

FILED
DISTRICT COURT OF
GRANT COUNTY NM

2018 JUN 14 AM 9:29

STATE OF NEW MEXICO
COUNTY OF GRANT
SIXTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,
Plaintiff,
vs.

ISAIAS LOBATO-RODRIGUEZ
Defendant.

NO. D-608-GR-201700069

JUDGE JAROD K. HOFACKET

MOTION TO SUPPRESS

COMES NOW, the defendant, Isaias Lobato-Rodriguez, through his attorney of record, George Harrison and respectfully moves this Court to suppress all statements made by the defendant in violation of his rights under the United States Constitution and the New Mexico Constitution. As grounds for this motion, Defendant states:

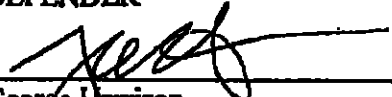
1. This case is currently set for Trial on June 25, 2018.
2. The defendant is a Mexican national with little education who speaks Spanish.
3. The defendant was detained as an illegal alien by Border Patrol Agent John Enriquez shortly after 4:30 pm on March 17, 2017.
4. John Enriquez never advised the defendant of his Miranda rights.
5. The defendant was never told he was free to leave.
6. The defendant was questioned and made incriminating statements.
7. Border Patrol Agent Adrian Garcia arrived and continued the questioning. The defendant made additional incriminating statements.
8. Agent Garcia then advised the defendant of his Miranda rights and questioning ceased.
9. The BP watch commander advised all agents to stop questioning at the scene.
10. The defendant was taken to a State Police facility in Deming NM and advised of his rights by Agent Mascorro. The defendant asserted his right to an attorney and no further questions were asked.

ARGUMENT

The defendant has a right against self-incrimination under the United States Constitution, Amendment V, and the New Mexico Constitution Art. II, Section 15. The defendant has a right to a hearing on this motion. State v. Lacour, 1973-NMCA-022. The statements made prior to Miranda warnings should be suppressed. State v. Olivas, 2011-NMCA-030.

WHEREFORE the defendant prays for this Honorable Court to grant the defendant a hearing on his motion to suppress and to suppress all statements made prior to Miranda warnings.

Respectfully Submitted,
CONTRACT NEW MEXICO PUBLIC
DEFENDER


George Harrison
Contract Public Defender
703 Oro Viejo Rd.
Las Cruces, New Mexico 88011
Phone: 575-522-8000

CERTIFICATE OF DELIVERY/MAIL

I hereby certify that I have delivered a copy of the foregoing to opposing counsel on this 13th day of June 2018.


George Harrison