

[CAPTION]

DEFENDANT’S MOTION IN LIMINE CONCERNING CHARACTER EVIDENCE

The Defendant respectfully requests this Court to issue an Order prohibiting the State of Indiana from offering into evidence, discussing during jury selection, mentioning during argument or otherwise bringing before the jury any reference to the alleged character traits of the Defendant. In support of this Motion, the Defendant states the following:

1. Counsel for the Defendant, upon information and belief, has reasonable cause to believe that the State intends to introduce as evidence in the form of testimony that the Defendant’s character is controlling.

2. Testimony as to whether the Defendant is controlling falls squarely within the definition of character evidence. Character is a generalized description of a person’s disposition, or of the disposition in respect to a general trait. 1 *McCormick on Evidence*, § 195, at 825 (4th ed. 1992).

3. This evidence of alleged character traits of the accused is being offered solely for the purpose of proving action in conformity therewith on the night in question, and thus, is inadmissible under Indiana Rule of Evidence 404(a).

4. The accused’s character is not an element of the alleged offense, Residential Entry, and, thus, is inadmissible under Indiana Rule of Evidence 404(a)(1).

5. The accused’s good character will not be placed into evidence by the defense, and thus, evidence of the accused’s alleged bad character is inadmissible as rebuttal evidence under Indiana Rule of Evidence 404(a)(1).

6. Any connection between the accused's character and a motive for the offense is too far strained in order to have significant probative value. Any little probative value of this character evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or needless presentation of cumulative evidence and, thus, is inadmissible under Indiana Rule of Evidence 403.

WHEREFORE, the Defendant respectfully request an Order prohibiting the State of Indiana from offering into evidence, discussing during jury selection, mentioning during argument, or otherwise bringing before the jury any reference to alleged character traits of the Defendant, an Order requiring the State of Indiana to admonish its witnesses as to the content of his order prohibiting said evidence, and for all other relief just and proper in the premise.

(Signature)