NOVEMBER 3 SUPPLEMENT TO

RENEWED REPRIEVE APPLICATION OF JEFFREY WEISHEIT

Submitted to: Honorable Mike Braun

Governor of Indiana

Submitted by counsel for Mr. Weisheit,

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RENEWED REPRIEVE APPLICATION OF JEFFREY WEISHEIT

On behalf of Jeffrey A. Weisheit, whom the State of Indiana is scheduled to execute prior to the hour of sunrise on November 5, 2026, the undersigned counsel submit this brief supplement to his application to the Honorable Mike Braun, Governor of Indiana, for a reprieve pursuant to the governor's unfettered authority under the Indiana Constitution. Ind. Const. art. 5, § 17.

I. INTRODUCTION

Absent any response to the pending reprieve application, first submitted on October 27, 2026, and renewed yesterday, Monday, November 2, with innumerable questions surrounding the supplier of drugs for the impending execution date, not to mention the grave concerns suffusing the Indiana execution protocol (especially with respect to its exclusive reliance on untrained, unqualified prison guards for the technical role of establishing intravenous access), this supplemental submission centers on the Department of Correction's eleventh-hour disclosure, yesterday—less than 60 hours before the scheduled execution—of an inventory log reflecting, for the first time, IDOC's possession of the execution drugs.

Before turning to the revelation of that information and its implications for this pending reprieve decision it should first be noted that the governor's office, rather than address any of the content of this application, hastily opted to move up its decision on the separate constitutional matter of whether to commute Mr. Weisheit's sentence to life without parole from Wednesday night to Monday afternoon. With that independent question resolved, the reprieve request remains.

As observed in the initial submission of this application, the constitutional power, and imperative, to grant a reprieve and address the calamitous circumstances at issue here is obvious.

At a minimum, an independent inquiry into the practices and procedures used in the State's exercise of its greatest power is needed—and readily attained, by a stroke of the pen.

II. ATTORNEY GENERAL'S RELATIONSHIP WITH PHARMACY MUST BE EXPLAINED.

Before turning to the issues arising from the IDOC's late disclosure of its inventory log, it must first be underscored that information privy to the Attorney General, rather than the Office of the Governor, is integral to making sense of the State of Indiana's conduct in connection with the particular Pharmaneek transaction for this execution date, let alone the subterranean dealings between the State and this entity more widely concerning prior executions and otherwise. Yesterday, the Attorney General's Office sidestepped this entirely with its public statement:

> We are confident in the ability to safely and lawfully carry out the scheduled execution. Attorneys for condemned child murderer Jeffrey Weisheit have publicly identified a pharmacy that they claim is connected to Indiana's execution-drug supply, despite state law requiring supplier information to remain confidential. We will not comment on information protected by state law.

Cassandra Sawyer, Press Secretary, Office of Attorney General Todd Rokita, Nov. 2, 2026.

That statement widely overstates the statutory confidentiality shielding the drugs supplier. The statute only proscribes disclosure of the identity of the supplier in civil or criminal litigation. Ind. Code § 35-38-6-1(f). There is no legal restraint on the disclosure or discussion of the supplier's identity in connection with the Indiana Constitution's reprieve power vested with the governor. A reprieve should be decreed to permit full independent review of all material facets of the relationship between the Attorney General's Office and Pharmaneek (including its owners, officers, directors, personnel, or other stakeholders), before an execution rather than in its wake.

Thus, a rehearsal of the relevant timeline raises deep concern:

On August 28, 2026, the Indiana Supreme Court granted the Attorney General's motion for an execution warrant, setting the execution date for November 5, 2026. Order Setting Execution Date, *Weisheit v. State*, No. 10S00-1507-PD-413 (Ind. Aug. 28, 2026).

Due to Pharmaneek's persistent regulation breaches, the Indiana Board of Pharmacy issued a Show Cause Order on September 24, 2026, requiring Pharmaneek "to appear before the Board on October 5, 2026, . . . to show cause why Respondent's Pharmacy license number 60006268A in the State of Indiana, should not be suspended on an emergency basis or subjected to the imposition of further sanctions." Exh. K (Order to Show Cause, *In the Matter of the License of: Pharmaneek, Inc.,* Indiana Board of Pharmacy, Cause No. 202511-BOP-0040) at 1.

The next day, September 25, 2026, the Department of Correction issued an invoice for what is now known[1] to have been the $275,000 purchase from Pharmaneek. Exh. U. On September 29, 2026, Pharmaneek's counsel then successfully moved to reschedule Board of Pharmacy's hearing by over a month—and four days after the November 5, 2026, execution date—to November 9, 2026. Exh. L; Exh. M. As set forth below (*infra* II.),

With the pharmacy selling less than $10,000 worth of medicine for $275,000 on this timeline culminating in the hearing seeking the entity's suspension, explanations are called for. The Attorney General's statement fails to acknowledge that the Indiana statutory provisions in question in no way obstructs the ability to lawfully disclose this information outside of court proceedings. The suggestion of greater confidentiality strictures is unfounded and subterfuge.

