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7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF
8

9 THE PEOPLE OF THE STATE OF)	Case No.
CALIFORNIA,)	
)	MOTION IN LIMINE:
10 Plaintiff,)	TO BAR PROSECUTION
11 ARGUING)	
vs.)	WHAT CONSEQUENCES OF
)	ACQUITTAL MIGHT BE
))
)	
)	
14 Defendant.)	Trial:
)	Time:
)	Dept:

16 The defense moves for a protective order that: (select those
17 that are appropriate or insert others applicable to your case)

18 1. The prosecution cannot argue that an acquittal would
19 allow the defendant to resume teaching children again.

20 2. The prosecution cannot argue that an acquittal would put
21 the defendant on the streets and as a consequence, put children
22 at risk of molestation.

23 3. The prosecution cannot argue that the jurors should
24 consider the reaction of neighbors to a verdict of not guilty.
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28 **ARGUMENT**

1 Adult Authority. The jury's responsibility is limited to the
2 determination of the defendant's guilt or innocence of the charge
3 against him. " (Id., at p. 726.) Similarly, in People v.
4 Duckworth (1984) 162 Cal.App.3d 1115, 1123-1124, the prosecutor's
5 argument during the sanity phase of trial which implied that the
6 defendant would be on the streets and would thus pose a danger to
7 society if he were found sane was reversible error.

8 It is likewise improper for the prosecution to argue that
9 the jury has a moral obligation to protect society from the
10 defendant, or that if the defendant is acquitted, he will commit
11 more crimes. In People v. Whitehead (1957) 148 Cal.App.2d 701,
12 the prosecution argued improperly in a child molest trial that
13 men of the defendant's age commit offenses of this character and
14 his [the prosecutor's] office's experience is that if such men
15 are acquitted, they will repeat the same character of offense.
16 (Id., at p. 705.) The reviewing court found such argument
17 "highly inflammatory" and reversed the defendant's conviction.
18 (Id., at p. 705-706.)

19 Furthermore, it is improper for the prosecution to argue
20 that the jury should consider what the reaction of their
21 neighbors would be if they were to acquit the defendant. In
22 People v. Purvis (1963) 60 Cal.2d 323, 342, (overruled on other
23 grounds in People v. Morse (1964) 60 Cal.2d 631) the court
24 reversed a first degree murder conviction based on prosecutorial
25 misconduct which included a comment from the prosecutor following
26 trial publicity in the Oakland Tribune newspaper which "
27 threatened the jury with the statement that 'those outside that
28 are not part of this jury have their eyes focused upon you just

1 to see what you are going to do * * *.' The court held " A
2 warning of probable consequences of failure to convict, and of
3 the unfavorable reactions of neighbors is improper (48
4 Cal.Jur.2d, Trial, s 439, p. 446). "

5 **II.**

6 **CONCLUSION**

7 Therefore, any argument by the prosecution that an acquittal
8 of the defendant would have consequences involving allowing the
9 defendant to teach again, have contact with children again, turn
10 the defendant loose on the streets and be a threat to children
11 again, or that neighbors would disapprove of such an acquittal
12 are improper. The defendant seeks a pretrial admonition to the
13 prosecution to refrain from any such argument.

14 Dated:

15 Respectfully submitted,
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18 Attorney for Defendant
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