

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

FILED

2009 NOV 12 P 3:39

CLERK OF DISTRICT COURT
18TH JUDICIAL DISTRICT

THE STATE OF KANSAS,)	
<i>Plaintiff,</i>)	
)	
vs.)	
)	
SCOTT ROEDER)	
<i>Defendant.</i>)	

Case No. 09 CR-1462

MOTION IN LIMINE

COMES NOW the defendant, Scott Roeder, by and through his attorneys Charles S. Osburn and Mark Rudy, and respectfully entreat this Court in limine to instruct the State as set forth below on the following grounds:

1. Mr. Roeder's prior criminal record, including any cases overturned on conviction, or which may be pending during the trial of the cases, as being irrelevant and inadmissible for any purpose in the instant cause. K.S.A. 60-421. Furthermore, it is also immaterial, irrelevant and inadmissible whether Mr. Roeder has ever been arrested for a crime, spent any time in a prison or jail, or has ever been on probation or parole. If it was made known to the jury, it would be improper, unduly prejudicial and error. Moreover, the prejudice and harm could not be erased by the Court sustaining an objection and/or instructing the jury to disregard it.

2. Any comments regarding the defendant's criminal history or the defendant's propensity to commit any crime contained within any recorded statements of any witness or the defendant should be redacted and the redacted version of the statement should be provided to the defendant before the proposed admission to the jury. If any redaction of a statement causes the evidence to be altered in such away that it becomes misleading or misrepresents the evidence, then the recorded statement should not be admissible and shown to the jury.
 - a. That all witness should be admonished not to give an opinion regarding the credibility of the defendant, any witness, or on

any issue that is the ultimate question for the jury to answer because it is an element of the charged offense. Any comments regarding the credibility of the evidence, witness or the defendant should be redacted from any recorded statements if the State intends to admit the evidence and the redacted version of the statement should be provided to the defendant before being offered for admission. If any redaction of a statement causes the evidence to be altered in such a way that it becomes misleading or misrepresents the evidence, then the recorded statement should not be admissible and shown to the jury. See *State v. Elnicki* 27 Kan. 47, 105 P.3d 1222(2005).

WHEREFORE, The Defendant, Scott Roeder, respectfully requests this Court to instruct the State of Kansas not to mention, refer to or interrogate concerning or attempt to convey to the jury in any manner, either directly or indirectly, any of the above mentioned facts without first obtaining permission of this Court outside the presence and hearing of the jury. The Defendant also requests that this Court order the State of Kansas not to make any reference to the fact that this Motion has been filed and allowed or denied. Finally, the Defendant requests the Court to order the State of Kansas to inform each and every one of its witnesses about the instant motion, to warn them not to testify or convey to the jury, either directly or indirectly, any of the above mentioned facts and to tell them to follow these instructions.

Respectfully submitted,



Charles S. Osburn #14982

Chief Public Defender

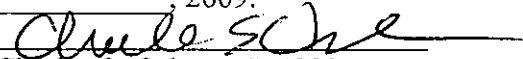
604 N. Main Street #D

Wichita, Kansas, 67203

(316) 264-8700

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing motion was hand delivered to the District Attorney this _____, 2009.



Charles S. Osburn #14982

Chief Public Defender

NOTICE OF HEARING

Please take notice and be advised that the foregoing motion will be heard at 9:30 a.m. on December 22, 2009, in front of the Honorable Warren Wilbert.


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

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18TH JUDIC.

THE STATE OF KANSAS,)
)
Plaintiff,)
)
vs.)
)
SCOTT ROEDER)
)
Defendant.)

CASE # 09 CR 1462 BY 

MOTION FOR DISCOVERY

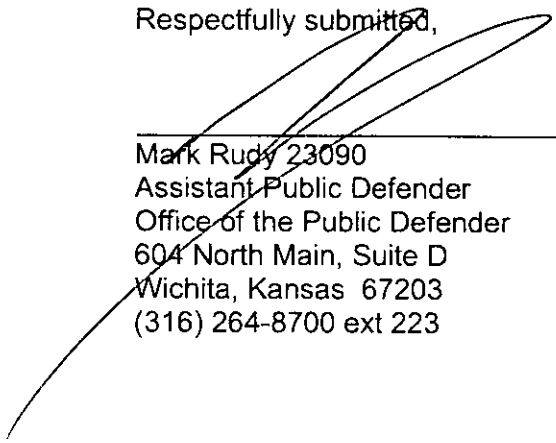
Now comes the Defendant, Scott Roeder, by defendant's attorneys, Steve Osburn and Mark Rudy, Public Defenders for Sedgwick County, Kansas, and moves this Court for an order allowing discovery pursuant to K.S.A. 22-3212 and K.S.A. 22-3213.

The scope of this discovery consists of, but is not limited to the following relevant matters, the existence of which is known, or, by the exercise of due diligence, may become known to the prosecuting attorney and his agents:

1. Any and all professional calanders, appointment books, records of scheduled procedures, or similar documents, either in electronic form or written form, or both, of the victim Dr. George Tiller, for the dates of May 1, 2009-June 30, 2009.

WHEREFORE, defendant prays for an Order of Discovery.

Respectfully submitted,



Mark Rudy 23090
Assistant Public Defender
Office of the Public Defender
604 North Main, Suite D
Wichita, Kansas 67203
(316) 264-8700 ext 223

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion was hand delivered to the Sedgwick County District Attorney's office this _____

Assistant Public Defender

NOTICE OF HEARING

Please take notice and be advised that the foregoing Motion will be heard on December 22, 2009, at 9:30 a.m., before the Honorable Judge Warren Wilbert.