

IN THE IOWA DISTRICT COURT IN AND FOR MONTGOMERY COUNTY

STATE OF IOWA,

Plaintiff,

vs.

JOSEPH NORRIS,

Defendant.

CASE NO. FECR012514

**MOTION TO RECONSIDER
EXCLUSION OF CHARACTER
EVIDENCE**

COMES NOW, Joseph Norris and for this Motion to Reconsider Exclusion of Character Evidence hereby states to the Court the following:

1. The Court granted the State's Motion in Limine requesting exclusion of testimony regarding Mr. Norris's character.

2. Character evidence is relevant and admissible in cases where the defendant is accused of "willfully" violating the law. See *United States v. Yarbrough*, 527 F.3d 1092, 1102 (10th Cir. 2008) ("[C]haracter evidence is admissible in cases, such as this one, where the sole issue before the jury is whether a defendant undertook his undisputed acts with a prohibited state of mind."); *Petersen v. United States*, 268 F.2d 87, 89 (10th Cir. 1959) (reversing judgment when character evidence was excluded in tax evasion case where "[w]ilfulness [was] an essential element of the offense charged"); cf. *United States v. Garber*, 607 F.2d 92, 99 (5th Cir. 1979) ("In a case such as this where the element of willfulness is critical to the defense, the defendant is entitled to wide latitude in the introduction of evidence tending to show lack of intent.").

3. The fact that Mr. Norris is honest, conscientious, principled, and a good citizen speaks directly to whether he was likely to willfully act in a way that would hinder

or disregard the object of the law. Conscientiousness speaks to a person's capacity to be responsible, organized, hard-working, and goal-directed. Those aspects of Mr. Norris's character make it less likely that he would willfully act in a way to hinder or disregard the object of the law.

4. This is not evidence of "the general character" of Mr. Norris of being a good person. *Cf. State v. Kramer*, 231 N.W.2d 874, 877 (Iowa 1975) (affirming refusal to give character instruction when witness merely testified that "defendant's character was 'good' in the community").

5. If "good citizenship" is considered pertinent to a robbery charge, it is certainly relevant to whether a person would attempt to subvert an election. *State v. Hobbs*, 172 N.W.2d 268, 271 (Iowa 1969) ("In a charge of robbery or larceny the traits involved are honesty, integrity, and good citizenship.").

6. Mr. Norris would avoid asking witnesses if he is a law-abiding person and focus only on his honesty, conscientiousness, principled nature, and good citizenship.

7. Mr. Norris asks that the Court specifically address each of these proffered character traits in making its ruling.

WHEREFORE, Mr. Norris respectfully request that the Court allow him to present character evidence.

PARRISH KRUIDENIER, L.L.P.

By: /s/ Gina Messamer

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