

[CAPTION]

MOTION TO REDACT TRANSCRIPT AND AUDIO OF DEFENDANT'S INTERROGATION

The Defendant, by counsel, respectfully requests this Court to redact all inadmissible portions of the transcript and audio of the Defendant's interrogation. In support of the Motion, the Defendant states the following:

1. On [insert date), the Defendant was taken to the police station and interrogated.
2. During the interrogation, the police repeatedly set forth their opinion of the Defendant's guilt and their theory of the offense. Moreover, the police repeatedly referred to hearsay statements made by a co-Defendant implicating the Defendant and prior bad acts and crimes of the Defendant.
3. Any statements made by the police that implicitly or explicitly convey the officer's opinions concerning the Defendant's intent, guilt or innocence are inadmissible under Indiana Rule of Evidence 704(b), and must be redacted from the interrogation presented to the jury. Smith v. State, 721 N.E.2d 213 (Ind. 1999); Wilkes v. State, 917 N.E.2d 675, 686 (Ind. 2009); Butler v. State, 951 N.E.2d 641 (Ind. Ct. App. 2011).
4. Any references of the police to the co-Defendant's statement implicating the Defendant are inadmissible hearsay and must be redacted from the interrogation presented to the jury. Collins v. State, 826 N.E.2d 671 (Ind.Ct.App. 2005); State v. Chavez, 956 N.E.2d 709 (Ind.Ct.App. 2011).
5. Any references to the Defendant's prior criminal history and/or prior acts are not admissible under Indiana Rule of Evidence 609 and 404, and must be redacted from the interrogation presented to the jury. Mote v. State, 775 N.E.2d 687 (Ind.Ct.App. 2002).6.The unfair prejudice caused by the officer's opinions of guilt and intent, the references to the co-defendant's statements implicating the Defendant and the Defendant's prior bad acts and criminal history substantially outweighs any probative value, and thus, must be redacted from the interrogation presented to the jury. Ind.R.Evid. 403.

WHEREFORE, the Defendant, by counsel, respectfully requests this Court to redact all inadmissible portions of the transcript and audio of the Defendant's interrogation, and for all other relief just and proper in the premises.

(Signature)

CASE LAW

CASEBANK O.5.b

Lampkins v. State, 778 N.E.2d 1248 (Ind. 2002) (although jury should have been advised that detective's statements intended to elicit information from the Defendant were not evidence, admission of statements was harmless).

Bostick v. State, 773 N.E.2d 266 (Ind. 2002) (despite interrogators' insistence that she started fire, Defendant maintained that she had no recollection of starting fire that killed her children; although interrogator's accusations and Defendant's responses had little probative value in establishing Defendant's guilt, the repeated accusations, in context of entire statement, did not create substantial risk of unfair prejudice under Ind.Evidence Rule 403; Defendant had waived the Rule 704 argument).