

IN THE IOWA DISTRICT COURT FOR LEE (SOUTH) COUNTY

STATE OF IOWA v. BENJAMIN G. TRANE, Defendant.	Plaintiff, Defendant.	NO. FECR009152 STATE'S MOTION IN LIMINE
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COMES NOW Denise A. Timmins, Assistant Attorney General, and hereby moves pursuant to Iowa Rule of Evidence 5.104(b) and Iowa Rule of Crim. Pro. 2.11(2)(g) to exclude at all stages of the trial in this matter evidence of the following matters:

1. The penalty for the charged offenses or any mention that the charged offense is a forcible felony, Class C and D felonies, or serious charges, or that Defendant will be sent to prison if convicted of these offenses. The penalty for these offenses is not relevant to the guilt or innocence of the Defendant and is therefore not admissible evidence. See Iowa Rule of Evidence 5.402 and 5.403 and *State v. Sackett*, 499 N.W.2d 312 (Iowa Ct. App. 1993).

2. Any mention of the possibility that a conviction for the charged offense could result in the Defendant having to register as a "sex offender" or that the Defendant would be known as a "sex offender," or that the Defendant could be restricted as to where he could live if convicted of this offense or be subject to any other special sentencing provisions applicable to sex offenders. The possibility of the Defendant having to register as a sex offender, to be subject to possible residency restrictions, or other special sentencing provisions is not relevant to the guilt or

innocence of the Defendant and is therefore not admissible evidence under the Iowa Rules of Evidence. See Iowa Rule of Evidence 5.402 and 5.403.

3. Any and all statements at all stages of the trial of this matter, including counsels' opening and closing statements, that any prosecution witness is a "liar" or that he/she is "lying" about the allegations made in this case. The Iowa Supreme Court has held that a prosecutor's conduct in calling a Defendant a "liar" amounts to prosecutorial misconduct of such gravity that it acts to deny a Defendant a fair trial. See *State v. Graves*, 668 N.W.2d 860 (Iowa 2003); See also *Mott v. State*, 2004 Iowa App. Lexis 1255 (Ia.Ct.App.-- November 15, 2004) (Unpublished Opinion). The State likewise has an enforceable interest in having a fair trial. Therefore, the State contends that the rationale and reasoning of *Graves* is no less applicable to the conduct of defense counsel. Therefore, the State requests the Court preclude the Defendant from offering any evidence or statements of counsel which call the prosecution witnesses liars or state they are lying. See *State v. Richards*, 809 N.W.2d 80 (Iowa 2012).

4. Any witnesses testifying about the credibility of other witnesses. See *State v. Bowman*, 710 N.W.2d 200, 204-05 (Iowa 2006) (the questioning of a witness concerning whether another witness is telling the truth is prohibited); *State v. Graves*, 668 N.W.2d 860, 873 (Iowa 2003) (same).

5. Any statements made by the defendant that are offered by the defendant. These statements would be hearsay since these statements would not be offered against the defendant. See Iowa Rule of Evidence 5.801(d)(2)(A), also see *State v. Veal*, 564 N.W.2d 797, 808 (Iowa 1997).

6. Any witness testifying to the character of the defendant, other than that related to the defendant's character for truthfulness or untruthfulness offered after the defendant testifies. This includes statements by a witness that they do not believe the defendant would commit such a crime, that they do not believe the defendant would abuse a child or commit sexual acts with a child, or general statements of the defendant being a "good guy" or other descriptions of his character. Character is not an essential element of any of the crimes charged and any testimony related to the character of the defendant is not admissible. Such testimony is also improper propensity evidence. Iowa R. Evid. 5.404, 5.405.

7. Any testimony or evidence of sexual history or other reports of sexual abuse made by the victim in Count I. Such evidence is inadmissible pursuant to Iowa Rule of Evidence 5.412, is irrelevant, and its prejudicial effect is not outweighed by its probative value. Furthermore, defendant has not provided notice of intent or a written offer of proof to submit such evidence in accordance with 5.412(c)(1) and (2) and is therefore precluded from eliciting such testimony.

8. Any testimony based on hearsay, rumors, or gossip regarding activities allegedly occurring at the school or about any particular student or staff. Such evidence is hearsay and inadmissible. See Iowa R. Evid. 801 and 802.

9. Any testimony about the dishonesty of teenage girls. Such testimony, even if made as a general comment, improperly comments on the credibility of the witnesses. See sections 3 and 4 of State's Motion.

10. The State has not received any notice of any affirmative defenses as required by Iowa Rule of Criminal Procedure 2.11(11) and the State therefore moves to exclude any evidence, other than the testimony offered by the Defendant himself, if any, as to any affirmative defense including, but not limited to alibi.

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