

Amended request for All Audio from Grand Jury

May 2, 2016

**Dearborn County Superior Court II
Judge Sally A. McLaughlin (Formerly Blankenship)
Special Judge Brian Hill
215 W High St
2nd Floor
Lawrenceburg, IN 47025
812.537.8800**

Dear Judge Brian Hill/Judge Sally A. McLaughlin (Blankenship):

On April 20, 2016, Judge Brian Hill issued the Court's ORDER ON REQUEST FOR RELEASING AUDIO COPIES (AS TO GRAND JURY PROCEEDINGS OF FEBRUARY 28, 2011, MARCH 1, 1011, AND MARCH 2, 2011). Brewington now requests complete unedited copies of the grand jury audio pertaining to Cause No. 15D02-1103-FD-084. If the Court is unwilling to provide Brewington with an unaltered copy of the official audio from Brewington's grand jury proceedings due to the Court's recent allegation of misconduct by court staff and/or Dearborn County Prosecutor F. Aaron Negangard, then the court should respond appropriately and vacate Brewington's convictions. The recent order from the Dearborn Superior Court II alleges misconduct on the part of the court's own reporter and then denies Brewington the opportunity to investigate the extent of the misconduct. The order also gives Dearborn County Prosecutor F. Aaron Negangard the ability to write the records of grand jury proceedings while removing any way for the public to prove misconduct. Judge Hill's order inadvertently offers new evidence that the Dearborn Superior Court II omitted portions of an official proceeding in transcribing grand jury audio. Hill's perseverance in denying the public and Brewington access the already public grand jury record causes Hill to overlook the obvious misconduct resting firmly in the Court's reasoning in denying Brewington an exact copy of an official record. In orders filed in the Dearborn Superior Court II, dated April 20, 2016, Judge Hill wrote:

"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."

Hill's new claim of intertwined grand jury audio is quickly disproven by the transcripts of the grand jury audio as Negangard skipping back and forth between cases presented to the grand jury would require Dearborn County Prosecutor F. Aaron Negangard to notify the grand jury when the focus of the investigation returned to Brewington's case. Any such activity would have had to appear in the transcripts of the grand jury. [See *Wurster v. State*, 715 N.E.2d 341 (Ind. 1999), re: maintaining record of all communication between prosecutor and jurors.] As the transcripts are void of any such notice, Hill's contention that Negangard ran four to five concurrent grand jury investigations (in addition to Brewington's) hinges on the notion that court reporter Barbara Ruwe omitted more of the grand jury record than originally alleged by Brewington. Despite the new findings, Hill ordered Ruwe to reconstruct an "official copy" of the grand jury audio by cutting and pasting segments from the official audio record that Hill now contends to contain audio from several other grand jury investigations occurring simultaneously on February 28, 2011, March 1, 2011, and March 2, 2011. The suggestion that a prosecutor would randomly jump around between as many as six criminal investigations during a three day grand jury proceedings is either laughable or horrifically frightening. If Hill maintains that the grand jury transcript is a complete and accurate transcription of the audio, it would be impossible for Ruwe to only cut and paste the audio pertaining to Brewington because Brewington's grand jury proceedings are void of any cues from the prosecution to notify when Brewington's case starts and stops. Hill bases his decision to limit Brewington's access to records on private correspondence with unnamed people that are absent from any official record and without Brewington's knowledge or participation. Hill's new "findings" demonstrate that Negangard failed to specify which case the prosecution was presenting to the grand jury, or that Ruwe arbitrarily omitted the information from the record, OR someone is providing false information to the Court in an effort to save his or her backside. Any of the contentions beg for the release of the entire unedited audio containing Brewington's grand jury proceedings. The new information may be plausible grounds to vacate Brewington's convictions. As such, in addition to requesting an unedited copy of the official record of the audio from the grand jury investigation of Daniel Brewington, Brewington also requests the name(s) of the individuals responsible for providing this court with the information responsible for Hill's excuse in denying Brewington's right to access the official audio from the grand jury proceedings.

