

NO. 0000

STATE OF TEXAS) IN THE DISTRICT COURT
VS.) 437TH JUDICIAL DISTRICT
JOE SMITH) BEXAR COUNTY, TEXAS

**MOTION IN LIMINE
(Specific)**

Joe Smith moves this Court before trial in limine for an order instructing the District Attorney, his representatives and witnesses to refrain from making any direct or indirect reference whatsoever, at trial before the jury to any of the following matters:

I.

All extraneous crime or misconduct evidence which is not alleged in the indictment, unless it can be shown by sufficient proof that defendant perpetrated such conduct, that this evidence is relevant to a material issue in the case, other than character conformity, and that its probative value outweighs its potential for prejudice.

II.

1. Evidence that defendant invoked his right to silence after having been arrested, or warned that he had a constitutional right to remain silent;
2. Evidence that defendant made any oral statements not in compliance with article 38.22 § 3 of the Texas Code of Criminal Procedure;
3. Evidence that defendant elicited the court to assess punishment in the event the jury finds him guilty;
4. Evidence that a hearing was held to suspend defendant's driver's license or that the license was suspended;
5. Evidence that defendant was wearing a T-shirt with a picture of a beer mug on

it and certain writing, when arrested.

III.

Defendant also moves to exclude all extraneous crime or misconduct evidence, notice of which was requested by defendant, but not provided by the state as required by Rules 404(b) and 609(f) of the Texas Rules of Criminal Procedure, and article 37.07 of the Texas Code of Criminal Procedure.

IV.

If the prosecutor is allowed to allude to, comment upon, inquire about, or introduce evidence concerning, any of the above matters, ordinary objections during the course of trial, even sustained and including proper instructions to the jury, will not remove the harmful effect of same in view of their highly prejudicial content.

WHEREFORE, PREMISES CONSIDERED, defendant prays that this Court order and instruct the district attorney, his representatives and witnesses, not to elicit or give testimony respecting, allude to, cross-examine respecting, mention, or refer to any of the above matters until a hearing has been held outside the presence of the jury at which time this Court can determine the admissibility of these matters.

Respectfully submitted:

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Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of defendant's Motion in Limine was delivered to the Bexar County District Attorney's Office, 101 W. Nueva St, San Antonio, Texas, on July 14, 2018.

MARK STEVENS

ORDER

On this the _____ day of _____, 2018, came to be considered defendant's Motion in Limine, and said motion is hereby

(GRANTED)

(DENIED)

JUDGE PRESIDING