

[CAPTION]

**MOTION IN LIMINE TO EXCLUDE OUT-OF-COURT ADMISSION DUE TO LACK
OF INDEPENDENT PROOF OF CORPUS DELICTI**

The Defendant, by counsel, respectfully moves the Court as follows:

1. On [insert date], the State charged the Defendant with [insert offenses].
2. The Defendant's trial is scheduled to begin on [insert date].
3. The Defendant, upon information and belief, has reasonable cause to believe that the prosecution intends to introduce as evidence out-of-court admissions made by the Defendant, specifically: [insert statements].
4. The Defendant's statements are inadmissible because the State cannot provide independent proof of corpus delicti. Corpus delicti must be established by clear, probative proof independent of the Defendant's admission. Walker v. State, 233 N.E.2d 483, 488 (Ind. 1968).
5. The distinction between an admission and a confession is irrelevant to the issue of corpus delicti since Indiana case law applies the rule to the introduction of admissions, as well as confessions. Parsons, Jr. v. State, 333 N.E.2d 871, 873 (Ind.Ct.App. 1975).
6. The only evidence that the State has that the Defendant was committing the offense of [insert offense] is the Defendant's statement.

WHEREFORE, the Defendant, by counsel, respectfully requests this Court to grant the Motion in Limine, and order the State of Indiana, through its prosecutors and witnesses, not to mention, refer to, interrogate concerning, or attempt to convey to the jury in any manner, either directly or indirectly, the Defendant's out-of-court admissions, and for all other relief just and proper in the premises.

(Signature)

CASE LAW

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Black's Law Dictionary, 7th Edition, 2000, defines "corpus delicti" as: 1. "Latin: "body of the crime." 2. Loosely, the material substance on which a crime has been committed; the physical evidence of a crime, such as the corpse of a murdered person.

Winters v. State, 727 N.E.2d 758 (Ind.Ct.App. 2000) (corpus delicti cannot be established by the confession itself, it must be established by independent evidence from which an inference may be drawn that the crime was committed).

Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963) (an uncorroborated co-defendant's confession could not serve as sufficient corpus delicti to support admission into evidence of the Defendant's confession).

Moore v. State, 497 N.E.2d 242 (Ind.Ct.App. 1986) (where no one observed the Defendant take the item nor did the store have record of a theft, there was no independent proof other than the Defendant's confession that the theft occurred; thus, confession was inadmissible).

Reynolds/Herr v. State, 582 N.E.2d 833 (Ind.Ct.App. 1991) (because the State failed to prove by testing that substance was a controlled substance, the Defendant's confession to possession of controlled substance was inadmissible).

Oberst v. State, 748 N.E.2d 870 (Ind.Ct.App. 2001) (where victim testified to only one incident of sexual intercourse, trial court erred in admitting the Defendant's confession into evidence; the State did not establish corpus delicti for one of the two counts of sexual misconduct with minor and variance between the charging information and proof at trial was material).

Willoughby v. State, 552 N.E.2d 462 (Ind. 1990) (where the Defendant confesses to several crimes of varying severity within a single criminal episode, the confession is admissible as to all of the crimes if corpus delicti of the principal crime or crimes is established).

Sluss v. State, 436 N.E.2d 907 (Ind.Ct.App. 1982) (although desirable to first establish corpus delicti before showing a confession or statement against interest by the Defendant, such is not necessary; the order of proof is within the sound discretion of the trial judge).