

Craig Williams, Attorney at Law, P.L.L.C.
State Bar #014929
P.O. Box 26692
Prescott Valley, AZ 86312
Email: craigwilliamslaw@gmail.com
tel.: (928) 759-0000
fax: (928) 441-1121

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2020 FEB -5 PM 4: 32 ✓

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BY: _____

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI**

STATE OF ARIZONA,) P1300CR201600476
)
Plaintiff,)
)
vs.) NOTICE OF INTENT TO USE
) STATEMENTS OF AN UNAVAILABLE
) WITNESS: DEAN KNIGHT
ANTHONY RICHARDS)
)
Defendant.)
) (Hon. Tina Ainley)
)
_____)

The Defendant, by and through Counsel undersigned, seeks admission of testimony from Det. McDormett¹ and Det. Diffendaffer² concerning interviews with Dean Knight. Mr. Knight is deceased, but is a crucial witness for the Defense.

The material details regarding Mr. Knights's statements are as follows:

- 1) Dean Knight stated he did not see Anthony with a gun. (McDormett report, pg. 7);
- 2) Dean Knight stated he was not aware that Powers had a 9mm pistol. He has never seen Richards with a pistol and Richards has never said anything about a pistol. (Diffindaffer report, pg. 15).
- 3) Dean Knight stated that Powers is a "jerk" and "a nut." Anthony Richards knew not to bring Powers around because they didn't like him (Powers). (Diffindaffer report, pg. 14);

¹ April 13, 2007.

² September 14, 2007, and September 27, 2007.

- 4) Dean Knight's recorded September 27, 2007 interview with Det. Diffendaffer;
- 5) Dean Knight's transcript of interview with Det. Diffendaffer on September 14, 2007.

Mr. Knight's interviews with Det. Diffendaffer are admissible under the following Arizona Rules of Evidence: Rule 804(a)(4), unavailable witness; Rule 806, Attacking and supporting the declarant's credibility; and Rule 807, "Residual exception," which states:

(a) In general. – Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803 or 804:

(1) the statement is supported by sufficient guarantees of trustworthiness – after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and

(2) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

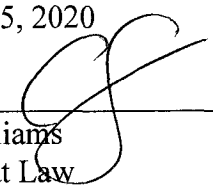
(b) Notice – The statement is admissible only if the proponent gives an adverse party reasonable notice of the intent to offer the statement including its substance and the declarant's name – so that the party has a fair opportunity to meet it. The notice must be provided in a writing filed with the court before the trial or hearing – or in a filing during the trial or hearing if the court, for good cause, excuses a lack of earlier notice.

Mr. Knight's statements are impeachment of Joan Shattuck's and Diane Jensen's depositions. See: Rules 801(d)(1), 607, and 613 (Witness's prior statement).

CONCLUSION

For all of the reasons stated above, the statements made to Det. Diffendaffer and Det. McDormett by Dean Knight should be admitted at Trial.

RESPECTFULLY SUBMITTED this February 5, 2020



Craig Williams
Attorney at Law

Copies of the foregoing delivered this date to:
Hon. Tina Ainley, Judge of the Superior Court
Josh Fisher, Yavapai County Attorney's Office

By:  _____