

MATT KELTY

MOTION TO DISMISS  
ALL CHARGES

OCTOBER 22, 2007

STATE OF INDIANA	)	IN THE ALLEN COUNTY SUPERIOR COURT
	) SS:	
COUNTY OF ALLEN	)	CAUSE NO. 02D04-0708-FD-678
STATE OF INDIANA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
MATTHEW G. KELTY,	)	
	)	
Defendant.	)	

MOTION TO DISMISS INDICTMENT

Defendant, Matthew G. Kelty (“Kelty”), through counsel, respectfully moves the Court to dismiss the indictment in this case, and in support hereof, files a corresponding Memorandum of Law in Support of Motion to Dismiss pursuant to Rule 3 of the Indiana Rules of Criminal Procedure, and states:

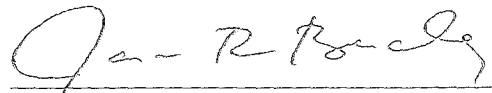
1. On or about August 14, 2007, the Allen County grand jury returned a nine count indictment charging Kelty with crimes he did not commit.
2. The indictment suffers from severe defects that violate Indiana law and the Indiana and United States Constitutions.
3. I.C. § 35-34-1-6 requires the Court to dismiss a “defective” indictment.
4. Article I, sections 12 and 13 of the Indiana Constitution and the Fifth and Fourteenth Amendments to the United States Constitution require dismissal of an indictment that violates due course and due process of the law respectively.
5. Counts I and II of the indictment, charging Kelty with perjury, should be dismissed for failing to allege conduct that violates the law. *See* Memorandum of Law at p. 30.
6. Counts III through VI, should be dismissed for being unconstitutionally void for vagueness, infringing upon Kelty’s constitutionally protected First Amendment rights, failing to

allege sufficient facts and essential elements of a crime, being multiplicitous, and alleging conduct that does not constitute a crime and which is barred from criminal prosecution by Indiana law. *See id.* at p. 7.

7. Count VII should be dismissed for being unconstitutionally void for vagueness, infringing upon Kelty's constitutionally protected First Amendment rights, failing to allege sufficient facts and essential elements of a crime, and alleging conduct that does not constitute a crime and which is barred from criminal prosecution by Indiana law. *See id.* at p. 7

8. Counts VIII and IX should be dismissed for infringing upon Kelty's constitutionally protected First Amendment rights, failing to allege sufficient facts and essential elements of a crime, and alleging conduct that does not constitute a crime and which is barred from criminal prosecution by Indiana law. *See id.* at p. 14.

WHEREFORE, Kelty respectfully requests, after consideration of the corresponding Memorandum of Law in Support of Motion to Dismiss Indictment, the Court dismiss counts I through IX of the indictment for being statutorily and constitutionally defective.



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