

ANDREW P THOMAS  
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Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
BRIAN ALLEN WILKINS,	)	CR2008-145947-001 SE
	)	
Defendant.	)	STATE'S ALLEGATION OF AGGRAVATING
	)	CIRCUMSTANCES OTHER THAN PRIOR
	)	CONVICTIONS
	)	
	)	(Assigned to the Honorable
	)	David Udall, Div. Crj05)

The State of Arizona, by and through undersigned counsel, pursuant to A.R.S. § 13-702, A.R.S. § 13-702.01, and Rule 13.5, Arizona Rules of Criminal Procedure, amends the Indictment in CR2008-145947-001 SE to allege the following aggravating circumstances. Any additional aggravating circumstances will be alleged in a reasonable time after they become known to the state.

- The offense(s) caused physical, emotional or financial harm to the victim or, if the victim died as a result of the conduct of the defendant, caused emotional or financial harm to the victim's immediate family.
- The Defendant's misconduct rises to a level beyond that which is necessary to establish an element of the underlying offense(s). *State v. Long*, 207 Ariz. 140 (App. 2004); *State v. Germain*, 150 Ariz. 287 (App. 1986)
- The Defendant used more force than necessary to commit the offense(s). *State v. Gomez*, 211 Ariz. 494 (2005).
- The offense(s) involved multiple victims in a single incident. *State v. Tschilar*, 200 Ariz. 427, 435 (App. 2001); *State v. Aleman*, 210 Ariz. 232 (App. 2005); *State v. Glassel*, 211 Ariz. 33 (2005)

- The Defendant had an opportunity to walk away from a confrontation. *State v. Harvey*, 193 Ariz. 472 (App. 1998)
- The Defendant's actions had a deliberate quality in this serious offense. *State v. Harvey*, 193 Ariz. 472 (App. 1998)
- The Defendant threatened to kill the victim if the victim did not cooperate with the defense. *State v. Ellis*, 117 Ariz. 329, 335 (1977)

Finally, if the jury convicts the defendant of multiple felony counts that are not used to enhance the sentence under A.R.S. § 13-702.02 or the defendant has felony convictions that were not used to enhance the sentence under § 13-604, the state intends to allege the multiple convictions as an aggravating circumstance.

Respectfully submitted September \_\_\_, 2008.

ANDREW P THOMAS  
MARICOPA COUNTY ATTORNEY

BY: /s/  
/s/ Lynn Krabbe  
Deputy County Attorney

Copy mailed\delivered  
September \_\_\_, 2008,  
to:

The Honorable David Udall, Div. Crj05  
Judge of the Superior Court

Michael Ziemba  
Public Defender  
Ste. 150  
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Mesa, AZ 85210  
Attorney For Defendant

BY: /s/  
/s/ Lynn Krabbe  
Deputy County Attorney

/s/

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/s/ Lynn Krabbe

Deputy County Attorney