

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

IN THE MARION SUPERIOR COURT  
CRIMINAL DIVISION, ROOM 032  
CAUSE NUMBER 49D322004MR013622

STATE OF INDIANA )  
 )  
 V. )  
 )

**FILED**  
April 6, 2023  
CLERK OF THE COURT  
MARION COUNTY  
JB

ELLIAHS LAMAR DORSEY

### ORDER DENYING MOTION FOR RECUSAL

The Court, having reviewed the State’s Motion for Recusal, the Defendant’s Response, and the transcript of the March 17, 2023, hearing, now DENIES the State’s motion. In support of its ruling, the Court notes:

1. A disagreement over whether court has power to hold a hearing to address a motion raised by the Defense is not grounds for recusal. Nor is the State’s fear that the Court may grant a motion adverse to the State’s position grounds for recusal. These are disagreements on legal issues and not evidence of bias or prejudice.
2. The State has incorrectly asserted that the Court at the March 17, 2023, hearing, *sua sponte* raised ethical issues against the State under Indiana Rules of Professional Responsibility 3.8. The Defendant raised this issue in its pleading #75 on March 15, 2023. As with any issue raised by either side, the Court has a duty to have the parties address the issue, particularly if the issue is an ethical one. Contrary to the State’s position, the Court cannot ignore the issue.
3. The State is incorrect when it says it cannot proceed because of the ethical issues raised. First, the Court did not put the State in this position. The State has a duty

to comply with the Rules of Professional Responsibility at all times. Second, if the Court ultimately rules against the State on the legal and ethical issues raised by the Defense, and the State believes the Court is wrong on the facts or the law, the State is free to appeal the Court's ruling. The Court again emphasizes that it has not reviewed the exhibits and caselaw submitted by the parties on the issues raised, and a recusal motion, made in anticipation of an adverse ruling, is inappropriate.

*Mark D. Stoner*

Mark D. Stoner  
Judge, Marion County Superior Court  
Criminal Division, Room 32

Date: April 5, 2023

Cc: File  
Marion County Prosecutor Ryan Mears  
Defendant's Attorney Raymond Casanova, Deanna Martin