**STATE OF ILLINOIS**

 **IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT**

 **COUNTY OF DU PAGE**

PEOPLE OF THE STATE OF ILLINOIS )

 PLAINTIFF, )

)

) CRIMINAL

VS ) No. 07 CF 1882

)

)

CHRISTINA BELTRAN )

 DEFENDANT. )

 **Motion in Limine**

**DEFENDANT'S MOTION IN LIMINE**

**TO PRECLUDE USE OF VIDEO RECORDING TRANSCRIPTS**

NOW COMES the Defendant, CHRISTINA BELTRAN, by her attorney Robert A. Miller, and prays that this Court prohibit the State from using video recorded interviews as well as transcripts prepared from video recorded interviews. In support thereof, the defendant states as follows:

1. That the State has indicated through Discovery, and pre-trial motions, that they intend to introduce video recordings and transcripts of those recordings during their case in chief.

2. It is well settled that it is proper for a trial court to permit the jury to use written transcripts of recorded conversations to assist them while they listen to the conversations, when the transcripts are used solely for this limited purpose and are collected from the jurors after they have listened to the tapes. People v. Rogers, 187 Ill.App.3d 126, 132, 135 Ill.Dec. 65, 543 N.E.2d 300 (1989).

3. Even when used for this limited purpose, however, the trial court should admonish the jury as to the purpose of the transcripts and to instruct the jury to determine for itself the events transpiring on the tape. Rogers, 187 Ill.App.3d at 132, 135 Ill.Dec. 65, 543 N.E.2d 300; Spicer, 61 Ill.App.3d at 759, 18 Ill.Dec. 705, 378 N.E.2d 169.

4. However, the recordings provided to the defendant, as well as the transcripts have several sections described by the State as Unintelligible.

5. A partially inaudible sound recording is admissible unless the inaudible portions are so substantial as to render the recording untrustworthy as a whole. The admission of a recording that is partially inaudible, or that reproduces only part of a statement or conversation, is a matter within the trial court's discretion. People v. Dougherty, 160 Ill.App.3d 870, 876, 112 Ill.Dec. 337, 513 N.E.2d 946 (1987); United States v. Robinson, 956 F.2d 1388, 1395 (7th Cir.1992); 29A Am.Jur.2d Evidence 1238 (1994); People v. Manning, 182 Ill.2d at 193, 230 Ill.Dec. 933, 695 N.E.2d 423.

6. If the Court allows the recording to be played, and transcripts to be distributed, the trial court should explain to the jury that the transcript was merely the government's representation of what was said on the tape, that it was being provided to them merely as an aid to assist them in listening to the tape, that the tape rather than the transcript was the evidence, and that if a juror's understanding of the tape diverged from the transcript, their own interpretation of the tape was controlling. People v. Criss, 307 Ill.App.3d 888, 719 N.E.2d 776, Ill.App. 1 Dist.,1999. (1999)

WHEREFORE, the Defendant prays that this Court prohibit the State from using video

 recorded interviews as well as transcripts prepared from video recorded interviews.

CHRISTINA BELTRAN, Defendant

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Robert A. Miller, Her Attorney

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