

STATE OF INDIANA)	IN THE MARION COUNTY SUPERIOR COURT
) SS:	CRIMINAL DIVISION, ROOM EIGHT
COUNTY OF MARION)	CAUSE NO. 49F08-0707-CM-125880
STATE OF INDIANA)	
)	
v.)	
)	
JAMES PATTERSON)	

MOTION TO EXCLUDE EVIDENCE AND TESTIMONY

Comes now the defendant, JAMES PATTERSON, by counsel, James K. Snyder of the Marion County Public Defender Agency, and moves to exclude the testimony of Ronald Shockey, Loss Prevention Officer for Menard’s, and in support of this motion would state the following ;

1. On October 11, 2007, this Court ordered the State to produce several items of discovery requested in a Motion for Specific Discovery to the Defendant. That Motion and its following Order are hereinafter incorporated into this Motion to Exclude Testimony.

2. A date for compliance with this order was set on October 15, 2007, where the State did not produce the requested discovery.

3. A Motion to Compel Discovery was then filed with the Court on October 19, 2007. That Motion and its Order are hereinafter incorporated into this Motion to Exclude Testimony.

4. Another date for compliance was set for October 29, 2007 and the State did not produce a videotape of the alleged incident on that date.

5. A Pre-Trial Conference was set for November 26, 2007. No information was addressed at this hearing due to the Defendant’s failure to appear.

6. The Defendant surrendered himself the next day, November 27, 2007 and the warrant was recalled.

7. On this date, again no mention was made of a videotape being discovered to defense counsel.

8. At the time of filing this Motion, defense counsel is unaware of the State filing a Supplemental Notice of Discovery Compliance showing compliance with the Court’s Order Compelling Discovery.

9. The videotape may contain exculpatory evidence and was required by local discovery rules to be discovered within twenty days after the initial hearing. LR49-CR-107 (1)(a).

10. Further, the Defendant would request sanctions against the State for noncompliance of the Order to Compel above and beyond exclusion of the requested evidence pursuant to

Marion County LR49-CR00-107 (1)(d) and Indiana Rules of Trial Procedure Rule 37.

11. Specifically, the Defendant requests that any and all physical evidence, testimony, or other evidence be excluded at any trial of the above-named cause number.

12. That by failing to produce any video evidence the State has subjected the defendant to grave peril and extreme prejudice by delaying these proceedings, therefore protracting the amount of time Defendant is forced to face open misdemeanor charges or chose to forego his constitutional right to effective representation of counsel in an effort to resolve the charges more expediently.

WHEREFORE, the Defendant respectfully requests this court grant Defendant's Motion to Exclude and order the evidence in this case excluded, and for all other relief, just and proper in the premises.

Respectfully submitted,

James K. Snyder, #26600-70
Attorney for Defendant
Marion County Public Defender's Agency

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the Marion County Prosecutor by placing a copy of the same in the Prosecutor's box of this Court.

James K. Snyder, #26600-70
Attorney for Defendant
Marion County Public Defender's Agency

Marion County Public Defender's Agency
City-County Building
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Indianapolis, IN 46204
(317) 327-4100

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ORDER

Comes now defendant, JAMES PATTERSON, by counsel, James K. Snyder of the Marion County Public Defender Agency, and having filed his Motion to Exclude Evidence and Testimony, in the following words and figures, to-wit:

(H.I)

And the court having examined same, and being duly advised in the premises, now finds that same should be

_____ GRANTED.

_____ DENIED.

_____ SET FOR HEARING ON THE _____ DAY OF _____, 2007.

IT IS THEREFORE ORDERED by the Court that the State of Indiana is ordered to produce all of the items of discovery requested in Defendant's Motion for Specific Discovery

SO ORDERED this ____ day of _____, 2007.

Honorable Judge, Marion Superior Court
Criminal Division, Room EIGHT

Distribution:

James K. Snyder – MCPDA
– MCPO