

[CAPTION]

ORDER PRESERVING EVIDENCE

The Defendant, having filed his *Motion to Preserve Evidence*, and the Court, having reviewed the Motion which is in the following words and figures, to-wit:

(H.I.)

The Court now finds that the prayer therein should be GRANTED.

It is hereby ORDERED, ADJUDGED, and DECREED that [INSERT PROSECUTOR'S OFFICE] shall preserve all physical evidence related to the above-captioned cause held by all law enforcement agencies for possible future testing, inspection or admission into a hearing or trial.

So ordered this _____ day of _____ 201_.

Judge

CASE LAW

Roberson v. State, 766 N.E.2d 1185 (Ind.Ct.App. 2002) (failure of State to preserve physical evidence may present grounds for reversal based on denial of due process; if evidence not preserved by State was only potentially useful, Defendant must establish bad faith on the part of the State; if evidence not preserved was materially exculpatory, State's good or bad faith is irrelevant for due process purposes).

Bishop v. State, 40 N.E.3d 935 (Ind. Ct. App. 2015) (potentially useful evidence is "evidentiary material of which no more can be said that it could have been subjected to tests, the results of which might have exonerated Defendant (quoting Arizona v. Youngblood, 488 U.S. 51 (1988)).

Reid v. State, 984 N.E.2d 1264 (Ind.Ct.App. 2013) (Defendants did not have a due process right to obtain post-conviction access to State's evidence for additional testing, and thus State did not violate due process by losing or destroying DNA evidence after Defendants were convicted of murder and attempted armed robbery).