

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA, <p style="text-align: right;">Plaintiff,</p> vs. EDDIE RAYMOND TIPTON, TOMMY BOYD TIPTON <p style="text-align: right;">Defendant.</p>	Nos. FECR289551 FECR294192 APPLICATION FOR SUBPOENA DUCES TECUM
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COMES NOW, Robert H. Sand, as Prosecuting Attorney for the State of Iowa and states as follows:

1. Charges have been filed in the above-caption matters. While a prosecutor's investigatory subpoena under Rule 2.5(6) is most often used prior to indictment, it is also appropriate for use after indictment as explicitly stated in Iowa Rule of Criminal Procedure 2.14(1) and *State v. Sanders*, 623 N.W.2d 858, 860 (Iowa 2001). As part of the continuing investigation into this matter, the State requests subpoenas duces tecum for bank and phone records. Under *State v. Kelley*, 353 N.W.2d 845 (Iowa 1984), probable cause is not required for issuance of investigatory subpoenas. The requested documents must merely be relevant to a criminal investigation. *Id.* at 848. That remains true for records request that go far back in time as long as those records may be relevant to issues in the case. *Id.* at 849.
2. Evidence the State has produced to Defendants show the significance of Houston, Texas attorney J. Thad Whisenant and his LLC to this investigation. In addition, the State has learned that Luis Vallejo, an attorney in La Grange, Texas, is connected to both Whisenant and Tommy Tipton. Whisenant's phone records show that immediately after investigators attempted to interview him, he called Vallejo. Vallejo in turn is shown in Tommy Tipton's phone records. As a result, the State wishes to subpoena complete records for Vallejo's phone numbers from service providers (at relevant times, ATT/SWB/Cingular, Sprint, Verizon, and T-Mobile).
3. In addition, at other times material to this investigation, Vallejo appears to have been financially involved with Whisenant and Cuestion de Suerte, and also with Tommy Tipton. As a result, reviewing bank records belonging to both men from Prosperity Bank, Compass Bank, and JP Morgan Chase will aid the State's investigation.
4. Finally, Tommy Tipton's landline records appear to show a series of three-way or forwarded calls between himself, Vallejo, and third part(ies) with ATT/SWB/Cingular numbers at certain moments material to this investigation. Subpoenaing ATT/SWB/Cingular to determine the owner(s) of those numbers will aid the State's investigation.

5. This Court has already reviewed the law and heard the parties' arguments regarding rule 2.5(6) investigatory subpoenas duces tecum issued after indictment. The same arguments and issues apply here. The State believes Court's previous determination in its Order dated June 24, 2016 in *State v. Eddie Tipton* (FECR289551) is reasonable. As a result, the State requests the Court issue subpoenas directing a response in accordance with that ruling, and submits proposed subpoenas that follow it.
6. Furthermore, the State believes no hearing is necessary on this matter, as similar matters have already been ruled upon and as ensure the investigation can proceed as quickly as possible following the receipt of the records.

WHEREFORE, it is requested that the Court approve the issuance of subpoenas duces tecum by the Clerk.

Respectfully Submitted,

/s/ Robert H. Sand
Robert H. Sand ATT10489
Assistant Atty. General
1305 E. Walnut St., Des Moines, IA
515-281-5536