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**e-file**

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
STEPHEN FRANK KARBAN,	)	CR 2005-011629-001 DT
	)	
Defendant.	)	<b>STATE'S MOTION IN LIMINAE</b>
	)	
	)	(Assigned to the Honorable
	)	Raymond Lee)
	)	

The State of Arizona, by and through undersigned counsel, hereby requests the court preclude evidence of the following:

1. Evidence of other "sexual activity" regarding: Jasmine Karban being on the computer in a chat room, Jasmine's computer password "sexy babe", Jasmine watching an adult pornographic movie on her own, Jasmine fooling around with "adult" lotion, and cousins or other children having inappropriate sexual contact.
2. Other "bad act" evidence of the victims including evidence of Jasmine stealing Ritalin from another child, Jesse Karban pulling a knife on another child, Jesse Karban giving pills to a child.
3. Evidence of Jasmine consuming alcohol, unless provided by the defendant.
4. Medical evidence or reports from social workers or psychologists concerning the victims or other children prior to their fostering or adoption by the defendant.
5. Evidence about the children or Cherie Karban's actions at church after the sexual abuse was disclosed.

6. Evidence from Amber, another foster daughter about Cheri Karban's discipline and her relationship with the defendant.

The States motion is supported by the following Memorandum of Points and Authorities.

Submitted March 13, 2007.

ANDREW P. THOMAS  
MARICOPA COUNTY ATTORNEY

BY /s/ Suzanne E. Cohen  
/s/ Suzanne E. Cohen  
Deputy County Attorney

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. FACTS

The defendant is charged with the sexual abuse of three of his adopted daughters, Amanda, Elsie and Jasmine. The defendant is charged with anal penetration of Amanda, vaginal touching of Elsie and sexual conduct with Jasmine. Amanda was 10, Elsie was 11 and Jasmine was sixteen. The defendant admitted to providing alcohol to several of the girls.

### II. LAW AND ARGUMENT

Other than what was previously ruled on by the court concerning Jasmine and Amanda's prior sexual abuse at the hands of their fathers, other sexual evidence should not be admitted. The court has already ruled that any sexual evidence regarding Jasmine and a boyfriend or an incident with Jasmine allegedly exposing her breasts were inadmissible.

As previously discussed in other motions and in court on March 2, 2007, A.R.S. 13-1421 prohibits the introduction of evidence relating to the victims chastity except under limited circumstances. The defendant has not complied with ARS 13-1421 which requires written notice of intent to use such evidence. Moreover, none of the specified incidents outlined in number 1 above meets the requirements of A.R.S. 13-1421 and therefore should be precluded.

Arizona Rules of Evidence, Rule 608 precludes the admissibility of specific instances of conduct against a witness unless it is probative of truthfulness. Jasmine allegedly stealing a Ritalin pill or drinking alcohol, other than what was provided by the defendant is irrelevant. Additionally, any acts committed by Jesse would be irrelevant and precluded under Rule 608. Evidence that the defendant provided alcohol to the victims is relevant as evidence of grooming behavior.

The victims did come from abusive or neglectful backgrounds. These children were fostered out, then adopted as older children, not newborns. The defendant knew about the abuse. The State is not seeking to preclude the fact that the children came from abusive homes. The State is simply seeking to preclude as irrelevant any medical or psychological reports or specific instances from the children's past before coming to

Copy of the foregoing  
mailed\delivered this  
13<sup>th</sup> day of March, 2007,  
to:

Honorable Raymond Lee  
Judge of the Superior Court

Stephen Frank Karban  
Pro Per Defendant  
4<sup>th</sup> Avenue Jail  
201 South 4<sup>th</sup> Avenue 2E2-26  
Phoenix, AZ 85003

BY /s/ Suzanne E. Cohen  
/s/ Suzanne E. Cohen  
Deputy County Attorney

live at the defendant's home.

In his Michigan trial, the defendant introduced evidence of Cherie Karban's actions at their church after the victims disclosed the sexual abuse. His reasoning was to rebut Cheri Karban's testimony that the church members took sides against her and for the defendant. The State does not intend to elicit testimony about any church members' actions, therefore Cheri Karban's actions would be irrelevant under Rule 608.

Additionally, testimony from Amber, another foster daughter, or any other child, about Cheri Karban's discipline would be inadmissible under Arizona Rules of Evidence 403 and 608. Amber's relationship with the defendant would also be inadmissible under Arizona Rules of Evidence 404 & 405 (see State's Motion to Preclude Good Character.)

### III. CONCLUSION

The State respectfully requests the court grant its motions in liminae.

Submitted March 13, 2007.

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