

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR 1989-012631

04/09/2014

HON. ROSA MROZ

CLERK OF THE COURT
J. Matlack
Deputy

STATE OF ARIZONA

VINCE H IMBORDINO

v.

DEBRA JEAN MILKE (A)

MICHAEL D KIMERER
LORI L VOEPEL

CAPITAL CASE MANAGER

RULING

The Court has considered the Defendant's Motion for Reconsideration of Under Advisement Ruling Denying Defendant's Motion to Dismiss on Double Jeopardy Grounds filed on February 14, 2014; the State's Response filed on March 14, 2014; and the Defendant's Reply filed on April 4 2014. The Court does not need oral argument to decide this Motion. The Court affirms its conclusion that the remedy imposed by the Ninth Circuit: disclosure of the impeachment materials and a new trial, are sufficient. The Court is further guided by the Ninth Circuit:

We have never addressed whether a defendant can invoke the Double Jeopardy Clause due to a prosecutor's alleged *Brady* violation. Other circuits, however, have explicitly held that defendants may not invoke the Double Jeopardy Clause in such circumstances. We agree with the conclusions of those circuits.

United States v. Lewis, 368 F.3d 1102, 1107 (9th Cir. 2004).

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IT IS ORDERED denying the Defendant's Motion for Reconsideration of Under Advisement Ruling Denying Defendant's Motion to Dismiss on Double Jeopardy Grounds.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.