

STATE OF MICHIGAN
IN THE 3rd CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

Honorable David A. Groner
Case Nos. 08-010496-01

v

KWAME MALIK KILPATRICK
Defendant.

KYM L. WORTHY (P38875)
Wayne County Prosecutor
ROBERT W. SPADA (P46295)
Principal Attorney
1441 St. Antoine, 12TH Floor
Detroit, Michigan 48226
Phone: (313) 224-5777

MICHAEL ALAN SCHWARTZ (P30938)
Attorney for Defendant
30300 Northwestern Highway, Suite 260
Farmington Hills, Michigan 48334-3218
JAMES C. THOMAS (P23801)
Attorney for Defendant
535 Griswold, St. Ste 2632
Detroit, Michigan 48226

**PEOPLE'S MOTION FOR INQUIRY INTO WHY THE MICHIGAN DEPARTMENT
OF CORRECTIONS AND TARRANT COUNTY TEXAS COMMUNITY
SUPERVISION AND CORRECTIONS DEPARTMENT BY AND THROUGH THE
TEXAS INTERSTATE COMPACT HAVE NOT SOUGHT A PROBATION VIOLATION
WARRANT FOR DEFENDANT KWAME KILPATRICK.**

NOW COME the People of the State of Michigan, by and through **KYM L. WORTHY**, Prosecuting Attorney, County of Wayne, and **ROBERT W. SPADA**, Principal Attorney, and for their Motion state as follows:

- 1) On September 4, 2008, Defendant Kilpatrick pled guilty to two felony counts of obstructing justice and entered into a sentence agreement with the following terms:
 - a. Defendant Kilpatrick shall be placed on 5 years reporting probation, with the first 120 days to be served in the Wayne County Jail.
 - b. Defendant Kilpatrick shall resign as Mayor of the City of Detroit.
 - c. Defendant Kilpatrick shall pay restitution to the City of Detroit in the amount of \$1,000,000.00. The first \$20,000.00 to be paid on the date of sentencing. The remaining amount to be paid during the 5 year

probationary period based upon the Defendant's ability to pay which is to be assessed by the sentencing judge and probation department.

- d. Defendant Kilpatrick shall surrender assign and/or transfer all present and future cash payments due to him from his State of Michigan pension to the Treasury of the City of Detroit at the time of sentencing.
- e. Defendant Kilpatrick is prohibited from running for office during his probationary period.
- f. Defendant Kilpatrick shall surrender his law license.
- g. Defendant Kilpatrick shall abide by any other conditions set by the court.

2) On March 10, 2009, this Court entered an ***OPINION AND ORDER REGARDING THE TRANSFER OF PROBATION AND RESTITUTION.***

3) In that March 10, 2009 ***Opinion and Order***, the Court set as terms of payment for the required restitution a requirement that Defendant Kilpatrick pay \$6,000.00 by the 15th of each month for the first six months of employment with Covisant towards his outstanding restitution balance. To date, a review of the records available to the People show that Defendant Kilpatrick failed to pay the Court ordered \$6,000.00 restitution amount by the 15th of the month, but sua sponte Defendant Kilpatrick paid \$2,500.00 in an untimely manner on May 18, 2009.

4) The March 10, 2009 ***Opinion and Order*** also required Defendant Kilpatrick to "forthwith forfeit his \$7,500.00 bond and assign said funds to the City of Detroit for payment of his outstanding restitution." To date the records available to the People do not show that the bond amount has been applied to the outstanding restitution.

5) Defendant Kilpatrick was also required as a condition of his probation to assign and/or transfer all present and future cash payments due to him from his State of Michigan pension to the Treasury of the City of Detroit and shall execute any and all documents required to effectuate the transfer. The issue of the pension was also addressed in this Court's subsequent ***Opinion and Order Denying the Motion for Reconsideration (May 9, 2009 Opinion and Order)***. In that May 9, 2009 ***Opinion and Order***, the Court directed the surrender of Defendant

Kilpatrick's pension. To date, reviews of records available to the People do not show that the transfer or assignment has been completed or an amount applied to the outstanding restitution balance.

