

STATE OF INDIANA)
) SS:
COUNTY OF CARROLL)

IN THE CARROLL CIRCUIT COURT

STATE OF INDIANA)
)
VS.)
)
RICHARD M. ALLEN)

CAUSE NUMBER: 08C01-2210-MR-00001

FILED
APR 14 2023

Sharon E. Meiburn
CLERK CARROLL CIRCUIT COURT

**STATE'S RESPONSE TO DEFENSE'S EMERGENCY MOTION TO MODIFY
SAFEKEEPING ORDER**

Now comes the State of Indiana, by Prosecuting Attorney, Nicholas C. McLeland, and respectfully files its response to the Defendant's Emergency Motion to Modify Safekeeping Order and would ask the Court to consider the following:

1. That charges were filed against the Defendant, Richard Allen, on October 28th, 2022, for 2 counts of Murder, in violation of I.C. 35-42-1-1(2).
2. That the Carroll County Sheriff's Department filed a Request by the Sheriff of Carroll County, Indiana to Transfer Inmate from the Custody of the Sheriff to the Custody of the Indiana Department of Corrections for Safekeeping on November 3rd, 2022.
3. That said request was granted and the Defendant was ordered to the safekeeping of the Indiana Department of Corrections.
4. That the Defendant is currently incarcerated in the Westville Correctional Facility, where he is housed in the segregation unit for his protection.
5. That the Defendant is being seen on a regular basis by medical personnel and mental health providers.
6. That the Defendant is being treated the same as other detainees at the facility. In fact, he has more amenities than other convicted inmates in that unit.
7. That the allegations in the Defendant's motion, while colorful and dramatic, are not entirely correct.
8. That the State had a meeting with the Warden of Westville Correctional Facility, John Galipeau, on April 6th, 2023 and the allegations in the motion by the Defense

are false, as evidenced by the attached affidavit marked as State's Exhibit "1".

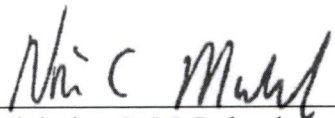
9. That the Defendant is afforded the same amount of rec time as the other inmates and has been using that rec time to exercise.
10. That it is true that the Defense dropped off paperwork for the Defendant to review and the facility did hang on to the paperwork until they heard from the Defense attorneys as to how the paperwork should be handled.
11. That representatives from the facility attempted to contact Defense counsel for several days in a row to determine if the paperwork should be given to the Defendant in his cell or the Defendant should be brought to a different location to review the paperwork.
12. That the Defendant is isolated for his protection and would be isolated if he were moved to another facility.
13. That the State, through investigators, has made contact with the Cass County Sheriff and he would state the following:
 - a. That he is willing to house the Defendant in the Cass County Jail.
 - b. That if the Defendant is moved to the Cass County Jail, he will be housed in the segregated unit in a 7 X 12 cell, with a roll matt and 2 bunks.
 - c. That the Defendant is likely to be on suicide watch which means he will not be allowed face to face visits or any rec time. That he will be confined to his cell at all times.
 - d. That if he is not on suicide watch, he will only have video visits and limited rec time.
 - e. That the Defendant will have the same amenities as he has now in the Department of Corrections.
 - f. That the Cass County Jail does not have a mental health team to address any mental health needs.
 - g. That the Cass County Sheriff's Department is not willing to transport the Defendant for trial or for other hearings.
14. That the Carroll County Sheriff's Department does not have the manpower to transport the Defendant.
15. That the Carroll County Jail does not have mental health counselors or

counseling, whereas the Department of Corrections has those resources available for the well being of the Defendant.

