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Brief in Support of Mr. Davis's Motion in Limine

To: Assistant Public Defender Armando Gomez

Date: February 24, 2026

Re: State of Columbia v. John Davis, et al.

You asked me to prepare a brief in support of Mr. Davis's Motion in Limine. Here is my brief to address the two issues: 1. Original documents rule should apply. 2. Mr. Davis has been substantially prejudiced with the unavailability of the original text message between Mr. Davis and Ms. Cameron, which has been resulted from the the State's failure to take reasonable measures of safekeeping these messages. The detailed discussion is as follows:

I. Mr. Davis's Motion in Limine Should be Granted Because Original Documents Rule Applies

1. Original Documents Rule Applies

Under Rule 1001(d), an 'original' of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, 'original' means any printout -or other output readable by sight--if it accurately reflects the information. an 'original' of a photograph includes the negative or a print from it.

Here, the State asserted conspiracy between Mr. Davis and Ms. Cameron, his girl friend by using the text message exchange between them. Original text message exists on both of Ms. Cameron's and Mr. Davis' s cell phone if the allegation is true. Ms. Cameron's cell phone was seized by Officer Powers as admitted by Powers(See Excerpts from the transcript of Testimony of Officer Robert Powers January 24, 2026 for details). When Assistant Public Defender Gomez wanted to see the text messages, Powers said: "we don't have them anymore." This is like in Grimes, where the State sought to prove the existence and content of negotiable instruments allegedly found in Grimes' car through the use of photographs of those documents, because the original documents inexplicably disappeared while in police custody. The inexplicable disappearance of the text messages on Ms. Cameron's cell phone seized by Officer Powers exactly resembled the inexplicable disappearance of travelers checks. In Grimes, Columbia Court of Appeal(2018) reversed the trial court's denial of motion in limine seeking to exclude photographs of certain documents taken by the police.

Thus, the original documents rule applies.

Rule 1004 doesn't apply because the state is proving the content.

An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if: a. all the originals are lost or destroyed, and not by the proponent acting in bad faith, b. an original cannot be obtained y any available judicial process, or d, the

writing is not closely related to a controlling issue.

Here, the state wants to prove the content. Rule 1004 doesn't apply.

1. Legal Arguments Supporting Exclusion of Handwritten Transcript of Text Message
Between Mr. Davis and Ms. Cameron

II. The State Failed to Prove Justification of Forsaking Original Document Rule(Grimes)

State failed to prove justification of forsaking original documents.

III. Mr. Davis Has Met His Burden of Demonstrating Prejudice Based on the Unavailability of the
Original Documents.

Therefore, the motion should be granted.

Question #6 Final Word Count = 516

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