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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA, Plaintiff, vs. **STEVEN CARROLL DEMOCKER,** Defendant.	**CAUSE NO. P1300CR201001325** **STATE'S RESPONSE TO MOTION IN LIMINE RE: WITNESS RENEE GIRARD** Assigned to Hon. Gary Donahoe

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned hereby responds to Defendant's Motion in Limine Re: State's Witness Renee Girard. This motion is supported by the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Facts

During an interview on June 21, 2011, Renee Girard related a statement that the Defendant made regarding a hit woman. The Defendant had told her that he had met a hit woman in Las Vegas and had a date with her. He went on to state that a hit woman may be the solution to his problems with the homicide victim in this case, Carol Kennedy, his ex-wife. Ms. Girard's best recollection was that these statements from the Defendant took place in April or May, 2008.

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On June 1, 2008, Defendant conducted a number of computer searches. Those searches included: payments of life insurance in case of homicide; tips from a hit man on how to kill someone; how to stage a suicide; how to kill and make it look like a suicide; and how to make a homicide appear like a suicide.

It is undisputed that Defendant authored an e-mail that he had his daughter deliver to his former defense counsel John Sears and his daughter attempted to deliver to the prosecutor at the time on June 19, 2009. That fraudulent e-mail indicated that Carol Kennedy was killed by a hit team, consisting of a female and two males.

On July 21, 2009, the Defendant submitted to an interview with the State. At that interview, he indicated that he was given information while in custody that a hit team had killed Carol Kennedy. Subsequent investigation has revealed that this information is fraudulent.

Law & Argument

Evidence is relevant if (a) it has any tendency to make a fact more or less probable than it would be without the evidence and; (b) the fact is of consequence in determining the action. Rule 401, Arizona Rules of Evidence.

Clearly, the statements Defendant made to Renee Girard regarding having a hit woman resolve his problems with his ex-wife are relevant. They tie in directly with other evidence regarding a hit team in this case. They have a tendency to show that the voice in the vent story is fraudulent. They have a tendency to show that any evidence regarding a hit team's involvement in the homicide of Carol Kennedy is purely the imagination of the Defendant. They have a tendency to discredit any defense that it was in fact a hit team that killed Carol Kennedy. These facts are of consequence in determining charged counts in the present indictment.

The Court may exclude relevant evidence only if its probative value is *substantially* outweighed by a danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence. Rule 403, Arizona Rules of Evidence (emphasis added). Such evidence is not unfairly prejudicial, nor does is confuse the issues, cause delay or waste time, or present cumulative evidence. Accordingly, there is no basis to preclude this evidence.

Based upon the foregoing, the State respectfully requests that the Court deny Defendant's motion in limine re: Renee Girard.

RESPECTFULLY SUBMITTED this 2 day of March, 2012.

Sheila Sullivan Polk
YAVAPAI COUNTY ATTORNEY

By: Steven A. Young
Steven A. Young
Deputy County Attorney

COPY of the foregoing **emailed** this 2nd day of March, 2012, to:

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