

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
CRIMINAL DIVISION**

STATE OF OHIO,	:	Case No. 24CR03226
Plaintiff	:	
	:	JUDGE DANKOF
-vs-	:	
	:	
Jonathan Link,	:	
Defendant	:	<b>MOTION TO DICLOSE</b>
	:	<b>GRAND JURY TESTIMONY</b>

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Jonathan Link hereby respectfully moves this Court for an order to the State of Ohio that is prepare a transcript of the grand jury proceedings and immediately provide a copy of said transcript to defense counsel. The reasons for this Motion are more fully set forth in the Memorandum in Support hereof.

Respectfully submitted,

/s/ Dennis A. Lieberman  
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## **MEMORANDUM IN SUPPORT**

The United States Supreme Court has recognized that where a defendant makes a substantial showing of particularized need and the preservation of secrecy of grand jury materials is minimal, the defendant is entitled to examination of grand jury materials. Dennis v. United States, 384 U.S. 855, 871 (1966). This recognition is especially important as “disclosure, rather than suppression, of relevant materials ordinarily promotes the proper administration of criminal justice.” Id. at 870. Specifically, the Supreme Court of Ohio has held that an accused may inspect grand jury transcripts either before or during trial when the ends of justice require it. See Petition for Disclosure of Evidence, 63 Ohio St.2d 212, 407 (1980) (the trial court abused its discretion when it determined that no showing of need could ever overcome the secrecy afforded to grand jury proceedings). Furthermore, “[w]hile generally true that Grand Jury Testimony is to be secret, that secrecy is NOT, NOR COULD IT BE, ABSOLUTE.” State v. Gillispie, No. 1990 CR 02667, 2021 Ohio Misc. LEXIS 5786, at \*1 (Ct. Com. Pl. Mar. 25, 2021).

As a practical matter, it is long-established that particularized need outweighs the preservation of secrecy when it is shown to aid in refreshing a witness’s recollection, testing his credibility, or impeachment. Gillispie, 2021 Ohio Misc. LEXIS 5786, at \*6; Dennis, 384 U.S. at 870; United States v. Proctor & Gamble Co., 356 U.S. 677, 683 (1958). In Gillispie, the Court granted Mr. Gillispie’s motion for disclosure and production of grand jury testimony of four witnesses based on the demonstrated particularized need. 2021 Ohio Misc. LEXIS 5786, at \*13. This decision was reached when considering that Mr. Gillispie would not be afforded “actual, authentic, real due process” or fair adjudication without being able to use witness grand jury testimony to refresh his recollection, effectively cross examine him, and impeach him. Id. at 9.

Additionally, the demonstration of particularized need was found to be clear to refresh the recollection of witnesses where over thirty years had elapsed. Id. at 11.

In the instant case, the ends of justice require that the grand jury transcripts requested be produced to defense counsel for Mr. Link. There are 2 Grand Juries in question. One was held in 2001 or 2002 and no Indictment was returned. The second Grand Jury met 24 years later and indicted Mr. Link. Defendant is requesting both Grand Jury transcripts. This is especially true where there is an apparent contradiction in eyewitness testimony in the time that has elapsed since the first grand jury proceeding. The then-children who witnessed the circumstances surrounding the alleged crime have now made statements inconsistent or in addition to their previous statements. Where twenty-four years have elapsed, as here, and witnesses have appeared to depart from prior testimony, there is a clear need to access the grand jury transcripts for the purposes of refreshing recollection or impeachment. Furthermore, to the extent that grand jury testimony may contain exculpatory information favorable to the defendant, it must be produced. Brady v. Maryland, 373 U.S. 83 (1963). Failure to disclose the prior grand jury testimony will deprive Mr. Link of fair adjudication and an unjust result, despite his demonstration of a particularized need.

The receipt of grand jury transcripts prior to trial promotes judicial efficiency and avoids unnecessary delay.

For the foregoing reasons, Mr. Link asks this Court to grant the Motion to Produce Grand Jury Testimony and to order the court reporter to provide a copy of the grand jury transcript. The requested transcript or review is necessary to protect Mr. Link's rights to confrontation, cross examination, and due process of law.

Respectfully submitted,

/s/ Dennis A. Lieberman

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of March 2025 this document was electronically filed via the Court's authorized electronic filing system which will send notifications of this filing to all parties.

/s/ Dennis A. Lieberman

Dennis A. Lieberman (0029460)