16. That the State believes that the current status of Defendant's mental health is due to the status of the case, not due to the location of his incarceration.
17. That the photo taken by Defense was taken immediately after the Defendant returned from his rec time. The shirt he is wearing in the photo is the same shirt that he wears to rec time each time he goes. He had clean shirts in his cell at the time of the photo, but Defense chose to photograph him in his dirty shirt in order to curry sympathy in the public eye for the Defendant.
18. That the Defendant has lost weight since he has been incarcerated, but he has been evaluated and examined by medical personnel at the facility and his BMI is on target for a man his age at his weight and medical staff classify him as very healthy.
19. That the facility that the Defendant is placed in is not casually referred to as "death row".
20. That the Defendant is in no way being treated less fairly than anyone else in that facility. He certainly is not being treated less fairly than a convicted person in that facility.
21. That the colorful, dramatic language used by the Defense was an attempt to curry public favor for their client and try this matter in the public instead of in the courtroom.
22. That many of the statements in Defense's motion violate the "gag" Order put in place by the Court.
23. That the State has no opinion on where the Defendant should be housed awaiting trial, but the State does take offense to the irresponsible allegations of the Defense in their motion.
24. That the State has no objection to the Defendant being moved to a facility within the Department of Corrections that is better suited to address his mental health needs.
25. That the Defendant's current placement at Westville Correctional Facility is not a violation of his civil liberties.

26. That the Carroll County Sheriff's Department declined the request of Defense to move the Defendant because the Carroll County Sheriff's Department does not have the manpower to transport the Defendant.
27. That the Department of Corrections is more equipped to transport the Defendant back and forth to court dates in order to keep the Defendant safe and ensure that he makes it to all future hearings.
28. That the State has been made aware that the Defendant is being evaluated at 10:00 A.M. on April 14th, 2023 to assess his mental health needs and the State believes it is important to see the result of that testing before a decision is made.

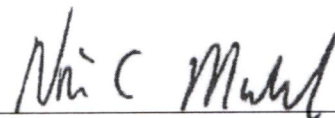
Wherefore, now comes the State of Indiana, by Prosecuting Attorney, Nicholas C McLeland, and files their response to the Defendant's Emergency Motion to Modify Safekeeping Order and would ask the court to consider the same when making it's decision and for all other just and proper relief in the premises.



Nicholas C. McLeland
Attorney #28300-08
Prosecuting Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the Defendant's attorney of record, through personally delivery, ordinary mail with proper postage affixed or by service through the efilng system and filed with Carroll Circuit Court, this __14th__ day of April, 2023.



Nicholas C. McLeland
Attorney #28300-08
Prosecuting Attorney

AFFIDAVIT

John Galipeau, the acting Warden of Westville Correctional Facility, which is part of the Indiana Department of Corrections, affirms and swears to the following:

1. That the Defendant, Richard Allen, is housed in the Westville Correctional Facility in the segregation unit.
2. That the Defendant is housed in that unit for his protection.
3. That the cell that the Defendant is housed in is a 12 X 8 cell which is the standard size cell in that facility.
4. That the Defendant has a bed with a mattress and the mattress is the same mattress that all the inmates receive at that facility.
5. That there is a bed frame but that it is attached to the floor in order to protect the Defendant from harming himself.
6. That the Defendant is in that type of cell for his protection and because he has made suicidal statements and could attempt to harm himself.
7. That the Defendant is offered time to shower 3 times a week, which is the same amount as all the other inmates in that facility.
8. That the Defendant is provided with 3 sets of clothing per week, which is the same as all the other inmates in that facility.
9. That the Defendant has been afforded commissary privileges and has extra shirts and shoes in his cell that he is not wearing.
10. That the Defendant is not required to wear the same clothes, and underwear for days and days on end that are soiled, stained, tattered and torn.
11. That the Defendant has equal access to clean clothing just like all the other inmates in that facility.
12. That the Defendant was afforded the use of an electronic tablet where he can make calls, send texts and download music, which is an amenity that the other inmates do not have, and he broke it.
13. That the Defendant is afforded the same recreation time as all the other inmates in that facility, which is Monday, Wednesday, Friday, Saturday and Sunday.
14. That the Defendant is regularly seen by medical personal and mental health counselors to assess his health and well-being.
15. That the Defendant is not afforded face to face visitations due to being in the segregation unit.

I swear, under penalty of perjury, as specified by IC 35-44-2-1, that the foregoing representations are true and accurate to the best of my knowledge.

Signed: _____

John Galipeau, Warden
Westville Correctional Facility

