

[CAPTION]

I. MOTION TO REVEAL THE IDENTITY OF THE CONFIDENTIAL INFORMANT

The Defendant, by counsel, respectfully requests this Court order the State to reveal the identity of the confidential informant to the Defense for discovery purposes. In support of the Motion, the Defendant states the following:

1. Through discovery, the Defendant has learned, via [insert officers' names], the existence of a confidential informant in this case. The officers refused to reveal the identity of the confidential informant, and the questions were certified.

2. Upon information and belief, undersigned counsel believes the confidential informant in this case is [name of possible Informant]. [INSERT SPECIFIC INFORMATION CONCERNING POSSIBLE INFORMANT, INCLUDING, BUT NOT LIMITED TO, WHERE HE LIVES, INVOLVEMENT IN CASE, WHETHER HE IS PROFESSIONAL INFORMANT, AND WHETHER HE IS A FUGITIVE].

3. The principal underlying policy permitting nondisclosure of an informant's identity is that "the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, by preserving their anonymity encourages them to perform that obligation." Roviaro v. U.S., 353 U.S. 53, 59 (1957).

4. However, where the disclosure of the informant's identity or the content of the informant's communications is relevant and helpful to the defense of an accused, or is essential to a fair trial, the privilege of nondisclosure must give way. Id. at 60-61; Beverly v. State, 543 N.E.2d 1111 (Ind. 1989); Williams v. State, 528 N.E.2d 496 (Ind.Ct.App. 1988).

5. Other factors such as informant safety and the nature of offense charged may also be considered, i.e. whether the offense was a controlled buy or whether the informant was only acting as an introduction. See Schlomer v. State, 580 N.E.2d 950 (Ind. 1991).

6. The Defendant's knowledge of an informant's identity actually requires disclosure because the government no longer has a legitimate need to protect the identity. Smith v. State, 829 N.E.2d 64 (Ind.Ct.App. 2005) (citing Roviaro v. U.S., 353 U.S. 53, 59 (1957)).

7. In this case, there is no evidence of concern for [Informant]'s safety because [INSERT REASON, SUCH AS HE IS A FUGITIVE FROM JUSTICE]. In this case, [Informant] did not witness any illegal transaction as there were none. There is no public interest in the continuing free flow of information from [Informant] because he is under himself prosecution and any testimony would be highly suspect, and his identity may already be known to the Defendant.

8. Disclosure of [Informant]'s identity, if he is indeed the confidential informant, is material, relevant, necessary for the preparation of the defense and to a fair trial because [INSERT SPECIFIC REASONS, SUCH AS THE [INFORMANT] COULD HAVE PLANTED THE EVIDENCE TO GAIN STATUS AND BENEFITS FOR HIMSELF IN INVESTIGATIONS AND PROSECUTIONS OF HIM].

9. If [Informant] is not the confidential informant in this cause, undersigned counsel requests that the prosecution be required to reveal to the court the identity of the confidential informant to determine whether in informant, in fact, is reliable.

10. Any references or inferences to the confidential informant's participation or information gained from the informant in a trial of this cause without revealing the confidential informant's identity would be a violation of the Defendant's right to a fair trial and right to confront and cross examine his accusers. U.S. CONST., Amend. XIV, XI; IND. CONST., art. I, § 12, 13.

WHEREFORE, the Defendant, by counsel, respectfully requests this Court order the prosecution to disclose the identity of the confidential informant, and for all other relief just and proper in the premises.

(Signature)