



STATE OF WISCONSIN - VS - Eva C Hamer

Wayne H Hsiung

Paul D Picklesimer

4. CHARACTER OF DEFENDANT: A prohibition on eliciting any testimony as to the character of the accused pursuant to section 904.04(1)(a) without first making a written offer of proof establishing how said character trait is “pertinent” to the defense.
5. CHARACTER OF VICTIM: A prohibition on eliciting any testimony as to the character of any victim pursuant to section 904.04(1)(b) without first making an offer of proof establishing how said character trait is “pertinent” to the defense.
6. CHARACTER OF VICTIM AND/OR WITNESS – OTHER ACTS EVIDENCE: A prohibition on eliciting any testimony as to the character of any victim and/or witness pursuant to section 904.04(1)(c) without first making an offer of proof establishing how said character evidence fits within section 906.08. Specifically the state is seeking a determination that proposed evidence is limited to character for truthfulness or untruthfulness relating to section 906.08(1)(a) and that there will be a prohibition on the use of extrinsic evidence to attack credibility.
7. ALIBI: A prohibition on the defense from making any argument or offering evidence of alibi unless there has been compliance with section 971.23(8) of the Wisconsin Statutes.
8. MOTIONS *IN LIMINE*: A prohibition on any comment on or presenting any evidence regarding the existence on any motions *in limine* filed in connection with this matter or any hearing held in connection with these motions *in limine* inasmuch as any such comment would nullify their very purpose and pursuant to section 904.03 the probative value of any such evidence is – among other factors – substantially outweighed by the danger of unfair prejudice.
9. “GOLDEN RULE” ARGUMENT: A prohibition that the defense or any witness at trial make no mention of a “golden rule” argument or any derivative in *voir dire*, testimony, closing, or opening statements asking jurors “put themselves in defendant’s shoes” or offering a similar suggestion, either through questioning, argument or testimony. As a basis for this motion the

STATE OF WISCONSIN - VS - Eva C Hamer

Wayne H Hsiung

Paul D Picklesimer

State asserts that any such argument is inappropriate and would be solely for the purpose of arousing sympathy or prejudice for the defendant, a purpose specifically prohibited by the jury instructions.

10. EFFECT OF ARREST AND CONVICTION: A prohibition that the defense or any witnesses at any time during *voir dire*, opening statements, trial or arguments, refrain from making any reference to the effect that a conviction or sentence could have upon the defendant's life, e.g. "My client's future is at stake." As basis for this motion the State asserts that any such reference is irrelevant and prejudicial as it is the sole function of the jury to determine guilt or innocence by applying facts to the law. Likewise the State requests that this also prohibit comments, questions or testimony regarding any adverse consequences suffered by the defendant resulting from arrest or prosecution in this matter, including but not limited to incarceration. Any collateral consequences of arrest and conviction, including sentencing, are not appropriate considerations for a jury.

11. NECESSITY DEFENSE: A prohibition on a necessity defense in these cases without at least an offer of proof that the evidence would show that the defendant(s) experienced the "pressure of natural physical forces." Wis. Stat. § 939.47; *See also, State v. Olsen*, 99 Wis.2d 572, 299 N.W.2d 632 (Ct App 1980). There are four elements to this defense. *State v. Anthuber*, 201 Wis.2d 512, 518, 549 N.W.2d 477 (Ct. App. 1996). A defendant asserting a necessity defense has the initial burden of presenting sufficient evidence to show that he or she is entitled to claim the defense. *State v. Stoehr*, 134 Wis.2d 66, 87, 396 N.W.2d 177 (1986). At this point the State does not believe there are physical forces at play here, the defense cannot meet the initial burden, and therefore the necessity defense should be prohibited.

STATE OF WISCONSIN - VS - Eva C Hamer

Wayne H Hsiung

Paul D Picklesimer

12. SELF-DEFENSE OR DEFENSE OF OTHERS: A prohibition on a self-defense or defense of others defense in these cases as the statute focuses on preventing death or bodily harm to people, not things. See Wis. Stat. § 939.48. Here, the facts even in the light most favorable to the defendants would not suggest that the defendants or any people were in danger of death or bodily harm. Therefore, without an offer of proof to the contrary, the State requests a prohibition as to the mention of defense of others as a defense in these cases.
13. COERCION: A prohibition on a coercion defense in these cases as the case does not involve preventing imminent death or great bodily harm to people, contrary to Wis. Stat. § 939.48.
14. DEFENSE OF PROPERTY: A prohibition on a defense of property defense in these cases, as it was not their property and there is no evidence that it was their property or that they were entitled to said property. Wis. Stat. § 939.49(1).
15. DEFENSE OF THIRD PERSON PROPERTY: A prohibition on a defense of third-person property defense in these cases. By statute, Wis. Stat. § 939.49(2), claims for self-defense of third party property are only valid in cases “where the 3rd person whose property the person is protecting is a member of his or her immediate family or household or a person whose property the person has a legal duty to protect, or is a merchant and the actor is the merchant's employee or agent”, and none of these predicate, required circumstances remotely match the facts of this case.
16. ADEQUATE PROVOCATION: A prohibition on arguments of adequate provocation under Wis. Stat. § 939.44.
17. JURY NULLIFICATION: A prohibition on arguments centered around jury nullification rather than focusing on the evidence presented at trial. See *State v. Bell*, 2018 WI 28, ¶ 47;

STATE OF WISCONSIN - VS - Eva C Hamer

Wayne H Hsiung

Paul D Picklesimer

*State v. Bjerkaas*, 163 Wis.2d 949, 472 N.W.2d 615 (Ct. App. 1991); *see also Strickland v.*

*Washington*, 466 U.S. 668 at 695.

18. SUPPORTERS: A prohibition on the supporters of the defendants in the gallery wearing shirts or carrying signs protesting in support of animal rights while in the courtroom or in the presence of the jurors. To allow them to do so would be extremely inflammatory and prejudicial. The State request that this court order that all members of the gallery be ordered to keep their appearance neutral.

Date Signed: 03/01/24

Electronically Signed By:

Alexandra Keyes

Assistant District Attorney

State Bar #: 1097641