

_____, 2023

Hon. [REDACTED]
Erie County Supreme Court
Part 16
25 Delaware Ave.
Buffalo, New York 14202

Re: People v. [REDACTED]
Indictment No. [REDACTED]

Your Honor:

Please accept this letter as a reply to the prosecution's memorandum of law filed on [REDACTED] 2023. [REDACTED] continues to rely on all arguments made in the memorandum of law previously filed on her behalf.

The statements made by [REDACTED] at [REDACTED] Hospital, which are privileged under CPLR 4504(a), are inadmissible at trial. In arguing the contrary position, the prosecution relies on two provisions of the Social Services Law: § 413, the mandated reporter law, and § 415, which holds written reports of mandated reporters admissible in proceedings involving child abuse or maltreatment. The prosecution also cites *People v. Strawbridge* for the holding that § 415 is applicable to criminal proceedings involving the death of a child (299 AD2d 584, 591 [3rd Dept. 2002]).

The facts of *Strawbridge* are virtually identical to the facts of this case. But the *Strawbridge* court did not hold that § 415 allows for the admission of privileged statements. In fact, the court found error in the admission of all statements covered by the privilege (299 AD2d at 589) -- statements that are analogous to those made by [REDACTED]. The court held only that § 415 "authorized the disclosure by ... medical personnel concerning defendant's condition" (*id.*, at 591-592). As for the prosecution's claim that the statements were not privileged, the *Strawbridge* court found the virtually identical statements to be privileged, so the same conclusion is compelled here. Every statement [REDACTED] made to Dr. [REDACTED] and [REDACTED] were "acquired in attending a patient in a professional capacity, and which was necessary to enable [them] to act in that capacity" (CPLR 4504[a]).

The statements are inadmissible.

Respectfully yours,

██████████, Esq.

cc: ADA ██████████