

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.: 2015 CF 4806A

Division: "C"

DONALD WAYNE HARTUNG,

Defendant.

MOTION TO PROHIBIT MENTIONING DEFENDANT'S RELIGION

The Defendant, **DONALD WAYNE HARTUNG**, files this his MOTION TO PROHIBIT THE STATE FROM BRINGING INTO EVIDENCE OR DISCUSSING DEFENDANT'S RELIGIOUS AFFILIATION and says:

1. Defendant was indicted by a Grand Jury and is charged with three (3) counts of first-degree murder;
2. The State is seeking the Death Penalty in the instant case;
3. During the investigative phase of this case, it was mentioned by law enforcement that Defendant Donald Wayne Hartung was a Wiccan and that the practice of his religion somehow contributed to the murder of his Mother and two (2) Step-brothers.
4. That there is no evidence that Defendant's religion, in any way, would predispose Defendant to commit a murder or would have any relevance or bearing upon the instant case.
5. During depositions, one of the investigators in the instant case stated that he did not believe that religion had any relationship to the instant crime.

6. To mention Defendant's religion and religious beliefs would be highly prejudicial and would deny Defendant a fair trial and violate his constitutional rights under the United States Constitution, specifically, the First (1st), Fourth (4th), Fifth (5th), Sixth (6th), Eighth (8th), and Fourteenth (14th) Amendments as well as the applicable Amendments to the Florida Constitution;
7. Any mention of Defendant's religion would have such a prejudicial effect as to outweigh any probative value;

WHEREFORE, Defendant, DONALD WAYNE HARTUNG, respectfully requests that this Honorable Court prohibit the Government from mentioning his religious beliefs during the trial of this case.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to William "Bill" Eddins, Esquire, State Attorney or one of his designated assistants at M.C. Blanchard Judicial Center, Bridgette Jensen, Assistant State Attorney, and JAC at pleadings@justiceadmin.org via Clerk of Court, Florida E-Filing Portal E-Service this 3 day of August 2017.

MICHAEL J. GRIFFITH, ESQUIRE
Michael J. Griffith, P.A.
304 East Government Street
Post Office Box 848
Pensacola, Florida 32591
(850) 433-9922
Florida Bar No.: 192447
Attorney for Defendant