

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 IN LIMINE TO EXCLUDE AGENT FISCHER'S SUMMARY
OF THE DCF 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 offering evidence in Agent Fischer's Supplement Report Narrative regarding what "he heard from the DCF audiotape" 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. The State has yet to file on the cyberstalking charge that the Defendant was arrested on simultaneously.

4. Defense Counsel believes that the State intends to offer evidence regarding the Brevard County Sheriff's Office Supplemental Report Narrative (hereinafter "Report") created by Agent Robert Fischer. Within this Report, Agent Fischer includes his own personal summary of what he heard on the

audio file. Agent Fischer has admitted in his deposition that what he heard on the audio file could be different from what other people hear.

5. Additionally this is not the best evidence of the alleged phone call and this should be considered hearsay.

6. To bring in any evidence regarding Agent Fischer's audio file summary regarding the DCF Abuse Hotline call should be excluded from his report as it is not the best evidence, it is hearsay and it would be improper and highly prejudicial pursuant to Sections 90.801, 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 Agent Fischer's Summary in his Report of the audio file of the DCF Abuse Hotline call 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 8th day of November, 2016.

Respectfully,

/s/ JESSICA BURGESS, ESQ. /s/
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