6) In the March 10, 2009 *Opinion and Order* the Court ordered disclosure of "any and all assets that are in the name of the Defendant and or the name of Carlita Kilpatrick and/or any assets held by a third party for the benefit of the Defendant." The Court, in the subsequent May 9, 2009 *Opinion and Order*, further stated that "In the interest of full disclosure in determining defendant's personal obligations and his ability to pay restitution, the court finds that disclosure of defendant's assets and those of his spouse is warranted. Therefore, the court will reaffirm its order that defendant make those records available to the probation department." The People based upon probable cause have reason to believe that Defendant Kilpatrick has not disclosed any and all assets that are in the name of the Defendant and or the name of Carlita Kilpatrick and/or any assets held by a third party for the benefit of the Defendant. To date, the People have not had access to any records that shows that Defendant Kilpatrick has disclosed any and all assets that are in his name and or the name of Carlita Kilpatrick and/or any assets held by a third party for the benefit of the Defendant.

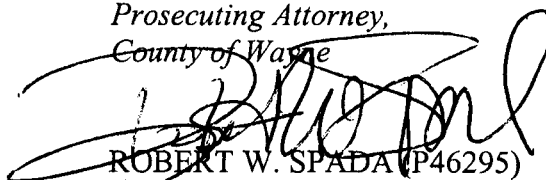
7) In the March 10, 2009 *Opinion and Order* and clarified in the May 19, 2009 *Opinion and Order*, the Court ordered Defendant Kilpatrick disclose to the Probation Department any gifts and/or benefits he receives, and the Court will impose the value of such gifts as income. The People based upon probable cause have reason to believe that Defendant Kilpatrick has not disclosed all of the gifts or benefits he has received.

8) Based upon probable cause the People have reason to also believe Defendant Kilpatrick has not provided proper and/or correct information regarding his work and pleasure travel requests as required by this Court. The People find it alarming that a request was submitted to the Michigan Department of Corrections and/or the Texas Interstate Compact to travel to "Dubai and Qatar Iraq" for a work related trip. Subsequent investigation revealed that it was not a work related trip, thus misrepresentations were made about the true purpose of the trip. Moreover, the Wayne County Prosecutor's Office is in possession of Defendant Kilpatrick's

passport. The People have not had access or been apprised of all of the travel requests made by Defendant Kilpatrick and are concerned that he sought to leave the country knowing that pursuant to the Court's order he was required to surrender his passport.

WIHEREFORE, the People respectfully request that this Court require that representatives of the Michigan Department of Corrections and/or the Tarrant County Texas Community Supervision and Corrections Department by and through the Texas Interstate Compact appear before this court and produce any and all documents, records and notes regarding Defendant Kilpatrick's case, and explain why they have not sought a probation violation warrant based upon the numerous reasons cited above.

Respectfully submitted,
KYM L. WORTHY
*Prosecuting Attorney,
County of Wayne*

A large, stylized handwritten signature in black ink, appearing to read 'R. Spada', is written over the typed name of Robert W. Spada.

ROBERT W. SPADA (P46295)
Principal Attorney,
1441 St. Antoine, 12th Floor
Detroit, Michigan 48226
Telephone: (313) 224-5831

Dated: June 4, 2009

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JAMES C. THOMAS (P23801)
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535 Griswold, St. Ste 2632
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**BRIEF IN SUPPORT OF PEOPLE'S MOTION FOR INQUIRY INTO WHY THE
MICHIGAN DEPARTMENT OF CORRECTIONS AND TARRANT COUNTY TEXAS
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT BY AND
THROUGH THE TEXAS INTERSTATE COMPACT HAVE NOT SOUGHT A
PROBATION VIOLATION WARRANT FOR DEFENDANT KWAME KILPATRICK.**

It is the intent of the legislature that the granting of probation is a matter of grace conferring no vested right to its continuance. MCL 771.4. The People are entitled to file a petition seeking a probation violation warrant and subsequent revocation of a defendant's probation. *People v Michael Farmer*, 193 Mich. App. 400, 1992.

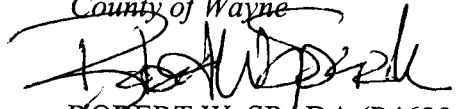
Defendant Kilpatrick has failed to abide by several of the requirements of his conditions of probation. The People are entitled to seek a probation violation warrant based upon probable cause and are entitled to any and all information that would so demonstrate.

