

IN THE CIRCUIT COURT,
SEVENTH JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 16-00855-CFFA

STATE OF FLORIDA

VS.

MARIA ROSE HOWELL
DEFENDANT.

_____ /

STATE'S 2ND MOTION IN LIMINE

COMES NOW, R J LARIZZA, State Attorney for the Seventh Judicial Circuit of Florida, by and through the undersigned Assistant State Attorney, and files this Motion in Limine, pursuant to the Florida Evidence Code, to enter its Order in Limine to prohibit Defense Counsel or any of its witnesses from presenting to a jury the following:

1. Eliciting testimony on cross examination or direct examination or mentioning in opening statement that the victim consented. Consent is not a defense to this offense therefore any evidence of consent is irrelevant. *See* 800.04(2).
2. Eliciting testimony on cross examination or direct examination or mentioning in opening statement that the defendant was unaware of the victim's age, that the victim misrepresented her age, or the defendant had a bona fide belief that the victim was of an age to consent. Ignorance or belief as to victim's age is not a defense to this offense therefore any evidence of it is irrelevant and any probative value is substantially outweighed by the prejudice. *See* 800.04(3).

WHEREFORE the State moves this Honorable Court to enter its Order in Limine precluding the Defense from introducing the above testimony.

R.J. LARIZZA
STATE ATTORNEY

By: s/MELISSA L CLARK
ASSISTANT STATE ATTORNEY
Florida Bar No.: 0499625
ESERVICEFLAGLER@SAO7.ORG

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by mail/delivery to WILLIAM M BOOKHAMMER, 1769 EAST MOODY BLVD BUILDING 1, KIM HAMMOND JUSTICE CENTER, BUNNELL, FL 32110-1448, on January 14, 2018.

s/MELISSA L CLARK _____
ASSISTANT STATE ATTORNEY
Florida Bar No.: 0499625
1769 EAST MOODY BLVD BLDG 1
THIRD FLOOR
BUNNELL, FL 32110
(386) 313-4300
ESERVICEFLAGLER@SAO7.ORG