[1] "Text recoverable beneath a black redaction on DOC's Sept. 25 invoice includes an address that matches Pharmaneek's principal office in Indiana secretary of state records and its address in state licensing records." Casey Smith, P*harmacy Linked to Indiana Execution Drug Invoice Faces Possible Suspension*, IND. CAPITAL CHRONICLE (Nov. 2, 2026), https://indianacapitalchronicle.com/2026/11/02/pharmacy-linked-to-indiana-execution-drug-invoice-faces-possible-suspension/.

Rather than supply any information, the Attorney General's Office is cynically evading any accountability for its conduct. Barring a reprieve, there is no way to begin to get to the bottom of that part of the executive branch's conduct here before it would be too late. Given what has come to light, failure to act would be indefensible and result in a post-mortem excavation of the State's conduct only underscoring that failure.

II. INDIANA'S DISREGARD OF ANY VERIFICATION OF THE DRUGS IS SINGULAR AMONG EXECUTING STATES.

Late yesterday afternoon (Nov. 2), the Department of Correction yielded an inventory log manifesting, for the first time since the purchase from Pharmaneek documented on September 25, 2026 (Exh. U), the State's possession of the execution drugs. This log reflects a date of October 29, 2026, yet the Office of the Governor's position as of late October 30, 2026, was that corrections still did not possess the drugs. Flammable Toxic and Caustic Inventory/Issue Log (updated entry dated "10/29/26") (attached as Exhibit CC).

The Reprieve Application's documentation of the pharmacy's extensive and extreme failings on the maintenance of basic conditions, such as temperature control and sanitary fundamentals places into relief the dubious assurances yesterday of the Attorney General's Office that it is "confident in the ability to safely and lawfully carry out the scheduled execution." *Supra*. Those assertions are definitively baseless and surely the Attorney General will supply no actual bases to justify that confidence in any respect.

Whatever substance or chemical that has been finally taken into the IDOC's possession, the State of Indiana has yet to supply any verification it is pentobarbital of adequate purity, potency, and stability free from infirmities that may block its efficacy within the design of the Indiana Directive's Method 2 execution protocol. *See* Exh. A at 14–16. In this respect, an obvious harbinger of problems is not merely the plight of Ms. Pike since September 30, 2026, in Nashville, but Mr.

Ritchie, as well, whose torso lurched violently against his restraints in terror, before he lost consciousness, yet failed to expire for a prolonged period. Renewed Reprieve Application of Jeffrey Weisheit (Nov. 2, 2026) at 24–25. Mr. Ritchie ultimately died, of course, but the delay in his death—of a duration that should have precipitated the Execution Team to deliver the first backup dose, but which was withheld to preserve doses of the drugs for use in Mr. Ward's execution—coupled with that physical display of extreme distress, combine to strongly suggest adulterated drugs inadequate for the designed role under the Directive.

The establishment—rather than presumption—of adequacy of the specific lethal injection drugs designated for use in any given execution pursuant to explicit protocols informs every lethal injection jurisdiction *other than Indiana*. Singularly, Indiana's paradigm, to date, presumes adequacy simply upon the assurance from the Department of Correction. The immediately prior executions have established the pattern of the State writ large making no attempt to justify the fitness of the specific drugs. With the eleventh-hour disclosure yesterday merely of the IDOC's possession of the drugs designated for use Thursday morning, that department has failed to supply any documentation concerning perhaps the most basic facet of the fitness of pentobarbital for any use—medical or intentionally lethal. Namely, unlike with prior executions, the Department of Correction has not disclosed Temperature Logs. In 2025, such logs reflecting twice-daily temperature recordation, were supplied at least to go through the motions of establishing relevant information about one consideration for ascertaining the fitness of the given drugs for an impending execution. Temperature Log (Jan.–Sep. 2025) (attached as Exhibit DD).

The paltry submission in 2025 places in relief the total absence of *any* information reflecting the adequacy of the newly-received drugs for their designated purpose of effecting a massive, lethal overdose on Thursday morning. This state of affairs demands meaningful,

independent examination—and before the State exercises under this scheme its greatest power in the legally sanctioned taking of a citizen's life.

It would not be remotely possible for a corrections department in any other executing state to receive the drugs merely days prior to an execution. Fail-safe dates for the provision of basic verifications of the fitness of the particular chemicals to be used for any specific execution arise a material period prior to the given execution date to permit a meaningful opportunity for the condemned to question the limited information supplied about the drugs, thereby to satisfy the threshold matter of their suitability for the purpose of extinguishing the given life.

