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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America, Plaintiff, vs. Michael Tsosie, Defendant.	CR 09-8022-PCT-JAT **ORDER**

On July 17, 2009, Defendant filed a request for a voluntariness hearing, "to determine the voluntariness of any statements the government intends to introduce at trial." Doc. #47.

"A hearing is not required on a motion to suppress if the grounds for suppression consist solely of conclusory allegations of illegality." *United States v. Ramirez-Garcia*, 269 F.3d 945, 947 (9th Cir. 2001) (citing *United States v. Wilson*, 7 F.3d 828, 834 (9th Cir. 1993)). "An evidentiary hearing on a motion to suppress [a confession] need be held only when the moving papers allege facts with sufficient definiteness, clarity, and specificity to enable the trial court to conclude that contested issues of fact exist." *United States v. Howell*, 231 F.3d 615, 620 (9th Cir. 2001) (citing *United States v. Harris*, 914 F.2d 927, 933 (7th Cir. 1990); *United States v. Irwin*, 612 F.2d 1182, 1187 n.14 (9th Cir. 1980); and *United States v. Carrion*, 463 F.2d 704, 706 (9th Cir. 1972)). Defendant cannot simply rely on the fact that the Government has the burden of proof to establish voluntariness. *See Howell*, 231 F.3d at 621 (affirming denial of evidentiary hearing where defendant "submitted a boilerplate motion

that relied wholly on the fact that the government has the burden of proof to establish adequate Miranda warnings"); *see also* L.R.Crim. 16.1(b).

In his Request for Voluntariness Hearing, Defendant did not allege any facts, much less facts "which, if proved, would allow the court to suppress the confession." *Id.* Thus, the Court will proceed with the hearing on August 4, 2009 on Defendant's motion to suppress statements (Doc. #26), but

IT IS ORDERED that Defendant's boilerplate request for a voluntariness hearing (Doc. #47) is denied.

DATED this 17th day of July, 2009.

James A. Teilborg
United States District Judge