Relief

THEREFORE, the People respectfully request that this Court grant the People's Motion and have Michigan Department of Corrections and/or the Tarrant County Texas Community Supervision and Corrections Department by and through the Texas Interstate

Compact appear before this court and produce any and all documents, records and notes regarding Defendant Kilpatrick's case, and explain why they have not sought a probation violation warrant.

Respectfully submitted,
KYM L. WORTHY
Prosecuting Attorney,
County of Wayne

A handwritten signature in black ink, appearing to read "R. Spada", written over the typed name of Robert W. Spada.

ROBERT W. SPADA (P46295)
Principal Attorney,
1441 St. Antoine, 12th Floor
Detroit, Michigan 48226
Telephone: (313) 224-5831

Dated: June 4, 2009

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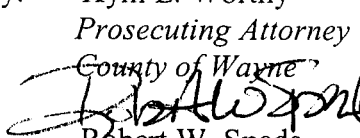
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Attorney for Defendant
535 Griswold, St. Ste 2632
Detroit, Michigan 48226

NOTICE OF HEARING

TO: Clerk of the Court
James C. Thomas
Michael Alan Schwartz
Regina Grimes
Beverly Smith

PLEASE TAKE NOTICE that the appended **PEOPLE'S MOTION FOR INQUIRY INTO WHY THE MICHIGAN DEPARTMENT OF CORRECTIONS AND TARRANT COUNTY TEXAS COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT BY AND THROUGH THE TEXAS INTERSTATE COMPACT HAVE NOT SOUGHT A PROBATION VIOLATION WARRANT FOR DEFENDANT KWAME KILPATRICK** shall be brought on for hearing before the Hon. David A. Groner in the Wayne County Circuit Court, 1441 St. Antoine, Detroit, Michigan, at a time and date to be set by the Court.

Dated: June 4, 2009

By: Kym L. Worthy
Prosecuting Attorney
County of Wayne

Robert W. Spada

Principal Attorney
1441 St. Antoine
Detroit, MI 48226
Office: 313-224-5758
Fax: 313-224-5793

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PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

vs

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Case No. 08-010496-01

KWAME KILPATRICK
Defendant.

PROOF OF SERVICE

STATE OF MICHIGAN)
COUNTY OF WAYNE)ss

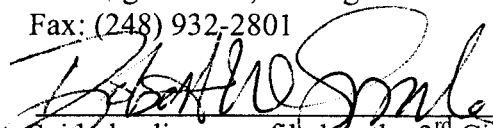
The undersigned deponent, being duly sworn, deposes and says the he served a true copy of **PEOPLE'S MOTION FOR INQUIRY INTO WHY THE MICHIGAN DEPARTMENT OF CORRECTIONS AND TARRANT COUNTY TEXAS COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT BY AND THROUGH THE TEXAS INTERSTATE COMPACT HAVE NOT SOUGHT A PROBATION VIOLATION WARRANT FOR DEFENDANT KWAME KILPATRICK**, upon the following via facsimile and US Postal Service:

1) **James C. Thomas**
Attorney for Defendant
535 Griswold, Suite 2632
Detroit, Michigan 48226
Fax: (313) 963-9258

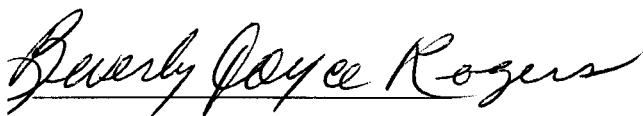
3) **Regina Grimes**
Deputy Compact Administrator
Texas Interstate Compact
8712 Shoal Creek, Suite 290-B
Austin, Texas 78757
Fax: (512) 452-0469

2) **Michael Alan Schwartz**,
Attorney for Defendant
30300 Northwestern Highway, Suite 260
Farmington Hills, Michigan 48334-3218
Fax: (248) 932-2801

4) **Beverly Smith**
Area Manager, Department of Corrections
426 Clinton
Detroit, Michigan 48225
Fax: (313) 224-1328


Said pleading was filed in the 3rd Circuit Court in the County of Wayne, State of Michigan, by
PERSONAL SERVICE.

Subscribed and sworn to before me
this 5th day of June, 2009



BEVERLY JOYCE ROGERS
Notary Public Wayne County, Michigan
My Commission Expires Sept 13, 2014

ACTING IN WAYNE COUNTY