

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,

Case No. 23-02935-CF

vs.

CAPITAL MURDER

TOMASZ ROMAN KOSOWSKI,
_____ /

**MOTION FOR REHEARING ON DEFENDANT'S
MOTION TO ALLOW SUPERVISED ACCESS TO THE INTERNET**

BOB GUALTIERI, in his capacity as Sheriff of Pinellas County, Florida (hereinafter the "Sheriff"), by and through undersigned counsel, moves this Honorable Court for a rehearing in the above-captioned case and more specifically as to this Court's Order Granting Defendant's Motion to allow supervised access to the internet issued by this Court dated February 21, 2024 (the "Order"), and states as follows:

1. Tomasz Roman Kosowski is the Defendant in the above-styled case and is in the custody of the Pinellas County Jail located at 14400 49th Street North, Clearwater, FL 33762.
2. The Order was entered *ex parte* without any notice to the Sheriff or any opportunity for the Sheriff to be heard in this matter. Defendant never gave notice to the Sheriff of the motion that resulted in entry of the Order. Defendant's seeking an order from this Court adjudicating the rights of the Sheriff without prior notice to the Sheriff and without enabling the Sheriff an opportunity to be heard on this matter violates the most basic principles of due process and fairness that underlies our system of justice.

3. The Order directs the Sheriff to provide defendant within a reasonable time supervised online access to a computer for the purposes of completing his outstanding continuing education and to renew his medical license.

4. As a result of Defendant's failure to give notice to the Sheriff of his motion, this Honorable Court has been deprived of relevant information.

5. Specifically, the Sheriff has not been afforded an opportunity to be heard regarding the separation of powers issue involved in this matter. The trial court may not dictate the operation of the Sheriff's Office or the county jail. Pursuant to Bradshaw v. Sandler, 955 So.2d 1219 (Fla. 4th DCA 2007); Armor Correctional Health Services v. Ault, 942 So.2d 976 (4th DCA 2006). Those matters are within the exclusive province of the executive and legislative branches of the government, not the judicial branch.

6. The rehearing on this matter will not prejudice the interests of Defendant but will provide this Honorable Court full information on which to act.

7. The rehearing on this matter will afford the Sheriff due process of law by providing him with notice and an opportunity to be heard.

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THEREFORE, based on the foregoing, Sheriff Bob Gualtieri, by and through undersigned counsel, respectfully requests this Honorable Court to rehear the matter contained in this Motion and for such other and further relief as this Honorable Court may deem just and proper.

PINELLAS COUNTY SHERIFF
GENERAL COUNSEL'S OFFICE

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CERTIFICATE OF SERVICE

I certify that on February 14, 2024, I electronically filed the foregoing with the Clerk of the Court through the Florida Courts E-Filing Portal and which will send notice of electronic filing to Bjorn Brunvand, Counsel for the Defendant, 615 Turner Street, Clearwater, FL 33756, at bjorn@acquitter.com and Nathan Vonderheide, Assistant State Attorney, State Attorney's Office, Criminal Justice Center, 14250 49th Street North, Clearwater, FL 33762, eservice@flsa6.gov.

State of Florida v. Tomasz Roman Kosowski
Case No. CRC 23-02935-CF