

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT
INDICTMENT NUMBER: 2016-GS-08-02603
WARRANT NUMBER: 2016A0810400692

STATE OF SOUTH CAROLINA,)
)
Plaintiff,)
)
-versus-)
)
MICHAEL COLUCCI,)
)
Defendant.)
_____)

2024 APR 29 3:04 PM
LEAH GUERRA
CLERK OF COURT
BERKELEY COUNTY

ELB FILED

**MOTION TO LIMINE TO PREVENT THE
STATE FROM REFERENCING OR
ELICITING TESTIMONY OR OFFERING
EVIDENCE OF BLOOD TESTING BY THE
BERKELEY COUNTY SHERIFF'S OFFICE**

Michael Colucci ("M. Colucci") seeks an Order of this Court to prevent the State from referencing, arguing for or against, eliciting testimony, or offering evidence concerning the red spot on Sara Colucci's ("S. Colucci") phone.

During the 2018 trial, Deputy Dean Kokinda of the Berkeley County Sheriff's Office reference a red spot on S. Colucci's phone and testified that, upon testing this spot, it was presumptively positive for human blood. The State has failed to provide information regarding the presumptive test that was used by Deputy Kokinda. This testing is scientific and requires expert testimony. The State must qualify Deputy Kokinda as an expert, and must provide M. Colucci with a report of his examination. The alleged presumptive test is of unknown reliability as M. Colucci has no information regarding the standards for the test used. A confirmatory test was never performed to rule out possible errors with presumptive testing. SCRE 701, 702. SCRCrimP 5(a)D.

ELB

The probative value of referencing, arguing for or against, eliciting testimony about, or offering evidence of the red spot on S. Colucci's phone, including the mentioning by any non-expert witness that it is human blood, is substantially outweighed by the prejudicial effect it would have on a jury. SCRE 403, 701, 702.

If the State is not prohibited from alluding to this red spot as being human blood, without further explanation and testing, it will prejudice the jury and allow them to erroneously infer that the red spot on S. Colucci's phone is blood from M. Colucci and/or S. Colucci.

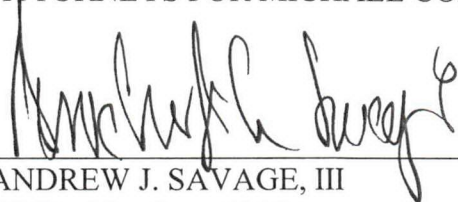
At a minimum, M. Colucci requests the Court provide an opportunity to Voir Dire any witness who anticipates expressing an opinion about the "red spot" observed on S. Colucci's phone.

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Charleston, South Carolina
April 26, 2024