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

STATE OF ARIZONA,
Plaintiff,

v.

ARLENA WILLES,
Defendant,

J.Z.,
Crime Victims.

CR2019-005397-001

**MOTION TO STRIKE AND
REQUEST FOR ORDER TO
REMOVE**

Crime Victim, J.Z., by and through undersigned counsel, requests that this Court strike Defendant's pro per motion as she is represented by counsel, and admonish defendant for filing a motion containing confidential information about the victim. The crime victim hereby invokes and asserts these rights pursuant to the Victims' Bill of Rights, Article II, Section 2.1 of the Arizona Constitution, Title 13, Chapter 40, Arizona Revised Statutes, and Rule 39 of the Arizona Rules of Criminal Procedure.

Respectfully Submitted August 24, 2020

By _____
Robert Swinford
Attorney for Crime Victim
Arizona Voice for Crime Victims

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MEMORANDUM OF POINTS AND AUTHORITIES

On August 10, 2020, a Defendant Arlena Willes filed a pro per motion which contained the victim's full name. Defendant Willes is currently represented by Court appointed counsel. This is not the first time the Defendant has filed a pro per motion. Defendant previously filed pro per motions on July 22, 2019, August 2, 2019, August 27, 2019, September 12, 2019, and December 11, 2019. On June 10, 2020, at a pretrial hearing, the Court admonished defendant in regards to posting the victim's information on a 3rd party website and that this information should have never been shared.

“To preserve and protect victims’ rights to justice and due process, a victim of a crime has a right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.” Ariz. Const. art. II, § 2.1(A)(1). The people, through their legislative power, enacted the Victims’ Bill of Rights (VBR). *State v. Roscoe*, 185 Ariz. 68, 72, 912 P.2d 1297, 1303 (Ariz. 1996) (noting that an extensive Victims’ Rights Implementation Act (VRIA) was passed in 1991). The VBR vested the Arizona legislature with the authority to enact substantive and procedural laws to “define, implement, preserve, and protect” the rights guaranteed to victims. Ariz., Const. art. II, §2.1(D); *Roscoe* at 73, 1302; *State v. Stauffer*, 203 Ariz. 551, 553, 58 P.3d 33, 35 (App. 2002) (noting that VRIA expands on concepts set forth in the VBR). Furthermore, the victims have the right to have all rules governing criminal procedure and the admissibility of evidence protect victims’ rights. Ariz. Const. art. II, § 2.1 (A)(11).

1 The child-victim has an express right to privacy under the Arizona Constitution.
2 Ariz. Const. art. II, § 8. The provisions of the Arizona Constitution are mandatory, unless
3 by their express word they are declared to be otherwise. Ariz. Const. art. II, § 32. Thus,
4 by virtue of becoming a crime-victim, the child-victim has not forfeited his state
5 constitutional right to privacy. Additionally, the United States Supreme Court has found
6 an implied right to privacy within the bounds of the Federal Constitution. See generally
7 *Roe v. Wade*, 410 U.S. 113 (1973). It is established that individuals have a privacy interest
8 in avoiding disclosure of personal matters. *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977).
9

10 In the present case, the displaying the victim's name in this motion is a violation of
11 victims' rights. Posting the victim's name violates his right to be treated with fairness,
12 respect and dignity, and to be free from intimidation, harassment, and abuse. Defendant
13 was previously admonished by this Court regarding displaying the minor victim's name
14 publicly. Lastly, Defendant is not pro per and is currently represented by counsel.
15

16 **III. CONCLUSION**

17 The victim's request that the Court strike the motion filed with the Superior Court
18 and issue an order that Arlena Willes refrain from distributing, posting, or displaying
19 confidential and medical information of the victim. The information displayed in the
20 motion is in direct violation of the child-victim's rights.
21

22 Respectfully Submitted August 24, 2020.

23 By _____
24 Robert Swinford
25 Attorney for Crime Victim
Arizona Voice for Crime Victims

1 ORIGINAL mailed to be filed this 24th day of August, 2020
2 to the Clerk of the Court

3 COPIES of the foregoing e-mailed/delivered
4 this 24th day of August, 2020 to:

5 Honorable Geoffrey H. Fish
6 Judge of the Superior Court
7 JA: carole.ruelas@jbazmc.maricopa.gov

8 Frankie Grimsman
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