IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT KANE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
Plaintiff,)
VS.)) Gen. No. 07 CM 1827)
ROBERT LACY,)
Defendant.)

MOTION IN LIMINE TO EXCLUDE THE USE OF PRIOR CONVICTIONS FOR THE PURPOSE OF SHOWING INTENT, MOTIVE, OR OPPORTUNITY

NOW COMES, Defendant Robert Lacy, by his attorney, Brett A. Appelman, and moves this Honorable Court to enter an order prohibiting the State from using evidence of a prior conviction to impeach the defendant, above-named, as to credibility, and in support therein states as follows:

1. Defendant is charged in this case with the offense of Battery.

2. Defendant was convicted of the offenses of Aggravated Battery / Harm to a Peace Officer in 06 CF 1574, and Battery in 03 OV 3469, against persons other than Jesse Martinez.

3. Defendant submits that it is highly prejudicial to admit his prior convictions involving completely different circumstances as evidence against him in this matter.

4. Defendant submits that the prejudice outweighs the probative nature of such an admission.

5. The law dictates that the use of prior convictions for the same crime should be used sparingly at trial. *People v. Whirl*, 814 N.E.2d 872, 875-76 (2nd Dist. 2004).

6. Defendant submits that this evidence is being offered to show that Defendant has a propensity to commit criminal acts rather than for the purpose of intent, motive or opportunity.

7. Defendant submits that the prior convictions for Aggravated Battery / Harm to a Peace Officer, and Battery involving a person other than Jesse Martinez should not come into evidence under this statute, or at the minimum, are subject to a test similar to *Montgomery* factors.

8. Defendant submits that the prior convictions are not substantially similar in motive, intent or absence of mistake so as to allow the admission of this evidence at trial.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an order prohibiting the admission of Defendant's prior convictions for the purpose of intent, motive or absence of mistake.

Respectfully submitted,

Brett A. Appelman