

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO.: 2012-001083-CFA
SA NO: 1712F04573

GEORGE ZIMMERMAN
_____ /

**STATE'S MOTION FOR PROTECTIVE ORDER/MOTION IN LIMINE REGARDING
TOXICOLOGY**

The State of Florida, by and through the undersigned Assistant State Attorney, hereby moves this Honorable Court for an Order governing forthcoming trial proceedings in the instant case. "Limitations on the examination of a particular witness are controlled in the sound discretion of the trial court[.]" Kormondy v. State, 2003 WL 297027 (Fla. Feb. 13, 2003). In support of the instant Motion, the State submits the following:

(1) The State has reason to believe that Defendant will attempt, since such was done during deposition in the instant case, to introduce evidence, testimony, questioning, or other reference to Victim's blood containing an indication of marijuana use.

No witness has suggested that the level of marijuana reflected in the victim's blood sample has any bearing whatsoever on the cause of his death. Nor is there any evidence to suggest that Victim ingested the marijuana at or even near the time of

death; that he was under the influence; or that being under the influenced would in any way be relevant to the actions of either Victim or the Defendant.

We find that the view expressed by this Court in Eldridge and Nelson should continue to prevail. This view excludes the introduction of evidence of drug use for the purpose of impeachment unless: (a) it can be shown that the witness had been using drugs at or about the time of the incident which is the subject of the witness's testimony; (b) it can be shown that the witness is using drugs at or about the time of the testimony itself; or (c) it is expressly shown by other relevant evidence that the prior drug use affects the witness's ability to observe, remember, and recount.

Edwards v. State, 548 So. 2d 656, 658 (Fla. 1989)

Such evidence is inadmissible as cross-examination. Diaz v. State, 747 So.2d 1021, 1023-1024 (Fla. 3d DCA 1999) ("The victim's blood alcohol level was absolutely irrelevant to the medical examiner's testimony"). Accordingly, the items listed above are irrelevant to any charge or defense and clearly designed only to prejudice one or more jurors, and the State seeks an Order from this court restricting examination regarding the matters set forth above.

CERTIFICATE OF SERVICE

I HERBY CERTIFY that a copy of the foregoing has been furnished by email to Mark O'Mara, Esq., Don West, Esq., this 10th day of May, 2013.

ANGELA B. COREY
STATE ATTORNEY

By: 

Bernardo de la Rionda
Bar Number: 365841
Assistant State Attorney