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VIA eCOURTS FILING

Hon. Bernard E. DeLury, Jr., P.J.Cr.
 Cape May County Courthouse
 9 North Main Street, 2nd Floor
 Cape May Court House, NJ 08210

RE: State v. Ernest V. Troiano
Case Number: CPM-22-000535

Dear Judge DeLury:

In light of the additional information received today from the State regarding the number of grand jurors who participated in the March 10, 2023 vote on the indictment in this matter, please accept this letter as an amendment to our previously submitted materials on the pending Motion to Dismiss.

The Court was previously advised by the State that there were six (6) grand jurors participating in the March 10 vote that were “qualified” by reading the transcript of the prior proceeding. Specifically, according to the certification of Janice Davis that was submitted, jurors 1, 3, 15, 17, 21, and 23 were permitted to read the transcript of the February 17th proceeding prior to participating in the final vote. We now know that fifteen (15) total grand jurors were present and voted on the indictment against the defendant, including the six (6) “qualified” jurors. This leaves only nine (9) jurors who participated in the vote that were present for, and actually heard, all of the evidence presented. Even if all nine voted to indict, there would still be insufficient votes for a valid indictment based upon the standard set forth in State v. Reynolds (affirmed 1982) and later adopted in N.J. Directive 12-06 (issued July 2006) that requires all voting jurors to be present for the entire presentation.

For all of these reasons, and because the additional information supplied by the State confirms the lack of necessary juror participation, the proper result in this matter is a dismissal of the indictment.

Respectfully,


 Brian A. Pelloni, Esq.

cc: Brian Uzdevinis, DAG (via eCourts notification)