

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

STATE OF FLORIDA,

Plaintiff,

CASE NO.: 05-2015-CF-039871-AXXX-XX

vs.

DANA LYNN LOYD

Defendant.

_____ /

MOTION TO EXCLUDE: FLORIDA ABUSE HOTLINE CALL

COMES NOW, the Defendant, **DANA LYNN LOYD**, by and through her undersigned attorney and respectfully moves this Honorable Court to enter an Order in Limine preventing the State Attorney or any State witness(es) from playing the alleged phone call placed to the Florida Abuse Hotline and as grounds therefore would states as follows:

1. The Defendant, **DANA LYNN LOYD** was arrested and is being prosecuted for one count of Making a False Report of Child Abuse, Abandonment or Neglect.

2. The Defendant **DANA LYNN LOYD** has been charged under Florida Statute 39.205(9) which states

"A person who knowingly and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection."

3. Defense Counsel believes that the State intends to offer evidence regarding a call placed to the Florida Abuse Hotline on April 29, 2015. The State of Florida has provided "a call" to the Florida Abuse Hotline, but there is no way to know if this is "the call" placed on April 29, 2015. The State alleges that there have been numerous calls to the Florida Abuse Hotline regarding this particular child over the past two years. There is no date stated in this call and no

time stated in this call to verify that this call was actually placed on the day and time that the State alleged by the Defendant DANA LYNN LOYD. The State of Florida does not have a witness that can testify to the accuracy of the date and time that this call was taken.

4. Further, the State of Florida has not provided a chain of custody for the alleged phone call that they intend to present from the Florida Abuse Hotline.

5. There is no evidence to support the State of Florida's contention that this is the actual call placed to the Florida Abuse Hotline on April 29, 2015. None of the State's witnesses can verify the chain of custody of the alleged call.

6. Moreover, this is a form of selective prosecution because the Defendant DANA LYNN LOYD is known as a whistleblower to the Brevard County Sheriff's Office. The Defendant never received an administrative hearing as required by Florida Statute 39.206(2) which states in relevant part "*If the Department alleges that a person has filed a false report with the central abuse hotline, the department must file a Notice of Intent which alleges the name, age and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the department proposes to impose on the person.*" Florida Statute 39.206(3) states further, "*The Notice of Intent to impose the administrative fine must be served upon the person alleged to have filed the false report and the person's legal counsel, if any. Such Notice of Intent must be given by certified mail, return receipt requested.*" Lastly, Florida Statute 39.206(4) states that "*Any person alleged to have filed the false report is entitled to an administrative hearing, pursuant to Chapter 120, before the imposition of the fine becomes final.*" The Defendant DANA LYNN LOYD is known for writing stories about corruption regarding the Brevard County Sheriff's Office and letting the public know what's

going on behind closed doors. Her prosecution is a form of selective prosecution to silence her as a whistleblower.

6. To bring in any evidence regarding the alleged phone call placed to the Florida Abuse Hotline would be improper and highly prejudicial pursuant to Sections 90.403 and 90.404 of the Florida Evidence Code.

WHEREFORE, based on the above and foregoing, the Defendant DANA LYNN LOYD, requests this Honorable Court to enter an Order prohibiting the State of Florida from bringing in any and all evidence pertaining to alleged phone call placed to the Florida Abuse Hotline or otherwise referring to in any way these alleged facts in trial of this cause.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was forwarded via U.S. EMail to: Brevfelony@sa18.state.fl.us this 7th day of November, 2016.

Respectfully,

/s/ JESSICA BURGESS, ESQ. /s/
Law Office of Jessica Burgess, Esq.
14 East Marina Isles Blvd.
Indian Harbour Beach Fl., 32937
Florida Bar No.: 115698
Phone: (321) 759-7626
Primary: pleadingsburgess@mail.com
Secondary: burgess.jessica87@gmail.com
Denise6040@yahoo.com