

Leslie M. Miller #18173
miller@stevensbrand.com
STEVENS & BRAND, L.L.P.
900 Massachusetts, Suite 500
P.O. Box 189
Lawrence, Kansas 66044-0189
(785) 843-0811 - phone
(785) 843-0341 - fax
Attorneys for the Douglas County Sheriff's Office

**IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS
SEVENTH JUDICIAL DISTRICT**

STATE OF KANSAS,)
Plaintiff,)
) Case No. 2022-CR-000107
vs.)
) Division No. 2
STEVEN C. DRAKE, JR.,)
Defendant,)

**OBJECTION TO AND MOTION TO QUASH
SUBPOENA DUCES TECUM**

COME NOW the Douglas County Sheriff's Office (hereinafter, "DGSO"), Sheriff Armbrister and Undersheriff Simmons, by and through their attorneys Stevens & Brand, LLP, and object to and move the Court to quash the subpoenas served on them by the Douglas County District Attorney's Office (DA's Office).

The Subpoena *Duces Tecum* in this matter was not crafted to obtain testimony and documents relevant to the matters set for hearing. These subpoenas contain no regard for concepts of relevance, reasonable time to comply and undue burden. The subpoenas should be quashed and the DA's office has not taken any steps to avoid imposing an undue burden on the DGSO. The DGSO, Sheriff Armbrister and Undersheriff Simmons respectfully move the Court to quash the subpoenas because: (1) Neither Sheriff Armbrister nor Undersheriff Simmons had any involvement in the case and thus neither are material witnesses; (2) the subpoenas request documents that are not relevant; (3) the subpoenas fail to allow a reasonable time for compliance; (4) compliance

would require the disclosure of confidential and protected information; and (5) the subpoenas subject the DGSO, Sheriff Armbrister and Undersheriff Simmons to an undue burden in requiring their attendance at what is currently scheduled as a three-day hearing. Said subpoenas are even more problematic when you consider the actual requested documents:

The personnel files of the following: Mehrer, Mark and Pierce, David

The subpoenas for the requested personnel files are not aimed at obtaining relevant evidence for the matter at hand and they raise significant questions as to whether the DA's office has a legitimate basis for asking for these confidential personnel files in this setting. The subpoenas should be quashed for this reason if none other. Even if the relevancy objection is overruled, the Sheriff's Office would object to this request on grounds that compliance with the subpoenas would require the disclosure of confidential and protected information. The DA's office should be required to provide strict proof of any valid basis for this request other than harassment and intimidation.

If the subpoenas are not quashed in response to any of the preceding arguments, the DGSO requests that the Court engage in a relevancy determination prior to production of the requested personnel files. "Subpoenas in aid of civil or criminal litigation are subject to a stringent relevancy requirement." *State v. Gonzalez*, 290 Kan. 747, 767 (Kan. 2010). Given the nature of the information being requested, the DGSO, Sheriff Armbrister and Undersheriff Simmons respectfully request that the Court make a threshold determination regarding relevancy before requiring compliance with these subpoenas. Should the personnel files be reviewed the DGSO requests that only be done *in camera*.

Respectfully Submitted,
STEVENS & BRAND, L.L.P.
900 Massachusetts, Ste. 500
PO Box 189
Lawrence KS 66044-0189
(785) 843-0811
lmiller@stevensbrand.com
Attorneys for the DGSO

By: /s/ Leslie M. Miller
Leslie M. Miller #18173

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 2022, a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court using the Kansas Judicial Branch e-filing system and was sent by electronic mail to all parties receiving notices electronically via the Court's electronic noticing system.

By: /s/ Leslie M. Miller
Leslie M. Miller #18173