

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

State of New Hampshire

v.

Chad Evans

00-S-888-896-F AND 00-S-934-I

DEFENDANT'S OBJECTION TO STATE'S MOTION IN LIMINE
TO EXCLUDE EVIDENCE RELATING TO POSSIBLE INGESTION
OF WINDEX BY THE VICTIM

NOW COMES Chad Evans and, by his attorneys, objects to the State's Motion in Limine to exclude evidence relating to the possible ingestion of Windex by the victim:

In support of this Objection, defendant states:

1. He is charged with second degree murder and eight felony counts related to Kassidy Bortner.

2. Jeffrey Marshall acted as babysitter for Kassidy Bortner on repeated occasions during the time frame in which she was injured.

3. Marshall kept Kassidy Bortner overnight approximately two weeks before her death.

4. At this time, Marshall acknowledged that Kassidy Bortner fell out of his truck while she was in Kittery, Maine.

5. It was after this event that Amanda Bortner first saw Kassidy's eyes roll to the back of her head. Further, she noticed bumps on Kassidy's head and characterized Kassidy as sick.

6. In another instance, Kassidy came home from Jeffrey Marshall's care with other injuries including substantial physical bruising and marks on the bottom of her feet.

7. The State now seeks to exclude as evidence one more instance of Marshall's neglect toward Kassidy by seeking to exclude evidence that Kassidy drank Windex while in his care.

8. This evidence goes to the reliability of Jeffrey Marshall as a caretaker for Cassidy and is directly relevant to his credibility in this case.

9. If the jury is unable to hear evidence of the Windex incident, the jury will get an inaccurate picture of Jeffrey Marshall.

10. Further, defendant would be barred from introducing favorable proof and it would be barred from adequately and fairly cross-examining Marshall at trial. Part 1, Article 15 of the New Hampshire Constitution; Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, defendant prays that the State's Motion in Limine to Exclude Evidence Relating to the Possible Ingestion of Windex by the victim be denied.

Respectfully submitted,
CHAD EVANS
By his attorneys,

Alan J. Cronheim
Twomey & Sisti Law Office
78 Fleet Street
Portsmouth, NH 03801

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANT'S OBJECTION TO STATE'S MOTION IN LIMINE TO EXCLUDE EVIDENCE RELATING TO POSSIBLE INGESTION OF WINDEX BY THE VICTIM has been forwarded to Senior Assistant Attorney General N. William Delker and Assistant Attorney General Simon R. Brown, this ____ day of November, 2001.

Alan J. Cronheim