**STATE’S MOTION *IN LIMINE* REGARDING PRIOR ACCUSATIONS BY VICTIM**

##### State of Oklahoma

COMES NOW the State of Oklahoma, by and through its Assistant District Attorney, W., and requests the Court to order the Defendant to refrain from cross-examining the complaining witness about any prior allegations or accusations similar in nature to the offense charged in the jury trial in the above-named action for the reasons stated below:

The defense in this case may try to impeach the complaining witness with prior accusations that are similar in nature to the offense charged in this case. Understanding that the law states that wide latitude should be allowed in cross examination to bring into evidence prior false accusations of the complaining witness as to affect the credibility of that witness, the defense must first meet the elements of a stringent test. *People v. Shepard*, 551 P.2d 210, 212 (Colo. Ct. App. 1976).

The Oklahoma Court of Criminal Appeals established a specific test for allowing a defense attorney to question complaining witnesses on cross-examination regarding past accusations that the defense claims were false. *Woods v. State*, 657 P.2d 181 (Okla. Crim. App. 1983). The Court in *Woods* stated that the defense attorney must show to the trial court, *in camera*, that “he has sufficient quantum of proof providing a reasonable basis for the proposed line of interrogation.” *Id.* at 182. Referencing the Colorado test established in *People v. Shepard*, the Oklahoma Court states that if no facts are established by the defense, then ‘they should have no probative value for impeachment purposes and should not be allowed as a subject on cross-examination.” *Id.* In this case, the defense attorney has not asked for an *in camera* hearing prior to trial in which he has supported any falsities with evidence.

The Court’s reasoning for requiring the defense to show that the accusation was in fact false is to protect the complaining witness from having the defense raise unfair innuendos as well as to insure relevancy. *Id*. *See also*, *People v. Simbolo*, stating that it would be unfair to allow questions which can cause doubt in the jury’s mind as to the complaining witness’s credibility when there is no reasonable basis for the interrogation, 532 P.2d 962 (Colo. Ct. App. 1975). Therefore, in order to uphold the reasoning of the Court, the defense should not be allowed to inquire on cross-examination about any prior accusations made by the complaining witness without the test first being met.

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Assistant District Attorney