

STATE OF INDIANA)
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COUNTY OF CARROLL)

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RICHARD ALLEN)

IN THE CARROLL CIRCUIT COURT

CAUSE NO. 08C01-2210-MR-000001

**DEFENDANT'S MOTION IN LIMINE REGARDING
VIDEOS FROM THE VICTIM'S PHONE**

Comes now the Defendant, Richard Allen, by counsel, and moves the Court to prohibit the State from eliciting testimony as to the words and sounds allegedly contained in the video recovered from Liberty German's cell phone. In support of this motion, the Defendant states as follows:

1. The defense believes that the State will seek to introduce video and audio enhancements of the video recovered from L.G.'s cell phone. Said video was taken on February 13, 2017.
2. The video and audio enhancements contain words and sounds.
3. One of the audio enhancement files received by the defense contains a phrase seemingly uttered by one of the victims, which phrase is repeated on a loop.
4. One of the audio enhancement files received by the defense contains an audio clip of a man speaking, which is also repeated on a loop.
5. The words allegedly spoken by the victims on the enhanced video are very difficult to understand.
6. The defense requests the Court prohibit the State from eliciting testimony concerning what words are spoken by the girls on the enhanced audio recordings.

7. The defense requests the Court prohibit the State from eliciting testimony concerning what sounds are contained in the enhanced video with the man's voice.
8. The video and audio enhancements appear to be investigatory tools.
9. Interpreting the words and sounds on the enhanced video requires a completely subjective analysis.
10. Testimony identifying the words and sounds on the video is speculative.
11. The enhanced videos were not related to the identification of Richard Allen as a suspect; therefore, the sketches are not relevant under Ind. R. Evid. 401".
12. Due to the poor quality of the enhanced video and audio recordings, the probative value is low.
13. Allowing a witness to speculate as to the words and sounds on the recordings would put ideas in the jurors heads that would be confusing and misleading, in violation of Ind. R. Evid. 403.
14. It is up to the jury to determine what words or sounds exist on the recordings.
15. Additionally, allowing the enhanced recordings to play on a loop is repetitive, cumulative and unduly suggestive.

WHEREFORE, the Defendant, Richard Allen, by counsel, respectfully requests the Court prohibit the State from eliciting testimony identifying the words or sounds on the enhanced recordings, and for all other just and proper relief in the premises.

Respectfully Submitted,

/s/ Jennifer Auger
Jennifer Auger, #21684-41

CERTIFICATE OF SERVICE & COMPLIANCE

I hereby certify that the foregoing document complies with the requirements of Trial Rule 5(G) with regard to information excluded from public record by administrative rule 9(G). I further