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7 **IN THE ARIZONA SUPERIOR COURT**
8 **FOR THE COUNTY OF PIMA, STATE OF ARIZONA**

9 STATE OF ARIZONA,
10 Plaintiff,

11 v.

12 LANE MYERS,
13

14 Defendant.
15

Case No. CR20251454-001

**MOTION TO DISMISS PETITION OR IN
THE ALTERNATIVE, MOTION FOR BILL
OF PARTICULARS**

Assigned: Hon. D. Metcalf

16
17 COMES NOW the Defendant, LANE MYERS, by and through undersigned counsel and
18 hereby moves to dismiss the State's Revocation Petition for vagueness and lack of notice of the
19 specific facts leading to the charges. In the alternative, the defense would request that the court
20 grant the defense motion for a bill of particulars in order to obtain the specific information necessary
21 to prepare a cogent defense.
22

23 This motion is supported by the attached Memorandum of Points and Authorities.
24
25
26

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENTS OF FACT:**

3 The defendant has been charged by the state with violating probation condition 15 (as filed by
4 adult probation). The state makes four allegations that are alleged to have been encompassed by
5 Condition 15, which reads:
6

7 Do not contact the victim, her family, go to their home, her place
8 of employment, or encourage others to do so. Do not engage in
9 activities that would be reasonably expected to cause others to
10 harass or contact the victim or her family. Remove all videos from
11 streaming services, YouTube, and social media that mentions the
12 victim or her family, including identifying information about them.
13 Allow APO full access to your YouTube channel and other social
14 media services to determine whether you are abiding by these
15 conditions. Do not associate with or communicate with 1) Joshua
16 Gray or 2) Matt Kelly. Do not post information about the victim
17 and her husband or two minor children on YouTube or other social
18 media.

19 Condition 15, Uniform Conditions of Supervised Probation.

20 The disclosure in this matter was approximately 80-100 hours of video taken from various
21 YouTube channels. Only two of the YouTube channels are associated to the defendant.

22 At the initial appearance and arraignment of the ROP petition, defense counsel requested that,
23 because the state had clearly reviewed the videos to determine if violations existed, and further
24 determined violations did occur, that the state knew where in the hours of video the alleged violative
25 conduct could be located. The state indicated that they would provide that disclosure.

26 To date, counsel has received a two-page bullet point document entitled "LM DIRECT
VIOLATIONS OF CONDITIONS OF PROBATION", typed by Mr. Walker, according to Ms. Stiles.
However, the videos provided by the state do not match (by date or name) the videos referenced on
Mr. Walker's document.

1 When defendant's counsel contacted the state requesting the videos and timestamps of the
2 alleged conduct, counsel was referred back to Mr. Walker's document, When counsel pointed out
3 that Walker's document does not match the videos provided, and again requested a more definitive
4 statement, Ms. Stiles replied that she was not going to share her strategy.
5

6 Defense counsel now brings this motion as the state has refused, through almost 100 hours of
7 video, to point out what conduct constitutes the violations. This disclosure does not reveal strategy- it
8 provides notice.
9

10 **STATEMENTS OF LAW:**

11 *A. This Charge is Unconstitutionally Vague*

12 The "notice" requirement of the Sixth Amendment to the United States Constitution, states
13 that in any criminal prosecution, "the accused shall enjoy the right ... to be informed of the nature and
14 cause of the accusation. Therefore, an indictment or an information must describe the offense with
15 sufficient specificity to allow the defendant to properly prepare a defense and protect himself against
16 double jeopardy. *United States v. Cruikshank*, 92 U.S. 542, 558, 23 L.Ed. 588 (1875). In the
17 instant case, the State has failed to relate any "facts" as required by the sixth amendment's notice
18 requirement, to notice the Defendant of the specific conduct/offense he must defend at his revocation
19 hearing. He is simply placed on notice of the violation occurred. There is no mention of what
20 subset violation in Condition 15 was violated, nor by what conduct. The disclosure of
21 approximately 100 hours of video does not make that any more clear.
22

23 The vagueness of the instant allegation destroys the Defendant's substantial right to defend the
24 charges presented in the revocation petition, as it prevents him from properly presenting his defense,
25 takes him unfairly by surprise, and/or possibly exposes him to other legal jeopardy. *See, ie. United*
26

