

JUL 22 2013

STATE OF WISCONSIN CIRCUIT COURT COLUMBIA COUNTY CIRCUIT COURT COLUMBIA COUNTY

IN THE MATTER OF A JOHN DOE PROCEEDING Case No. 13 JD //

PETITION FOR COMMENCEMENT OF A JOHN DOE PROCEEDING

WHEREAS, I, Jane E. Kohlwey, District Attorney in and for the County of Columbia am responsible for the review and prosecution of possible crimes occurring under Chapter 11 of the Wisconsin Statutes, which crimes may be committed by residents of Columbia County, State of Wisconsin;

WHEREAS, in pursuit of these duties, I have had occasion to review information involving a person named Kelly M. Rindfleisch (DOB 10/25/1968), a resident of the City of Columbus, Columbia County, Wisconsin; and

WHEREAS, based upon a review of information thus far gathered by prosecutors and investigators as part of a John Doe proceeding now pending in Milwaukee County, Case No. 12JD000023, I believe that further information concerning possible crimes occurring under Chapter 11 of the Wisconsin Statutes can be revealed utilizing a John Doe proceeding;

NOW, THEREFORE, based upon the information contained in my Affidavit that accompanies this Petition, showing evidence that criminal violations of Wisconsin Statutes §§11.26, 11.27, 11.38 and 11.61(1)(b), pertaining to Limits on Campaign Contributions, False Campaign Reports, and Contributions by Corporations, may have been committed in Columbia County, I hereby request that a John Doe proceeding, pursuant to Section 968.26, Stats., be conducted and that witnesses be subpoenaed and questioned on oath relating thereto.

FURTHER, I request that these John Doe proceedings be secret for the following reasons. I believe it is reasonable to expect that any public filing about the existence of this investigation will generate substantial publicity, both from traditional (e.g., print and broadcast journalism) and non-traditional (e.g. Internet blog) information sources. This is because the individuals involved in this investigation are well-placed political operatives, closely tied with the current Governor of the State of Wisconsin. At this time, the investigation concerning the facts alleged in the accompanying Affidavit are not a matter of common, public knowledge. In fact, a portion of the investigation has been ongoing in

Milwaukee County since the Fall of 2012, and the secrecy of that proceeding has been maintained. I believe that the continued secrecy of the investigation is important to its success. For example, publicity will forewarn probable future John Doe witnesses of the State's interest in questioning them. Such warning may result in statements that are less likely to be entirely candid. Publicity arising from a public John Doe proceeding may also make it more likely that evidentiary records will be lost or destroyed before being subpoenaed. It is also my opinion that the formality of a John Doe proceeding before a judicial officer will increase the likelihood of complete and frank statements by persons who otherwise may profess a failed or an incomplete recollection to an investigating law enforcement officer in an informal interview setting. Finally, I also note that publicity surrounding a John Doe investigation may serve to unfairly publicize allegations of criminal misconduct that are in a pre-charging, investigative stage. In other words, publicity related to a public John Doe proceeding may unfairly damage the reputations of persons against whom – for whatever reason – no criminal charges will ever issue.

FOR THESE REASONS, I respectfully submit that the balance between – on the one hand - the public's right to be informed about this John Doe proceeding, and – on the other hand – the legitimate need to maintain the secrecy of these proceedings, must be struck, at this juncture, in favor of a secret proceeding. *In re John Doe Proceeding*, 2003 WI 30, 260 Wis.2d 653, 660 N.W.2d 260 at ¶¶66.

FURTHER, notwithstanding any secrecy order, I request that the court allow the following persons to have access to the record of the John Doe proceedings to the extent necessary to perform their duties because such access will materially aid the progress of this investigation:

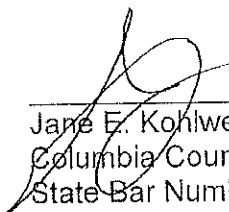
Columbia County District Attorney Jane E. Kohlwey and legal secretary Ruth E. Kaczmarek.

I request that prosecutors, investigators and others named who act in support of this John Doe proceeding be permitted to use the information, transcripts, documents and other materials that will be gathered in this investigation for all appropriate law enforcement purposes including, but not limited to, the interview of witnesses outside the context of John Doe hearings, in support of this investigation.

FINALLY, as to the scope of the secrecy order, I request that the court order that

secrecy be maintained during this John Doe proceeding as to court docket and activity records, court filings, process issued by the court, information concerning the questions asked and the answers given during a John Doe hearing, transcripts of the proceedings, exhibits and other papers produced during the proceedings, as well as to all other matters observed or heard in the John Doe proceeding. See, generally, *In re John Doe Proceeding*, 2003 WI 30 at ¶62.

Dated this 22nd day of July 2013.



Jane E. Kohlwey
Columbia County District Attorney
State Bar Number 1009323
jane.kohlwey@da.wi.gov

P.O. Address

PO Box 638

Portage, WI 53901-0638

608-742-9650 - Voice

608-742-9606 -- Fax