 0:16:50.358	Beginning of audio file	284	10-11	Negangard states, “Okay are we on record. Let the record show that we’re reconvening after our morning break”	The record is void of any mention of convening for morning break.
Superior 2_20110301-1125_01cbd80367e8c280 Testimony- H. Humphrey Duration 0:16:50.358	Beginning of audio file	284	10-11	This is the first mention of returning from break in any of the audio files.	
Superior 2_20110301-1144_01cbd805ffe7ab80 Testimony- Sheriff Kreinhop Duration 0:20:05.498	Beginning of audio file	295	16	Negangard states, “Okay, let the record show that Sheriff Kreinhop has been recalled to the stand”	In prior testimony, the record reflects Kreinhop spontaneously appearing as a witness.
Superior 2_20110301-1606_01cbd82ab1003d00 Testimony- Sheriff Kreinhop	End of audio file	336	23	The audio ends with Negangard stating, “I don’t have any further questions at this time.”	There is no mention of going off the record.

Superior 2_20110301-1622_01cbdd82cedc39690 Testimony- Sheriff Kreinhop Duration	Beginning of audio file	336	24	The Transcripts represent Negangard's statement, "Okay one of the Grand Jurors has a question for Sheriff Kreinhop" as directly following Negangard statements on page 336, line 23, however, the statement is on an entirely different audio file.	There is no mention of going back on
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following counsel of record via first class U.S. Mail, postage pre-paid this 29th day of August, 2016:

Joshua Lowry  
Deputy Attorney General  
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A handwritten signature in black ink, appearing to read "Daniel P. Brewington", written over a horizontal line.

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