A sampling of basic, minimal requirements from other capital jurisdictions offers the stark contrast between Indiana and the rest of the death penalty map. In Arizona, pursuant to a stipulated settlement agreement reached by class litigants and the Arizona Attorney General in 2017 in the aftermath of the 2014 botched execution of Joseph Wood, wherein Mr. Wood gasped and snorted over 600 times in a three-drug protocol execution taking nearly two hours,[2] the State of Arizona—within ten days after merely *seeking* an execution warrant—is obligated to supply to the condemned verified quantitative analysis testing results for the specific lethal injection drugs designated for use in the given execution. Stipulated Settlement Agreement, *First Amendment Coalition of Arizona, et al. v. Ryan*, No. 2:14-cv-01447 (S.D. Ind. June 21, 2027) (attached as Exhibit EE). Beginning in 2022, Arizona has complied with this testing obligation over the course of six executions.

[2] Mark Berman, *Arizona Execution Lasts Nearly Two Hours;Lawyer Says Joseph Wood Was 'Gasping and Struggling to Breathe,* WASH. POSt (Jul. 23, 2014), https://www.washingtonpost.com/news/post-nation/wp/2014/07/23/arizona-supreme-court-stays-planned-execution/.

Even in South Carolina, which in 2023 legislated so comprehensive an opacity regime surrounding execution methods it was labeled the "Universal Disclosure Ban,"[3] still required the Director of the South Carolina Department of Corrections to swear out an affidavit in anticipation of each execution date averring to the department's readiness, or unreadiness, to conduct each of the statutory execution methods, including lethal injection. S.C. Code Ann. § 24-3-530. Language from one such director's affidavit in 2025 illuminates the level of proof and, thereby, contestability built into their system—a system that far exceeds Indiana's confidentiality scheme and has not encountered disruptions to execution dates since its advent. Director Stirling swore to the following characterization of the pentobarbital his Department of Corrections possessed prior to March 19, 2025, for potential use 23 days later on an April 11, 2025, execution date:

> I am certifying that lethal injection is available via a single dose of pentobarbital. I have confirmed that the pentobarbital in the Department's possession is of sufficient potency, purity, and stability to carry out an execution successfully using the Department's lethal injection protocol. The Department provided pentobarbital to the S.C. Law Enforcement Division (SLED) for testing by its Forensic Services Laboratory. SLED confirmed that its Forensic Services Laboratory is an internationally accredited forensic laboratory and that it used widely accepted testing protocols and methodologies in this matter. SLED reported to me that experienced, qualified, and duly authorized personnel tested and confirmed the concentration of the solution provided is consistent with the vial labeling of pentobarbital, 50 milligrams per milliliter, and acknowledged the substance's concentration in terms of its purity and stability. The appropriate and responsible Department staff reported to me that, based on a review of SLED's test results, data published by National Institutes of Health, and information regarding executions by lethal injection using pentobarbital carried out by the Department, other States, and the federal government, the dosage called for by the Department's lethal injection protocol is sufficiently potent such that administration in accordance with the protocol will result in death.

Affidavit of Bryan P. Stirling, *State v. Mahdi*, No. 2007-045260 (S.C. Mar. 19, 2025) (attached as Exhibit FF).

[3] Marissa Thompson, *SC shield law that allowed executions to resume challenged in federal court*, WCSC-Charleston, S.C. (Jan. 29, 2025); https://www.live5news.com/2025/01/29/sc-shield-law-that-allowed-executions-resume-challenged-federal-court/.

Indiana, of course, has supplied literally no information about the drugs the IDOC purportedly received on October 29, 2026, for the November 5, 2026, execution date. There is not even the attempt to account for the fitness of these drugs. Given what has come to light about the pharmacy responsible for dealing these drugs to the IDOC via a gray market distribution channel without any disclosure on the provenance and conditions of custody, let alone *testing* to verify the basic criteria of potency, purity, and stability, the State of Indiana cannot move ahead with the scheduled execution with an iota of integrity in its process. Given the nature of this process, to extinguish a life in the name of Indiana's people, the Office of the Governor must exercise the constitutional power of reprieve.

Respectfully submitted,

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Exhibit CC: Flammable Toxic and Caustic Inventory/Issue Log (updated entry dated "10/29/26")

Exhibit DD: Temperature Log (Jan.–Sep. 2025)

Exhibit EE: Stipulated Settlement Agreement, *First Amendment Coalition of Arizona, et al. v. Ryan*, No. 2:14-cv-01447 (S.D. Ind. June 21, 2027)

Exhibit FF: Affidavit of Bryan P. Stirling, *State v. Mahdi*, No. 2007-045260 (S.C. Mar. 19, 2025)