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5 *Attorney for Defendant WILLES*

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

7 **IN AND FOR THE COUNTY OF MARICOPA**

8 STATE OF ARIZONA,

9 Plaintiff,

10 vs.

11 ARLENA WILLES,

12 Defendant.

No: CR2019-005397-001

**DEFENDANT'S RESPONSE TO
STATE'S MOTION TO PRECLUDE
DIMINISHED CAPACITY DEFENSE**

**(Assigned to the Honorable Jeffrey
Fish)**

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17 COMES NOW the Defendant, ARLENA WILLES, by and through counsel
18 undersigned, respectfully agrees that the State of Arizona does not recognize Diminished
19 Capacity as a defense, however, the State of Arizona does recognize that the Defendant
20 has a Due Process right to present a defense.
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22 The constitutional rights to due process and confrontation guarantee a criminal
23 defendant “ ‘a meaningful opportunity to present a complete defense.’ ” *Crane v.*
24 *Kentucky*, 476 U.S. 683, 690, 106 S.Ct. 2142, 90 L.Ed.2d 636 (1986), quoting *California*
25 *v. Trombetta*, 467 U.S. 479, 485, 104 S.Ct. 2528, 81 L.Ed.2d 413 (1984). A defendant's
26

1 right to present relevant evidence is not unlimited, but rather is subject to reasonable
2 restrictions. *Taylor v. Illinois*, 484 U.S. 400, 410, 108 S.Ct. 646, 653-654, 98 L.Ed.2d
3 798 (1988); *Rock v. Arkansas*, 483 U.S. 44, 55, 107 S.Ct. 2704 2711, 97 L.Ed.2d 37
4 (1987); *Chambers v. Mississippi*, 410 U.S. 284, 295, 93 S.Ct. 1038, 1045-1046, 35
5 L.Ed.2d 297 (1973).
6

7 Defense counsel will be challenging the elements of the offenses for which the
8 State has charged the Defendant. Specifically, the State has charged the Defendant with
9 intentional/knowing acts. In order for a jury to determine if the State has proven its case
10 or not, questions challenging whether the acts were committed intentionally/knowingly
11 are pertinent. Defense counsel is not opposed to the Trial Court providing guidance as to
12 what will be permitted.
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17 **RESPECTFULLY SUBMITTED** this 11th day of April, 2021.

18 **RICK G. TOSTO, P.C.**

19
20 /s/ Rick G. Tosto

21 Rick G. Tosto

22 P.O. Box 24397

23 Phoenix, Arizona 85074

24 **ORIGINAL** of the foregoing filed
25 with:

26 The Clerk of the Court

1 **COPY** of the foregoing sent
this 11th day of April, 2021 to:

2 **HONORABLE JEFFREY FISH**

3 Maricopa County Superior Court

4 175 W. Madison Street

5 Phoenix, Arizona 85003

6 **FRANKIE GRIMSMAN**

7 **TRACEY GLEASON**

8 Maricopa County Attorney's Office

9 225 W. Madison,

10 Phoenix, AZ 85003

11 By /s/ Rick G. Tosto