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NORTH CAROLINA GUILFORD COUNTY

1978 JUL 14 MICH IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION
BY ASK

STATE OF NORTH CAROLINA

VS.

MOTION IN LIMINE

RONNIE LEE KIMBLE, DEFENDANT.

NOW COMES the defendant, above-named, through counsel, and moves the court pursuant to Article I, Sections 19, 23, and 24 and the Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States and the General Statutes of North Carolina to bar evidence concerning Ronnie Kimble's alleged impregnation of a woman who was later alleged to have been coerced into aborting her pregnancy by defendant's brother and codefendant, Ted Kimble. In support of this motion the defendant shows the court the following:

1. In discovery materials furnished by the prosecution, Ted Kimble is alleged to have confronted a woman and asked her if she was pregnant by his brother Ronnie. When she indicated that she was, Ted Kimble allegedly made her take a pregnancy test in his presence and told her she could not have the baby because she and Ronnie were not married. Allegedly Ted Kimble insisted she get an

abortion and she did so in part because Ted Kimble coerced her by pointing a gun at her.

- 2. There is no allegation that Ronnie Kimble was present or knew this was happening.
- 3. Such evidence is purely and simply character assassination as to Ronnie Kimble and as such violates Rule 404(a).
- 4. Even if the prosecution is able to advance some sort of theory of alternative admissibility to argue admission under Rule 404(b)--and undersigned counsel understands the state will argue admissibility on the theory that such action by Ted Kimble on Ronnie Kimble's behalf later provided a "pay-back" so that Ronnie agreed to murder Patricia Kimble-- such evidence could never pass muster under a Rule 403 balancing test.
- 5. Such a theory is first, the rankest of speculation. It's potential for unfair prejudice far outweighs any marginal probative value even if the validity of such a theory is accepted without question.
- 6. What such evidence really does is poison Ronnie
 Kimble in the eyes of the jury by showing him to be a person
 of bad character for begetting a child and then abandoning
 the mother by not marrying her. Even if all the allegations
 are accepted at face value, it shows nothing else about
 Ronnie Kimble and is excludable under both Rule 404(a) and
 403.

WHEREFORE, the defendant prays the court not allow any evidence of this alleged incident to be presented in the trial of this matter.

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