

L. KIRK NURMI #020900
LAW OFFICES OF L. KIRK NURMI
2314 East Osborn
Phoenix, Arizona 85016
602-285-6947
nurmilaw@gmail.com

JENNIFER WILLMOTT #016826
Willmott & Associates, PLC
845 N. 6th Ave.
Phoenix, AZ 85006
602-344-0034
jwillmott@willmottlaw.com

THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,

Plaintiff,

JODI ARIAS

Defendant.

No. CR2008-031021-001

**DEFENDANT'S MOTION TO
COMPEL**

(Hon. Sherry Stephens)

Ms. Arias, pursuant to Rule 15.1, Arizona Rules Of Criminal Procedure, Brady v. Maryland, 373 U.S. 667 (1963), Skipper v. South Carolina, 476 U.S. 1 (1986) and the rights due her pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article 2, Sections 4, 10, 15, 23, 24 and 30 of the Arizona Constitution, hereby moves that the prosecutor make available to the defendant any and all forensic

reports generated by any member of the Mesa Police Department and/or anyone working on their behalf whose work is related to evidence item #390633 aka Mr. Alexander's laptop computer.

MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT FACTS

On November 21, 2014, December 4, 2014, and December 11, 2014, this court held evidentiary hearings related to Ms. Arias' Motion to Dismiss. The subject matter of this particular motion related to the State's mishandling of Mr. Alexander's hard drive and how said mishandling lead to evidence being modified, altered or deleted. Additionally, this motion dealt with the State's decision to proffer the testimony of Detective Melendez, both during Ms. Arias' guilt phase trial and that the hard drive at issue did not contain pornography.

During the testimony provided to the court the State accused Mr. Neumeister of placing the pornography on the computer because of what he did with his working copy of this hard drive. These accusations were made despite the fact that the Mesa Police Department's own investigators, Detectives Smith and Brown, per the testimony of Detective Smith, both concluded that the image of #390633 made on June 11, 2008 and/or that made in December of 2009, contained the same file logs related to pornography that Mr. Neumeister was accused of putting on the computer. Of further note is the fact that, Detective Smith also made substantially similar admissions during the interview he participated in on December 10, 2014. This motion then seeks to compel the reports of Detectives Brown and Smith as well as the report generated by Detective Melendez as these reports contain exculpatory evidence. Furthermore, as the State has evidenced a history of sending computer evidence to other labs without Ms. Arias' knowledge herein, Ms. Arias is also requesting

that this court compel the State to disclose any and all information related to whom, if anyone, was retained by the State to analyze this drive and their reports as well.

II. LAW AND ARGUMENT

Based on both the testimony mentioned above as well as the admissions Detective Smith made during his December 10, 2014, interview, the State is in possession of evidence that Ms. Arias is entitled to pursuant to Rule 15.1, Arizona Rules of Criminal Procedure, Brady v. Maryland, 373 U.S. 667 (1963) and Skipper v. South Carolina, 476 U.S. 1 (1986). Thus, Ms. Arias comes before the court seeking an Order compelling the State to provide these reports to her immediately. Furthermore, given that the State has not yet complied with the automatic disclosure provisions found in Rule 15.1, Arizona Rules of Criminal Procedure and is thus already violating the rights due Ms. Arias pursuant to the authorities mentioned above and the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article 2, Sections 4, 10, 15, 23, 24 and 30 of the Arizona Constitution, Ms. Arias would request that any Order to Compel these reports be supported by meaningful sanctions up to and including dismissal of all charges.

III. CONCLUSION

In not disclosing the reports of Detectives Melendez, Brown and Smith related to their work on evidence item number 390633, the State is currently violating the dictates of Rule 15.1, Arizona Rules Of Criminal Procedure, Brady v. Maryland, 373 U.S. 667 (1963),

Skipper v. South Carolina, 476 U.S. 1 (1986) and the rights due Ms. Arias pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article 2, Sections 4, 10, 15, 23, 24 and 30 of the Arizona Constitution. Such a violation would be just as dire if the State had others analyze this item without Ms. Arias' knowledge. Thus, Ms. Arias comes before this court asking that actions be taken to cure the continued violation of her rights. Specifically, Ms. Arias asks this court to compel the immediate disclosure of the reports listed above and that the Court's Order be supported by the threat of meaningful sanctions, up to and including the dismissal of all charges.

RESPECTFULLY SUBMITTED this 31st day of December, 2014.

By: /s/ L. Kirk Nurmi
L. KIRK NURMI
Counsel for Ms. Arias

Copy of the foregoing
Filed/Delivered this 31st
day of December, 2014, to

THE HONORABLE SHERRY STEPHENS
Judge of the Superior Court

JUAN MARTINEZ
Deputy County Attorney

By /s/ L. Kirk Nurmi
L. Kirk Nurmi
Counsel for Ms. Arias