

John Sullivan SC # 21672
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FILED
APP DOCKET NO. CA

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CLERK OF DISTRICT COURT
18TH JUDICIAL DISTRICT
SEDGWICK COUNTY, KANSAS

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CRIMINAL DEPARTMENT

THE STATE OF KANSAS,)
)
Plaintiff,)
)
vs.) Case No. 10CR3795
)
TERRY BLUM,)
)
Defendant.)

**MOTION IN LIMINE TO EXCLUDE
EXPERT TESTIMONY REGARDING
CREDIBILITY OF THE COMPLAINANTS**

COMES NOW the defendant, Terry Blum, by and through his attorney of record, John B. Sullivan and respectfully moves for an order in limine, excluding from the trial in the above captioned matter any expert testimony regarding the credibility or believability of the complaining witness. In support of this motion, counsel for the defendant shows to the Court the following:

INTRODUCTION

The complaining witness in this case has accused Mr. Blum of improper touchings and penetrations. Mr. Blum denies that the touchings and penetrations described by the complaining witness occurred, and has steadfastly maintained his innocence.

There is a lack of corroborating evidence in this case as there were apparently no witnesses to the alleged events. The evidence thus far revealed to counsel indicates that the incriminating elements of the complaining witness' statements are possible fabrications motivated by some unknown desires of the complainant or psychological influence by third parties.

Counsel for the defendant anticipates that the state may present, in addition to the complainant herself, several mental health and medical professionals whom the state has endorsed as witnesses. The defense anticipates these witnesses will testify regarding their subjective observations and/or conclusions regarding the complainant.

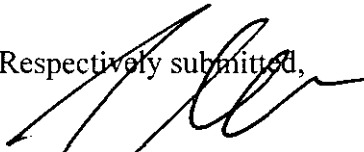
ARGUMENT

The law is well-established in this state that it is error for a trial court to admit testimony that, in the expert witness's opinion, the complaining child witness was telling the truth and had been sexually abused by the defendant. *State v. Jackson*, 239 Kan. 463, 470 (1986). In *Jackson*, the Kansas Supreme Court found reversible error when two expert witnesses "attempted to serve as human lie detectors for the child and both told the jury that in their professional opinions the child was truthful and the defendant was guilty as charged." *Id.* See also *State v. Mullins*, 267 Kan. 87 (1999) (error to admit expert testimony that complainant had not been coached; error held to be harmless); *State v. Lash*, 237 Kan. 384 (1985) (appeal by state on question reserved; psychologist could not testify that complainant had been sexually molested by the defendant).

WHEREFORE, for the above and foregoing reasons, as well as any further reasons which may be presented in any further memorandum of law or oral argument on this motion, defendant Terry Blum prays for an order (1) prohibiting the state from introducing or attempting to

introduce into evidence at trial the above described evidence; (2) directing the state to admonish its witnesses to refrain from making mention of the prohibited evidence listed above; and/or (3) any such other and further relief as the Court deems just. Counsel respectfully requests a hearing and oral argument on this motion.

Respectively submitted,



John B. Sullivan # 21672
Attorney for Defendant

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion was delivered in person to the Sedgwick County District Attorney's office this day of October, 2011.



John B. Sullivan

NOTICE OF HEARING

Please take notice and be advised that the foregoing Motion will be heard at 9:00 a.m. on the 11th day of November, 2011 before the Honorable Judge Wilbert.