

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF LYON

FIFTH JUDICIAL DISTRICT

CRIMINAL COURT DIVISION  
Court File No. 42-CR-08-220

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State of Minnesota,  
  
Plaintiff,

vs.

DEFENDANT'S NOTICE OF MOTION  
AND MOTION TO SUPPRESS STATEMENTS  
BASED UPON UNLAWFUL  
INTERROGATION

Olga Marina Franco del Cid  
aka  
Alianiss Nunez Morales,  
  
Defendant.

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To: Lyon County District Court, Criminal Division, Lyon County Government Center, 607  
West Main Street, Marshall, MN 56258;

and: Lyon County Attorney's Office, Attention: Rick Maes, Lyon County Attorney, 607 West  
Main Street, MN 56258.

NOTICE OF MOTION

YOU WILL PLEASE TAKE NOTICE that Olga<sup>^</sup> Franco del Cid, by and through her attorney,  
Manuel P. Guerrero, will move this honorable court for an order to suppress statements obtained  
by the unlawful and unconstitutional interrogation of Ms.<sup>^</sup> Franco del Cid, and to suppress all evidence  
based upon those statements.

The Contested Omnibus Hearing is now scheduled for ~~Monday~~<sup>Tuesday</sup>, ~~April 21~~<sup>22</sup>, 2008<sup>10</sup> at 8:30  
a.m. or as soon thereafter as counsel may be heard, at the Lyon County Government Center,  
located at 607 West Main Street, Marshall, MN 56258.

FILED IN THIS OFFICE

4-2-08

Karen J. Bierman  
COURT ADMINISTRATOR  
Marshall, Lyon County, Minnesota

MOTION

COMES NOW Olga<sup>Franco</sup> del Cid, by and through her attorney, Manuel P. Guerrero, and hereby requests an Order from this honorable court as follows:

1. To suppress the statements made by Ms.<sup>Franco</sup> del Cid in this case based upon the unlawful and unconstitutional interrogation of Ms.<sup>Franco</sup> del Cid; and
2. To suppress any evidence obtained by the interrogation of Ms.<sup>Franco</sup> del Cid.

This Motion is made pursuant to:

1. Rule 10.01; 10.04; and 11.03 of the Minnesota Rules of Criminal Procedure;
2. Fifth Amendment of the United States Constitution; and, Article I, Section 7 of the Minnesota State Constitution;
3. For statements made on 19 February 2008 and on 21 February 2008: *Miranda v. Arizona*, 384 U.S. 436 (1966); *State v. Wiernasz*, 584 N.W.2d 1 (Minn. 1998) (in-custody interrogation requires warnings); *Berkemer v. McCarty*, 468 U.S. 420, 104 S.Ct. 3138 (1984); *State v. Edozo*, 578 N.W.2d 719 (Minn. 1998) (responses to in-custody interrogation without *Miranda* warnings are suppressed); *State v. Scales*, 518 N.W.2d 587 (Minn. 1994) (requiring audio recording); *State v. Hannon*, 636 N.W.2d 796 (Minn. 2001) (The state bears the burden of demonstrating that any claimed waiver of *Miranda* rights was knowing, voluntary and intelligent).
4. For the statement made on 21 February 2008: *Edwards v. Arizona*, 451 U.S. 477 (1981); *State v. Munson*, 594 N.W.2d 128 (Minn. 1999) (requiring the cessation of all interrogation upon an unequivocal request for counsel).

This Motion is based upon all the court files and records in the above entitled matter.

You are informed that responsive pleadings shall be served and mailed to or filed with the Court Administrator no later than three days prior to the scheduled hearing. The court may, in its discretion disregard any responsive pleadings served or filed less than three days prior to the hearing.

Dated: 31 March, 2008

RESPECTFULLY SUBMITTED,



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Manuel P. Guerrero (38520)  
Attorney for Defendant  
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St. Paul, MN 55102  
(651) 587-2158