

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
RANDOLPH COUNTY, ILLINOIS

FILED

MAR 03 2015

Sherry A. Johnson
CIRCUIT CLERK
RANDOLPH COUNTY, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)
)
v.) 15-CF-26
)
)
DREW PETERSON,)
)
Defendant.)

NOTICE OF EAVESDROPPING DEVICE TRANSACTION

Now come the People of the State of Illinois, by Jeremy Walker, Randolph County State's Attorney, and Lisa Madigan, Illinois Attorney General, through Assistant Attorneys General William Elward and Steven Nate, and hereby provide to the Defendant, Drew Peterson, the following notice pursuant to 725 ILCS 5/108A-8 of a transaction involving the use of an eavesdropping device:

1. On October 23, 2014, an application for judicial authorization of the use of an eavesdropping device naming the Defendant, Drew Peterson, was approved and an order authorizing the use of said device from October 24, 2014 to November 23, 2014 was entered.

2. On November 20, 2014, an application for judicial authorization extending the previous authorization of the use of an eavesdropping device naming the Defendant, Drew Peterson, was approved and an extension order authorizing the use of said device from November 23, 2014 to December 22, 2014 was entered.

3. During the time periods described above, an eavesdropping device was used to overhear and record various conversations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

BY: *Steven S. Nate*
Steven S. Nate
Assistant Attorney General

BY: *Jeremy R. Walker*
Jeremy R. Walker

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THE PEOPLE OF THE STATE OF ILLINOIS,)	
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v.)	15-CF-26
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DREW PETERSON,)	
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Defendant.)	

**PEOPLE’S MOTION FOR AN IN CAMERA HEARING
AND A DISCOVERY PROTECTIVE ORDER**

Now come the People of the State of Illinois, by Jeremy Walker, Randolph County State’s Attorney, and Lisa Madigan, Illinois Attorney General, through Assistant Attorneys General William Elward and Steven Nate, and respectfully request this Honorable Court grant this motion and conduct an in camera hearing pursuant to Illinois Supreme Court Rule 415(f) and enter a discovery protective order pursuant to Illinois Supreme Court Rule 415(d) precluding the Defendant, defense counsel, or defense personnel from disclosing to the public or the media any information provided in discovery for the duration of this case, and in support thereof state as follows:

1. On February 9, 2015, a two count Information was filed charging the Defendant with solicitation of murder for hire and solicitation of murder. The Information alleges the Defendant requested Individual A to find a person to kill James Glasgow and that the Defendant would pay Individual A or another United States Currency.

2. Pursuant to Illinois Supreme Court Rule 412, the People intend to disclose discovery materials in their possession to defense counsel. These materials include sensitive information regarding the investigation of this case as well as information regarding Individual A. If certain aspects of the investigation become publicly known, future investigations may be jeopardized. In

addition, if the identity or location of Individual A becomes publicly known, Individual A's health and safety will be jeopardized. This is particularly true in this case which has already received extensive local and national media coverage.

3. Illinois Supreme Court Rule 415(d) anticipates cases such as this that involve sensitive information. Rule 415(d) allows a trial court, upon a showing of cause, to order that "specified discovery disclosures be restricted or deferred, or make such other order as is appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit counsel to make beneficial use thereof."

4. The Committee Comments to Rule 415(d) explain that "This paragraph...permits application by the party concerned to the court for a protective order adjusting the time, place, recipient, or use of the disclosures as are necessary in a particular case." Furthermore, the Committee Comments state that "Normal use of the protective order will be made when there is a substantial risk to any person of physical harm, intimidation, bribery, or economic reprisals which outweigh any usefulness of disclosure to the defendant or State."

5. Other than the location of Individual A, the People are prepared to disclose all discovery materials to defense counsel, including the identity of Individual A. However, because future investigations may be jeopardized by the disclosure of information provided in the discovery materials and because Individual A would be at a substantial risk of physical harm or intimidation if Individual A's identity becomes known to the public, this court should enter a protective order precluding the Defendant, defense counsel, or defense personnel from disclosing to the public or the media any information provided in discovery.

6. Illinois Supreme Court Rule 415(f) allows the trial court to hold an in camera

proceeding regarding the issuance of a protective order. Specifically, Rule 415(f) states that “Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosures, or portion of such showing, to be made *in camera*. A record shall be made of such proceedings. If the court enters an order granting relief following a showing *in camera*, the entire record of such showing shall be sealed, impounded, and preserved in the records of the court, to be made available to the reviewing court in the event of an appeal.”

7. The Committee Comments to Rule 415(f) explain the purpose of an *in camera* hearing:

Paragraph (f) provides for preserving the confidentiality of material at such times as the trial court is called upon to decide whether to require its disclosure. In issuing protective orders under paragraph (d), allowing excision of portions of material under paragraph (e), or in otherwise deciding that certain material is not subject to disclosure, the trial court must have an opportunity to examine, in private, the particular material as well as the reasons for nondisclosure. The purpose of issuing such rulings would often be defeated if the hearing were to be held in open court. To protect the litigants from error by the trial court, provision is made for the making and preserving of a record of all such proceedings for purposes of appeal.

8. The People’s request for a protective order precluding defense counsel or defense personnel from disclosing to the public or the media any information provided in discovery is consistent with Illinois Rule of Professional Conduct 3.6 regarding trial publicity. Rule 3.6 precludes a lawyer, except in limited circumstances, from making an “extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and would pose a serious and imminent threat to the fairness of an adjudicative proceeding in the matter.” Disclosing to the public or the media in an extrajudicial statement any information contained in the discovery materials would pose a serious and imminent threat to the fairness of the proceeding. As the Comments to Rule 3.6 explain:

There are, on the other hand, certain subjects that would pose a serious and imminent threat to the fairness of a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

- (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;
- (2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;
- (3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;
- (4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;
- (5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or
- (6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

WHEREFORE, The People respectfully request this Honorable Court grant this motion and conduct an in camera hearing pursuant to Illinois Supreme Court Rule 415(f) and enter a discovery protective order pursuant to Illinois Supreme Court Rule 415(d) precluding the Defendant, defense counsel, or defense personnel from disclosing to the public or the media any information provided in discovery for the duration of this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

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Assistant Attorney General

BY: Jeremy R. Walker
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Randolph County State's Attorney