

[CAPTION]

**MOTION TO COMPEL DISCLOSURE OF LAST KNOWN ADDRESSES
OF CIVILIAN WITNESSES**

The Defendant, by counsel, respectfully requests this Court to compel disclosure by the State of the last known addresses of civilian witnesses to the defense. In support of the Motion, the Defendant states the following:

1. In providing discovery to the defense, the prosecution has redacted many of the addresses of civilian witnesses and his last known addresses of the co-defendants.
2. The parties are currently engaged in discovery. The last known addresses of civilian witnesses are important information in preparing for the depositions of the witnesses that is statutorily guaranteed under I.C. 35-37-4-3.
3. The disclosure of the last known addresses of civilian witnesses to the defendant is of constitutional stature. “[T]he very starting point in ‘exposing falsehood and bringing out the truth’ through cross-examination must necessarily be to ask the witness who he is and where he lives. The witness’ name and address open countless avenues of in-court examination and out-of-court investigation. To forbid this most rudimentary inquiry at the threshold is effectively to emasculate the right to cross-examination itself.” Smith v. Illinois, 390 U.S. 129, 131 (1968).
4. The fundamental right to discovery of witnesses’ last known addresses gives way only where a paramount interest, such as a witness’ safety or evidentiary privilege, is shown to exist. Crull v. State, 540 N.E.2d 1195 (Ind. 1989); Pigg v. State, 603 N.E.2d 154 (Ind. 1992); see also I.C. 35-37-4-12.
5. Continued nondisclosure of civilian witnesses’ last known addresses constitutes a violation of the Defendant’s fundamental rights to a defense, to effective assistance of counsel, to cross-examination, and due process as guaranteed by the Fifth, Sixth and

Fourteenth Amendments to the United States Constitution and Art. I, Section 13 of the Indiana Constitution. Morrison v. State, 609 N.E.2d 1155 (Ind.Ct.App. 1993).

WHEREFORE, the Defendant, by counsel, respectfully requests this Court to order the State to disclose the last known addresses of all its civilian witnesses to counsel for the defense, and for all other relief just and proper in the premises.

(Signature)

REFERENCES

I.C. 35-37-4-12 (“If the physical safety of a victim or the victim’s immediate family is in danger, a victim may not be required to give personal information during the course of sworn testimony. . . . [T]he court, if the court finds an actual danger to the victim or the victim’s immediate family exists, may require the party possessing the personal information to disclose the personal information to the court for in camera review”).

CASE LAW

Crull v. State, 540 N.E.2d 1195 (Ind. 1989) (trial court erred in denying Defendant the right to cross-examine key witness as to the witness’ current residence, employment, and other personal matters where trial court did not hold in camera hearing or make finding that reasonable fear existed that disclosure of witness’s home address would endanger his safety).

Corbin v. State, 563 N.E.2d 86 (Ind. 1990) (Defendant not denied right to cross-examine State’s witnesses when witness refused to give his street address, inasmuch as Defendant made no request for in camera hearing to determine reasonableness of refusal and did not demonstrate how he was prejudiced by lack of residential address).

Morrison v. State, 609 N.E.2d 1155 (Ind.Ct.App. 1993) (prejudice is presumed from denial of constitutional right to cross-examination by court sustaining, without holding in camera hearing on matter, objection on relevancy grounds to question on cross-examination about State’s key witness’ address).