

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS

CAUSE NO. 16-0-110 WLK

BENJAMIN WADE ALLEN, III

MOTION IN LIMINE

COMES NOW the State of Mississippi in the above styled and numbered cause and files this Motion to Limit certain evidence being elicited or mentioned during any phase of this trial and would submit the following to the Court in support of said Motion:

There is a woman named Linda Brune, who worked for Downtown Jackson Partners with the Defendant, Benjamin Allen, III for many years. Ms. Brune took some records from the offices where they worked and turned them over to State of Mississippi authorities for their review. Upon information and belief, at some point after that, an allegation arose from the Downtown Jackson Partners that Linda Brune had embezzled or stolen \$40,000.00 of the Partners' funds, converting them to her own use. The State is requesting the Court to disallow any mention of this allegation during all phases of this trial.

As stated, at this time there exists only an allegation by the Downtown Jackson Partners that she stole this money. She has not been convicted of any offense, felony or misdemeanor, in reference to this money. As such, were she to testify as a witness in this case, it would not be proper to attempt to impeach her testimony under MRE 609 as there is no conviction. Moreover, the allegation is not potential 404(b) evidence.

Succinctly, the allegation is not relevant, is confusing to the issues and its effect would certainly be more prejudicial than probative. That she is accused of stealing money has

absolutely no connection to the ten counts in this indictment against Benjamin Allen, III. He, alone, is accused of converting a truck to his own benefit (Count I), using the public partnership funds to pay for his personal repairs, tag and insurance (Counts II and III). The Defendant, alone, is accused of using the Downtown Partner Funds to pay for his wife's personal cell phone bill (Count IV). As the Court can see, each and every allegation in the Indictment has nothing to do with Linda Brune and the allegation of theft.

WHEREFORE, the State requests the Court to prohibit the Defendant from mentioning anything about Linda Brune's allegation of theft of \$40,000.00 during voir dire, and opening statement. Further, it is requested that the Defense instruct its witnesses not to mention or make any reference to this allegation of theft. Further, should Linda Brune testify in this case, that the Court will disallow the Defendant from attempting to impeach her testimony with reference to this allegation of theft.

Respectfully submitted
STATE OF MISSISSIPPI

/s/ Randy Harris

CERTIFICATE OF SERVICE

I, Randy Harris, an assistant district attorney, do hereby certify that I have this morning caused to be electronically filed this Motion in Limine on the MEC and that I have also hand delivered a true and correct copy to Hon. Merrida Coxwell and Chuck Mullins, Attorneys for the Defendant.

This is January 30, 2017.

/s/ Randy Harris