Judge Hill has issued several orders and letters, dating back to January 12, 2012, in response to multiple requests for the grand jury audio in question. Despite providing a plethora of excuses as to why the Court should ignore or deny requests for the audio behind an already public transcript, this is Hill's first mention of the intertwining grand jury investigations. One only has to look at the witness

testimony of Dearborn County Sheriff Michael Kreinhop. Page 16 of the grand jury transcripts show Negangard stating, "We're back on record to so that we're addressing the handgun issue." Prior to Negangard's statement, the record is void of any indication of a break or an intention to go off the record yet Negangard suddenly announces that the record is back on. Negangard and Kreinhop went to great lengths in discussing a handgun legally purchased and owned by Brewington despite the absence of any claim that Brewington used the gun in any unsafe or unlawful manner. Without warning, the record shuts off and comes back on with Negangard and Kreinhop discussing concealed carry permits where Negangard informs the jurors, "I would point out that permits in Indiana, if you don't have a felony, they are relatively easy to obtain." Ruwe, Negangard, Dearborn County Sheriff Michael Kreinhop and possibly others share a potential stake in what transpired when the needle suddenly appeared to have slipped off the grand jury record and now Hill wants to trust Ruwe to accurately recreate the audio despite Ruwe being responsible for omitting portions of the grand jury proceedings from the transcripts.

"The legislature's requirement that a record be kept of grand jury proceedings can only be designed to serve as an important check on the potential of prosecutorial abuse of the grand jury process." *Wurster v. State*, 715 N.E.2d at 347. Any contention that Brewington is pursuing an obscure procedural error in an attempt to seek relief from his convictions is misplaced. The Office of the Dearborn County Prosecutor never provided Brewington with any explanation of what actions the State alleged to be in violation of law. The prosecution instructed Brewington to rely on the record of the grand jury transcripts knowing that Ruwe omitted portions of the official record from the transcripts. It is a violation of the rights of the public for this Court to continue any private investigation into the concerns of others regarding the release of the grand jury audio outside of a public hearing. It would be irresponsible, and potentially unconstitutional, for this Court to place the sole responsibility on the Dearborn County Superior Court II to recreate a copy of the official audio record in Brewington's grand jury proceedings without Brewington's participation, input, or the ability to call witnesses. Recreating the audio is virtually impossible in the absence of Negangard affirmatively stating, "We are back on record in the State's investigation of Dan Brewington." As the grand jury transcripts are void of any similar transition, Ruwe would have no idea what parts of the audio pertained to Brewington. If any alleged omissions from the written record were a result of Ruwe's inability to understand or follow which investigation the prosecution was presenting at any given time, a grand jury of laymen would be even more lost especially with Negangard allegedly bouncing between the presentations of five to six criminal cases to the same grand jury in the span of three days. Given that Judge Hill's current order prohibits Brewington from

sharing, any of the grand jury audio with anyone the secrecy of other alleged grand jury investigations would not be compromised. The only potential harm in releasing the audio of other grand jury proceedings is if the audio were to contain additional examples of grand jury abuse by Dearborn County Prosecutor F. Aaron Negangard.

Brewington has remained consistent in requesting information and evidence and this Court has been consistent in providing new excuses in denying Brewington the evidence. Judge Hill's animosity towards Brewington's requests for information and constitutional protections date back over 4.5 years. During Brewington's sentencing hearing on October 24, 2011, Hill made the following remarks about Brewington's numerous verbal and written complaints about not having access to legal counsel and charging information prior to trial:

"I've never seen anyone better at manipulating or turning the facts around to make yourself out to be the victim." -Judge Brian Hill Tr. 81

During the same hearing, Dearborn County Prosecutor F. Aaron Negangard also attacked Brewington for alleging misconduct on the part of the prosecution by stating:

"Brewington's convicted at a jury now, and his response was to say it was my fault. Um, it's the prosecutor's fault, we lied, we misrepresented the law, um, whatever, again, no acceptance of responsibility and that's ultimately what the Court is to determine at a sentencing is what it takes to get someone to accept responsibility for his actions" -Dearborn County Prosecutor Negangard Tr. 67-68

