

STATE OF INDIANA            )  
  )ss:  
COUNTY OF CARROLL        )  
  
STATE OF INDIANA            )  
  )  
vs.                                )  
  )  
RICHARD M. ALLEN            )

IN THE CARROLL CIRCUIT COURT  
  
CAUSE NO. 08C01-2210-MR-000001

**MOTION IN LIMINE REGARDING BALLISTICS**

The Defendant, Richard M. Allen, by Counsel, Bradley A. Rozzi, respectfully moves this Court as follows:

1. Defendant Allen is charged with two separate Counts of Felony Murder pursuant to I.C. 35-42-1-1(2).
2. There is no trial date set as of the date of the filing of this Motion.
3. Counsel for Defendant Allen, upon information and belief, has reasonable cause to believe that the prosecution intends to introduce as evidence the following:
  - a. Testimony from Laboratory Analyst, Melissa Oberg and/or her agent, supporting the findings referenced in Indiana State Police Laboratory Division Certificate of Analysis attached hereto as Exhibit "A".
  - b. Testimony from Laboratory Analyst, Melissa Oberg and/or her agent, supporting the findings referenced in Indiana State Police Laboratory Division Certificate of Analysis attached hereto as Exhibit "B".
  - c. Bench notes and other literature and information in support of conclusions generated in the attached Exhibits "A" and "B".
4. This evidence is inadmissible for the following reasons:
  - a. The items analyzed and the conclusions drawn by the Indiana State Police Laboratory Division are irrelevant and therefore inadmissible under Rule 401 and Rule 402 of the Indiana Rules of Evidence.
  - b. The probative value of said evidence is substantially outweighed by the danger of unfair prejudice. Furthermore, admission of such information will confuse and mislead the jury all of which is in violation of Rule 403 of the Indiana Rules of Evidence.
  - c. Testimony regarding the analysis and conclusions referenced in Exhibits "A" and "B" runs afoul of Rule 702 of the Indiana Rules of Evidence in that the examiner is not qualified to draw the referenced

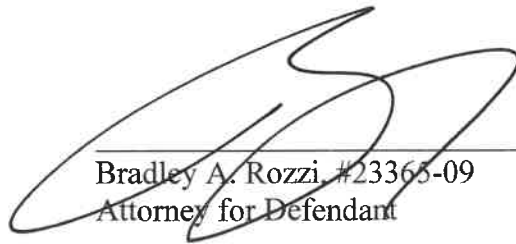
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conclusions and in addition, the examiner's testimony does not rest upon reliable scientific principles.

5. Such evidence is not necessary for a full and fair determination of the facts of the instant case.

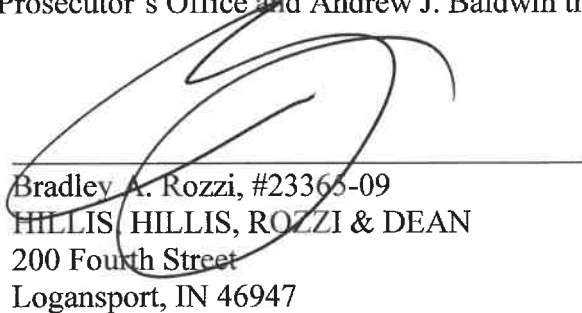
WHEREFORE, the Defendant, by Counsel, respectfully requests that this Motion in Limine be granted; and request the Court to order the State of Indiana, through its prosecutors, and its witnesses not to mention, refer to, interrogate concerning, or attempt to convey to the jury in any manner, either directly or indirectly the existence of any analysis conducted with regard to the items referenced in Exhibits "A" and "B" as well as any conclusions drawn therefrom without first obtaining permission of the Court outside the presence of the jury; further instruct the State of Indiana and its witnesses not to make any reference to the fact that this Motion has been filed and granted and to warn and caution each and every one of their witnesses to strictly follow these same instructions; and order all relief just and proper in the premises.



Bradley A. Rozzi, #23365-09  
Attorney for Defendant

### CERTIFICATE OF SERVICE

I certify that I have served a copy of this document by the County e-filing system upon the Carroll County Prosecutor's Office and Andrew J. Baldwin the 13<sup>th</sup> day of June, 2023.



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