1 *States v. Bolzer* 556 F. 2d 948 (9th Cir. 1979); *United States v. Anderson*, 532 F. 2d 1218 (9th Cir.),
2 *cert. denied*, 429 U.S. 839, 97 S. Ct. 111, 50 L. Ed. 2d 107 (1976); *United States v. Chavez*, 845 F. 2d
3 219 (9th Cir. 1988). The abrogation of this basic right is far too serious to be treated as nothing
4 more than a variance, and then dismissed as harmless error. Defendant is left to guess at what conduct
5 the state alleges is as violation.
6

7 The defendant likewise notes that, while the subsequent disclosure contains numerous
8 statements made by the defendant over a period of time, there is a single charge in the revocation
9 petition covering a large period of time. Accordingly, the defendant cannot possibly guess which
10 statement the state believes constituted a violation.

11 Accordingly, the state must notify the defendant of the specific statement he made that the
12 state alleges constitutes a violation. Such is absent in this case. All that is required of the state is to
13 identify the video by the name it was disclosed and then provide the timestamps for any alleged
14 violations. If the state filed a separate petition alleging additional probation violations, then certainly
15 the state knows which video contains the violation and what time on the video it occurs. If the state
16 filed the allegations with this court, then the state should already have this information in its
17 possession.
18

19 B. *Bill of Particulars*
20

21 For a charging document to be sufficient, it must contain all the elements of a crime and
22 adequately apprise the defendant of what she must be prepared to meet. *See Russell v. United States*,
23 369 U.S. 749, 763B766, 82 S.Ct. 1038, 8 L.Ed.2d 240 (1962). When the charging document is vague
24 and indefinite, a bill of particulars is warranted. *United States v. Addonizio*, 451 F.2d 49, 64 (3d
25 Cir.1971). The *Addonizio* court stated:
26

1 The purpose of the bill of particulars is to inform the defendant of the
2 nature of the charges brought against him to adequately prepare his
3 defense, to avoid surprise during the trial and to protect him against a
second prosecution for an inadequately described offense.

4 *Id.* at 63B64, quoting *United States v. Tucker*, 262 F.Supp. 305, 308 (S.D.N.Y.1966). In other
5 words, it is used as a vehicle of specifying the facts of the case to support the charges, that were too
6 vague in the charging document.

7 The Defendant is not attempting to have the State divulge its theories of how it intends to
8 prove the case against the Defendant. The Defendant is, however, attempting to obtain information
9 with respect to the time, date, places, and acts that exist to support the violation allegations. A
10 request for discovery, i.e., names of witnesses, etc. is not the purpose of a bill of particulars, nor is it
11 what the Defendant is seeking in this case. Rather, the Defendant has a “constitutional right ... to
12 know the offense with which he is charged.” *United States v. Kendall*, 665 F.2d 126, 135 (9th Cir.
13 1981).

14
15 WHEREFORE, in the instant case, the charges are so vague the defendant cannot defend
16 against those charges. He cannot divine on his own which statements the state alleges to be a
17 violation that runs afoul of the probation condition at issue. There is a single count, yet numerous
18 statements alleged. In fact, there are criminal statements alleged which are not recited in the
19 disclosure at all.

20
21 Accordingly, the petition should be dismissed, or in the alternative, a bill of particulars should
22 be granted to provide sufficient notice of the facts and conduct that were determined by the State to
23 be sufficient to charge the Defendant. It should be of no burden to the state to come forward with
24 this information. They must have it in their possession, for the defendant cannot believe the state
25 would ever have filed unsupported and untested allegations with this court.
26

1
2 RESPECTFULLY SUBMITTED this _23d_ day of July, 2026.

3
4 **RESNICK LAW GROUP, PLLC.**

5 By: /s/ Mark R. Resnick
6 Mark R. Resnick
7 Attorney for Defendant

8 Electronically Filed and electronically distributed to the following parties:
9

10 Clerk of the Court
PIMA COUNTY SUPERIOR COURT

11 The Honorable D. Metcalf
PIMA COUNTY SUPERIOR COURT

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