It is worthy to note that Indiana Supreme Court Chief Justice Loretta H. Rush wrote Negangard's use of "criminal defamation" to prosecute Brewington was "plainly impermissible" but upheld Brewington's convictions claiming Brewington's public defender, Bryan Barrett, attempted to take advantage of Negangard's unconstitutional prosecution and somehow invited the errors associated with it. Rush's opinion is void of any mention of criminal defamation being the only argument Negangard presented to the grand jury, at least the only argument appearing in the transcripts. [The trial record demonstrates Barrett, who was appointed by Hill, failed to take any measures to determine the nature of the indictments against Brewington. Brewington still maintains Barrett refused to share evidence, gather evidence, question witnesses, meet with Brewington, or allow Brewington to play any role in preparing a defense strategy. The record is replete with examples where Brewington told Rush County Superior Court Judge Brian Hill that Barrett refused to meet with Brewington, yet the record is void of ANY examples where Hill directly addressed Brewington's concerns that Rush County Chief Public Defender Bryan Barrett refused to meet with Brewington prior to trial. Meeting minutes from the Indiana Public Defender Commission

demonstrate that on September 19, 2012, Judge Hill appeared with Bryan Barrett before the Commission because of Barrett's non-compliance with caseloads maximums for the past four quarters. Ironically, it was during Brewington's final pretrial hearing on September 19, 2011, exactly one year prior, where Hill refused to question Barrett about Brewington's allegations that Barrett refused to meet or speak with Brewington about his case prior to trial. Two weeks later, Hill again refused to address Barrett about the matter and marched Brewington to trial without providing Brewington a fundamental explanation of the charges against him.] Not only did Judge Hill allow Negangard to misrepresent the law and prosecute Brewington for criminal defamation, Hill is currently denying Brewington access to an "official record" that Hill's recent order acknowledges to be incomplete. Judge Hill's current stance on transparency is that Brewington may have a copy of the audio after the people responsible for withholding indictment information from Brewington are finished recreating the audio from the grand jury. As such, Brewington requests an exact copy of the original and unedited grand jury audio, the name of any individual(s) responsible for the information behind the Court's reasoning in denying Brewington's request for an exact copy of the official record, and a public hearing giving Brewington the ability to respond and cross-examine those objecting to the release of the audio. Please note that Brewington is forwarding this request to the Indiana Public Access Counselor, local, state and federal officials, in addition to the FBI and U.S. Department of Justice to help provide shelter from any further prosecutorial and/or judicial retaliation. Any further excuses not to release exact copies of the records should be viewed as further attempts to provide cover for the misconduct by Dearborn County Prosecutor F. Aaron Negangard, Dearborn County Court Reporter Barbara Ruwe, and other officials within the Dearborn County Court System. If the Court believes this matter is better suited for post-conviction hearings or federal proceedings so Brewington can subpoena individuals and determine who is responsible for altering the grand jury transcripts, Brewington would respond accordingly. Brewington would also initiate the process of obtaining the names of individuals serving on the grand jury in an effort to reconstruct the incomplete record. If Judge Hill or any officer of the court believes the content of this document includes false statements or misrepresentations of fact, Brewington welcomes the Court to set a hearing on matters regarding the obstruction of public records where Brewington will gladly testify under oath to the truth of the statements. This hearing will also clear up any confusion as to the accuracy of the transcripts as Barbara Ruwe will be able to testify why the transcripts are void of any introduction to the proceedings and who instructed her to omit portions of the official record.

According to the statute, you have seven (7) days to respond to this request. If you choose to deny the request, Brewington asks that the Dearborn County

Superior Court II provide an explanation of the statutory exception authorizing the withholding of all or part of the public record that does not conflict with Indiana Code § 5-14-3-9(e). Given that Brewington is likely to notify Dearborn County of an intent to initiate civil action due to the Court's recent findings that Ruwe failed to transcribe all the audio pertaining to Brewington's grand jury proceeding, Ruwe nor any member of the Dearborn County Superior Court II should play any role in "recreating" the official audio record. As Special Judge Brian Hill based the Court's latest restriction on Brewington's access to public records on misconduct by Ruwe and/or Negangard, Brewington requests that Judge Hill or Judge McLaughlin seek the appointment of a new unbiased judge. Brewington should not be punished for the ineptitude of Ruwe and Negangard.

A copy of this request can be found on www.danbrewington.blogspot.com for your convenience. Thank you for your assistance on this matter.

Respectfully,



Daniel P. Brewington, Requester

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