

Stephen Frank Karban  
Booking #P117874  
4<sup>th</sup> Avenue Jail  
Defendant Pro Per

FEB 19 2008

I.L.S.  
FILED

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,

Plaintiff,

v.

STEPHEN FRANK KARBAN,

Defendant.

No. CR 2005-011629-001 DT

DEFENDANT'S RESPONSE TO STATE'S MOTION IN  
LIMINE RE: FAILURE OF PHOENIX POLICE

DEPARTMENT TO CONDUCT A PROPER INVESTIGATION  
(Honorable Raymond P. Lee)

THE DEFENDANT, STEPHEN FRANK KARBAN, BY SELF REPRESENTATION, REQUESTS THE COURT DENY THE STATE'S MOTION IN LIMINE TO PRECLUDE TESTIMONY RELATING TO PHOENIX POLICE DEPARTMENTS FAILURE TO CONDUCT PROPER INVESTIGATION.

THE STATE CONTENDS THAT "WHEN QUESTIONED IN WISCONSIN THE DEFENDANT INVOKED HIS RIGHT TO AN ATTORNEY." THE CASE IN WHICH DEFENDANT KARBAN "LAWYERED UP" AFTER SEVERAL HOURS OF INTENSE INTERROGATION, HAD NO CONNECTION TO THE PHOENIX POLICE INVESTIGATION REGARDING THE DEFENDANT'S CURRENT CHARGES. THE DATE ON WHICH DEFENDANT KARBAN INVOKED HIS RIGHT TO AN ATTORNEY WAS ON JANUARY 5<sup>TH</sup>, 2003 REGARDING A MICHIGAN/WISCONSIN POLICE INVESTIGATION TO WHICH PHOENIX POLICE HAD NO INVOLVEMENT. THE PHOENIX POLICE BEGAN THE CURRENT INVESTIGATION AFTER JUNE 14<sup>TH</sup>, 2005 REGARDING THIS INSTANT PROCEEDING. AT THE ONSET OF THE CURRENT INVESTIGATION, DEFENDANT KARBAN WAS NOT IN POLICE CUSTODY. RATHER, IN JULY OF 2005, DEFENDANT KARBAN WAS ARRESTED AT HIS APPLETON, WISCONSIN APARTMENT AND ULTIMATELY

WAIVED EXTRADITION TO ARIZONA.

SINCE THE BEGINNINGS OF THE CURRENT POLICE INVESTIGATION REGARDING THIS PROCEEDING AND FOLLOWING HIS JULY 2005 ARREST, DEFENDANT KARBAN HAS NEVER BEEN READ HIS MIRANDA RIGHTS, OR BEEN ASKED TO GIVE A STATEMENT TO ANY POLICE OFFICER INVOLVED IN THE CURRENT INVESTIGATION. BASED EXCLUSIVELY ON THE HEADING OF THE STATE'S MOTION, THE STATE RECOGNIZES THE SEVERITY OF THE PHOENIX POLICE DEPARTMENT'S INEPTNESS IN CONDUCTING ITS CURRENT INVESTIGATION.

THE STATE, IN ITS MOTION, CAN CITE NO LEGAL AUTHORITY TO SUPPORT ITS REQUEST. AS THE COURT IS AWARE, THE DEFENDANT'S RIGHT TO CROSS EXAMINE A WITNESS IS A FUNDAMENTAL PART OF OUR SYSTEM OF JUSTICE. ARIZONA RULE OF EVIDENCE 611(B) STATES: "A WITNESS MAY BE CROSS EXAMINED ON ANY RELEVANT MATTER." (SEE ALSO STATE V. MINLEY 141 ARIZ. 425, 687 P.2D 1180 (1984) AND STATE V. GILREATH, 107 ARIZ 318, 487 P.2D 385 (1971)). A LAYMAN CAN REALIZE THE WAY A POLICE DEPARTMENT CONDUCTS AN INVESTIGATION REGARDING THE ACCUSED, IS RELEVANT.

DEFENDANT KARBAN IS GUARANTEED HIS RIGHT TO CONFRONTATION REGARDING ANY WITNESS AGAINST HIM. (ARIZONA CONSTITUTION ART. 2 § 24; U.S. CONST. AMEND. VI; A.R.S. 13-114). ESSENTIALLY WHAT THE STATE IS REQUESTING THIS COURT DO, IS TO VIOLATE A BASIC RIGHT OF THE DEFENDANT. HAD A DEFENSE ATTORNEY FILED A MOTION TO "PRECLUDE TESTIMONY RELATING TO HOW GOOD A POLICE DEPARTMENT CONDUCTED ITS INVESTIGATION," THE COURT WOULD PROBABLY REQUEST VERIFICATION OF THE ATTORNEY'S CREDENTIALS.

THEREFORE, DEFENDANT KARBAN REQUESTS THIS HONORABLE COURT DENY THE STATE'S REQUEST. GRANTING THE STATE'S MOTION WOULD SEVERELY PRESUDICE THE DEFENDANT AND DENY HIM HIS RIGHT TO DUE PROCESS AS CONSTITUTIONALLY GUARANTEED.

MARICOPA COUNTY SHERIFF'S OFFICE  
JOSEPH M. ARPAIO, SHERIFF

**CERTIFICATION**

I hereby certify that on this date 2/19/2008\_\_\_\_\_

I filed the attached original with the Clerk of the Superior Court, Maricopa County, State of Arizona.

I further certify that copies of the original have been forwarded to:

Judge/Comm. Lee Superior Court, Maricopa County, State of Arizona.

County Attorney, Maricopa County, State of Arizona. R. Phipps-Yonas

Public Defender, Maricopa County, State of Arizona. \_\_\_\_\_

Attorney General Office \_\_\_\_\_

Advisory Counsel \_\_\_\_\_

Probation Officer \_\_\_\_\_

Adult Probation Department, Maricopa County, State of Arizona. \_\_\_\_\_

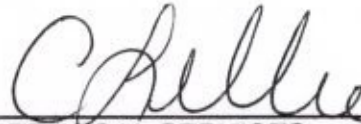
Legal Defender \_\_\_\_\_

Legal Advocate E. Romberg \_\_\_\_\_

Attorney \_\_\_\_\_

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