

[CAPTION]

**MOTION FOR LEAVE OF COURT TO INTERVIEW GRAND JURORS**

The Defendant, by counsel, respectfully requests this Court for leave to interview Grand Jurors.

In support of the Motion, the Defendant states the following:

1. Pursuant to I.C. 35-34-1-4, it is necessary for counsel for the Defendant to interview members of the Grand Jury in order to establish and conclude whether or not the Grand Jury was illegally constituted, or if the proceedings were conducted before fewer than five (5) Grand Jurors, or fewer than five (5) Grand Jurors concurred in the finding of the indictment, or any other ground arising out of the Grand Jury proceeding which would constitute grounds for a Motion to Dismiss the Indictment.
2. To allow counsel for the Defendant to comply with I.C. 35-34-1-4 and provide effective assistance of counsel, it is crucial for counsel to investigate whether Grand Jurors concurred in the finding of the indictment, or any other ground arising out of the Grand Jury proceeding which would constitute grounds to file a Motion to Dismiss the Indictment.
3. Pursuant to I.C. 35-34-2-4(i) and 35-34-2-10(a), the Court may allow defense counsel to interview a grand juror.
4. The time limitation set forth in I.C. 35-34-1-4(b) has not yet run.

WHEREFORE, the Defendant, by counsel, requests this Court for an Order granting leave to interview members of the Grand Jury, and for all other relief just and proper in the premises.

(Signature)

## REFERENCES

## CASEBANK M.2.b.4

I.C. 35-34-1-4(a)(3) (motion to dismiss by defendant; grounds; requisite; disposition; effect of order).

I.C. 35-34-2-4(i) (prohibiting disclosure of grand jury proceedings, except in the lawful discharge of grand juror's duties or upon written order of the court impaneling the grand jury or the court trying the case on indictment presented by the grand jury).

I.C. 35-34-2-10(a) (unauthorized disclosure of grand jury information; offense; production of transcript).

## CASE LAW

DeVaney v. State, 259 Ind. 483, 288 N.E.2d 732 (1972) (upon a sufficient showing of need, a defendant may call a grand juror as a witness on issue as to whether sufficient numbers of jurors concurred in the finding).

Dinning v. State, 256 Ind. 399, 269 N.E.2d 371 (1971) (Defendant has the ability to call a member of grand jury to testify for the purpose of ascertaining whether testimony of the witness before the grand jury was consistent with evidence given by the witness before the court).

Hinojosa v. State, 781 N.E.2d 677 (Ind. 2003) (suggesting that a defendant should attempt to depose or subpoena grand jury witnesses prior to requesting transcript of grand jury testimony).