

FILED

STATE OF INDIANA

IN THE DEARBORN CIRCUIT COURT

SEP - 6 2011

COUNTY OF DEARBORN

STATE OF INDIANA

Atulji S. Weeras
CLERK OF DEARBORN CIRCUIT COURT

VS.

CAUSE NO. 15002-1103-FD-084

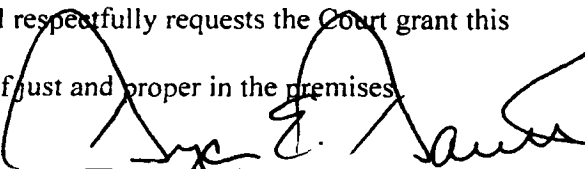
DANIEL BREWINGTON

MOTION IN LIMINE

Comes now the Defendant herein, Daniel Brewington, by Counsel, Bryan E. Barrett, and moves the Court for an Order in Limine instructing the State of Indiana and the State's Witnesses to refrain from making any reference whatsoever, directly or indirectly, during voir dire, opening statement, closing statement, questioning of witnesses, objections, argument, or at any other time during the trial in any manner without first obtaining permission of the Court, outside the presence and hearing of the jury concerning the following:

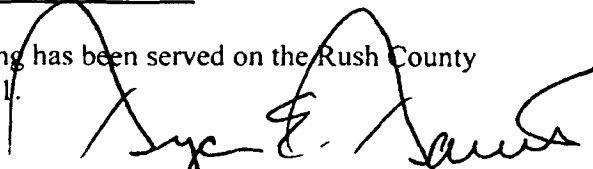
Any prior misconduct, charged or uncharged, any criminal convictions, or other prior bad acts of Daniel Brewington.

Wherefore, the Defendant, by Counsel respectfully requests the Court grant this Motion In Limine and prays for all other relief just and proper in the premises.


Bryan E. Barrett
Attorney for Defendant
Indiana Attorney #4325-73

CERTIFICATE OF SERVICE

I certify that a true copy of this pleading has been served on the Rush County Prosecutor on this 2nd day of September, 2011.


Bryan E. Barrett



FILED

STATE OF INDIANA)
)
COUNTY OF DEARBORN)
)
STATE OF INDIANA)
)
v.)
)
DANIEL BREWINGTON)

IN THE DEARBORN SUPERIOR COURT II

GENERAL TERM, 2010

SEP 19 2011

Atul Singh W. Weems
CLERK OF DEARBORN CIRCUIT COURT

CAUSE NO. 15DO2-1103-FD-084

MOTION IN LIMINE

Comes now the State of Indiana by F. Aaron Negangard, Prosecuting Attorney for the Seventh Judicial Circuit, and moves in *limine* that Defendant, counsel, and witnesses, be prohibited during voir dire or trial, from mentioning, referring to, questioning about, or otherwise conveying or attempting to convey to the jury, directly or indirectly, the following:

1. Any reference the civil action pending in the United States District Court for the Southern District of Indiana under Civil Action No. 1:11-CV-1144SEB-DML.
2. Any medical treatment or medication the Defendant has received while in the custody of the Dearborn County Law Enforcement Center.
3. Any reference to *criminal history* or backgrounds of any of State's witnesses except as permitted under Indiana Rules of Evidence, particularly during voir dire or any other part of the trial, unless and until such witness has testified. Indiana Rule of Evidence 608 and 609.
4. Opinions concerning intent, guilt or innocence of the Defendant, the truth or falsity of the allegations, whether another witness has testified truthfully, or legal conclusions. See Indiana Rule of Evidence 704(b). Specifically, the State requests the

15002-1103-FD-00084, 3 Pgs
09/19/2011 Id: 0000205759
MOTION IN LIMINE



Court to Order Defendant to refrain from asking witnesses whether they believe Defendant committed the charged offense (or any other similar question).

5. Any alleged witness statements or other evidence not disclosed to the State in advance of trial, pursuant to this Court's Discovery Order. *Hicks v. State*, 544 N.E.2d 500 (Ind. 1989).

6. Any affirmative defense that has not been raised or disclosed to the State in advance of trial, pursuant to statutory or trial rule requirements.

7. Any discussion concerning the penalties Defendant may face if convicted. "Inasmuch as the jury in a felony case has no sentencing function it should not be informed as to the range of sentences possible." *Wisehart v. State*, 484 N.E.2d 949 (Ind. 1985). "These instructions do not contain information concerning a possible sentence. The Court alone is responsible for sentencing if there is a conviction."

INDIANA PATTERN JURY INSTRUCTION –CRIMINAL – INSTRUCTION NUMBER 13.25.

WHEREFORE, the State of Indiana moves the Court for an order in *limine* as to evidence, statements and commentary outlined above.

Respectfully submitted,

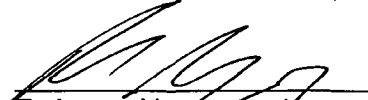


F. Aaron Negangard
Prosecuting Attorney
Dearborn County Courthouse
215 West High Street
Lawrenceburg, IN 47025
(812) 537-8884
ISB # 18809-53

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served on, Counsel for Defendant, Bryan Barrett personally or by U.S. mail, postage prepaid, this 19th day of August, 2011.

September


F. Aaron Negangard