

1 JON M. SANDS
Federal Public Defender
2 District of Arizona
850 W. Adams, Suite 201
3 Phoenix, Arizona 85007
Telephone: 602-382-2700

4 JEFFREY A. WILLIAMS, #012605
Asst. Federal Public Defender
5 Attorney for Defendant
6 jeffrey_williams@fd.org

7 IN THE UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9 United States of America,
10 Plaintiff,
11 vs.
12 Beatrice Denise Welsh,
13 Defendant

No. CR-16-325-PHX-DLR

**REPLY TO GOVERNMENT'S
RESPONSE TO DEFENDANT'S
MOTION TO PRECLUDE
STATEMENTS**

Defendant Out of Custody

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16 The defendant, Beatrice Denise Welsh, through undersigned counsel
17 replies to the Government's Response to Defendant's Motion to Preclude
18 Statements and moves the Court to grant the Defendant's Motion to Preclude
19 Statements for the reasons set forth below.
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22 In its response to the defendant's motion to preclude the government
23 cites *In re Grand Jury Proceedings*, 801 F.2d 1164 (9th Cir. 1986) and *United*
24 *States v. Meagher*, 531 F.2d. 752 (5th Cir. 1976), for the proposition that "there
25 exists no physician-patient testimonial privilege under federal law." However,
26 those line of cases were abrogated by *Jaffe v. Redmond*, 581 U.S. 1, 116 S.Ct. 1923
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1 (1996) where the Supreme Court held that federal law does recognize the privilege
2 protecting communications between psychotherapists and their patients and found
3 that statements made by a patient/police officer to a licensed social worker in the
4 course of psychotherapy were protected from compelled disclosure.
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6 In the present case, the defendant was arrested and taken to Parker
7 Indian Health Services Hospital so that she could be medically cleared for
8 incarceration and not because she requested medical attention. She was placed in
9 the custody of CRIT Police Officer Michelle Iszick and transported to the
10 emergency room to be examined and cleared. Officer Iszick never advised the
11 defendant that she could refuse to be examined nor did she advise the defendant of
12 her Miranda rights. Further Officer Iszick remained in the room during the
13 examination and listened in on the defendant's conversation with the treating
14 physician.
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19 The government now seeks to introduce at trial statements made by
20 the defendant to the treating physician. To do so would violate the physician-
21 patient privilege as well as the defendant's Fifth Amendment rights pursuant to
22 *Miranda*.
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