

STATE OF INDIANA ) IN THE CARROLL CIRCUIT COURT  
 ) ss:  
COUNTY OF CARROLL ) CAUSE NO. 08C01-2210-MR-000001  
  
STATE OF INDIANA )  
Plaintiff )  
v. )  
 )  
RICHARD ALLEN, )  
Accused )

**OBJECTION TO CHANGE OF VENUE**

Comes now counsel for Attorneys Baldwin and Rozzi, and objects to the change of venue from Carroll County to Allen County. In support of his objection counsel states:

1. This case was commenced with the filing of a charging information in the Carroll County Circuit Court.
2. All pleadings in this case have been filed in the Carroll County Circuit Court, including the prosecutions verified information for contemptuous conduct.
3. There has been no motion for change of venue filed by either party.
4. There is no basis provided by statute or case law for a change of venue upon the appointment of a special judge.
5. The Honorable Frances S. Gull was appointed as Special Judge in the Carroll County Circuit Court for this cause. Her authority in this case is only pursuant to that appointment.
6. There are no charges pending against Mr. Allen in Allen County.
7. The appointment of a special judge does not transfer a case to the judge's home county. Transfer is only allowed pursuant to Rule 79(M), IRTP. Additionally, Rule 79(N) states in pertinent part:
  - (3) All hearings involving in-person testimony by witnesses shall be conducted in the court where the case is pending unless:
    - (a) the parties and the judge agree otherwise on the record, or

- (b) the hearing is not before a jury and the special judge determines that exceptional circumstances exist such that the matter can only be heard in a timely fashion in his or her own county.

The defense has not agreed and there are no exceptional circumstances.

8. Upon the appointment of a Special Judge the elected clerk and court staff of the originating county remain.

9. Conducting proceedings in Allen County imposes a hardship on attorneys and witnesses.

Respectfully Submitted,

/s/David R. Hennessy

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served upon all counsels of record at the time of filing.

/s/ DAVID R. HENNESSY

**DAVID R. HENNESSY**

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