

**VERIFIED EMERGENCY MOTION TO HOLD APPEAL IN ABEYANCE
PENDING COMPLETION OF PROCEEDINGS PURSUANT TO INDIANA
APPELLATE RULE 31**

Appellant [name], by counsel, Victoria L. Bailey, now comes before the Court and files this Motion to Hold Appeal in Abeyance Pending Completion of Proceedings Pursuant to Indiana Appellate Rule 31. In support of this Motion, counsel would show the Court as follows:

1. On March 21, 2011, [name] was sentenced to an aggregate sentence of 95 years in the custody of the Department of Correction.
2. No Motion to Correct Error was filed in the trial court.
3. [name] filed his Notice of Appeal on April 18, 2011.
4. On October 19, 2011, this Court granted [name]' prior motion for extension of time to file his Appellant's Brief to and including November 14, 2011.
5. While reviewing the record in [name]' case, undersigned counsel came across an un-transcribed sidebar conference following which a State's Exhibit was admitted over the defense's objection.
6. Undersigned counsel has confirmed with the Court Reporter that the sidebar was inaudible.
7. Based on trial counsel's recollection and the relating of that recollection to undersigned counsel, undersigned counsel believes it possible that what occurred during the sidebar conference could give rise to a prosecutorial misconduct claim.
8. In order to fully preserve and present all potentially meritorious issues in [name]' appeal, undersigned counsel believes it necessary to prepare and have certified a

Statement of the Evidence as to what was said during the inaudible sidebar in accordance with Indiana Appellate Rule 31.

9. Counsel is asking that this appeal be held in abeyance because she does not know how long it will take the process anticipated by Appellate Rule 31.

10. This Motion is not made for purposes of delay but to ensure that [name] has the opportunity to fully litigate all claims on appeal.

WHEREFORE, Appellant respectfully requests this Court hold his appeal in abeyance until a Statement of the Evidence can properly be filed with this Court.

Respectfully submitted,

VERIFICATION

I affirm, under the penalties for perjury, that the foregoing information is true and correct to the best of my knowledge and belief.
