

**State's Filing #22**  
**(Motion to Admit Defendant's Statements to Janie Slankard)**

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CLERK OF DISTRICT COURT  
FRANKLIN COUNTY, KANSAS

**IN THE DISTRICT COURT OF FRANKLIN COUNTY, KANSAS**  
**FOURTH JUDICIAL DISTRICT**

**STATE OF KANSAS,**  
**Plaintiff,**

**vs.**

**KYLE TREVOR FLACK,**  
**Defendant.**

**Case No. 2013 CR 104**

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**MOTION TO ADMIT DEFENDANT'S STATEMENTS TO**  
**BESSIE JANE (JANIE) SLANKARD**

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At jury trial, Plaintiff intends to introduce statements made by the defendant to Janie Slankard on April 29<sup>th</sup>, 2013, concerning the whereabouts of Andrew Stout. These statements are relevant and allowed under the admission of parties hearsay exception.

**FACTS**

On April 29<sup>th</sup>, 2013, Ms. Slankard and her son, Dylan Phillips, traveled to Andrew Stout's residence. Their intent was to collect Phillip's personal items from the residence. They arrived at the residence mid-afternoon. The defendant was the only

one at the residence. The windows were covered with towels and sheets. (Inquisition testimony of Janie Slankard, BATES #2451, lines 22 to 24.) Slankard asked the defendant why Stout was not at the residence and the defendant replied that Stout had to take care of a few tasks before going to work. (BATES #2452, lines 10 to 15.) When asked about the windows being covered, the defendant stated that Stout was "freaked out" about Steven White's friends coming back. (BATES #2452, lines 21 to 25.)

**ISSUE – ADMISSIBILITY OF THE STATEMENTS**

**STATUTORY AND CASE LAW**

***Standard of Review***

The admissibility of evidence is within the sound discretion of the trial court. *State v. Martis*, 277 Kan. 267, Syl. ¶ 3, 83 P.3d 1216 (2004). Judicial discretion is abused if judicial action is arbitrary, fanciful, or unreasonable; is based on an error of law; or is based on an error of fact. *State v. Rodriguez*, 295 Kan. 1146, Syl. ¶ 8, 289 P.3d 85 (2012).

***Hearsay Exceptions***

Evidence of a statement which is made other than by a witness while testifying at a hearing, offered to prove the matter stated, is hearsay evidence and inadmissible, except under certain circumstances. K.S.A. 60-460, and amendments thereto. One exception is a statement by a person who is a party to the action in the person's individual capacity. K.S.A. 60-460(g), and amendments thereto. "Admissions made by a defendant, if relevant, are admissible under K.S.A. 60-460(g)." *State v. Francis*, 282 Kan. 120, Syl. ¶ 10, 145 P.3d 48 (2006).

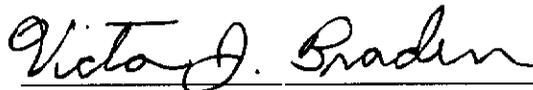
***ARGUMENT***

Plaintiff's theory is that the defendant killed Andrew Stout in the early morning hours of April 29<sup>th</sup>, 2013, and concealed Stout's body in the southwest bedroom of the residence. Therefore, his statements to Slankard are relevant to the issue of premeditation concerning Stout, specifically, the defendant's actions after the killing. His comment that Stout was going to work that day is contrary to the documents retrieved from American Eagle Outfitters. Stout's last day of work was April 25<sup>th</sup>, 2013. He was scheduled to start work at 4:00 p.m., on April 29<sup>th</sup>, 2013, but did not show. The statement concerning the reason for covering of the windows is inconsistent with the evidence and reveals an attempt to conceal the crime scene from the outside world.

**CONCLUSION OF THE MOTION**

The defendant's statements to Janie Slankard on April 29<sup>th</sup>, 2013, concerning the whereabouts of Andrew Stout are admissible under K.S.A. 60-460(g), and amendments thereto.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that the original State's Motion to Admit the Defendant's Statements (Filing #22) was mailed on the 7<sup>th</sup> day of November, 2014, to:

The Clerk of the Franklin County District Court  
Court Building  
301 South Main Street  
PO Box 637  
Ottawa, KS 66067-0637

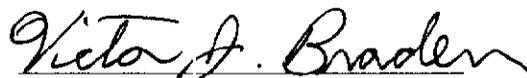
and, I hereby certify that a true and accurate copy of the State's Motion to Admit the Defendant's Statements (Filing #22) was mailed on the 7<sup>th</sup> day of November, 2014, to:

Ronald F. Evans  
Attorney for the defendant  
State of Kansas  
Death Penalty Defense Unit  
700 SW Jackson, Suite 500  
Topeka, KS 66603

Timothy Frieden  
Attorney for the defendant  
State of Kansas  
Death Penalty Defense Unit  
266 North Main, Suite 210  
Wichita, KS 67202

and, I hereby certify that a chamber copy of the State's Motion to Admit the Defendant's Statements (Filing #22) was sent via email on the 7<sup>th</sup> day of November, 2014, to:

The Honorable Eric W. Godderz  
District Court Judge  
Anderson County Courthouse  
100 East 4<sup>th</sup>  
P.O. Box 305  
Garnett, KS 66032

  
Victor J. Braden, #18524  
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