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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 10 2014

IN AND FOR THE COUNTY OF MOHAVE VIRLYNN TINNELL  
CLERK SUPERIOR COURT  
BY: PSG DEPUTY

HONORABLE LEE F. JANTZEN  
DIVISION IV  
DATE: December 10, 2014

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CAPITAL CASE ASSIGNMENT AND SCHEDULING ORDER *gf*

STATE OF ARIZONA,  
Plaintiff,

vs.

NO. CR-2014-01193

JUSTIN JAMES RECTOR,  
Defendant.

The State filed Notice of Intent to Seek the Death Penalty on November 5, 2014. Rule 8.2(a)(4), Arizona Rules of Criminal Procedure, requires capital cases to be resolved within twenty-four (24) months from the date the State files a notice of intent to seek the death penalty pursuant to Rule 15.1(i). Article II, § 2.1 (10), Constitution of the State of Arizona, guarantees each victim the right to a speedy trial.

Rule 1.2, Arizona Rules of Criminal Procedure, provides:

These rules are intended to provide for the just, speedy determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration, the elimination of unnecessary delay and expense, and to protect the fundamental rights of the individual while preserving the public welfare.

The Arizona Rules of Criminal Procedure will be enforced to achieve those goals. Material facts and exhibits not disclosed may be precluded. Failure to timely disclose information required to be disclosed pursuant to Rules 15.1 and 15.2, Arizona Rules of Criminal Procedure, may result in sanctions being imposed. Counsel should assure that their respective disclosure statements and supplements are complete and comprehensive.



Accordingly,

**IT IS HEREBY ORDERED** setting the LAST DAY for jury trial as November 5, 2016.

**IT IS FURTHER ORDERED** pursuant to A.R.S. §§ 13-753 and 13-754, that Defendant undergo IQ, competency and sanity prescreening evaluations. The Court has already conducted a pre-screening based on a Rule 11 request that has preliminarily determined that Defendant is competent to stand trial. In the event an objection to testing is not filed by Defendant within ten business days of the date of this minute entry, the Court will appoint one or more experts to conduct additional prescreening evaluations regarding Defendant's intelligence quotient and whether Defendant was sane at the time Defendant allegedly committed the crimes charged.

**IT IS FURTHER ORDERED** setting trial on **Monday, October 17, 2016 at 9:30 a.m.** This is a firm trial date and will not be continued absent a "showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice." See Rules 8.2(d) and 8/5(b), Arizona Rules of Criminal Procedure. The trial date is being set early in the case to assist assigned counsel in resolving any scheduling conflicts.

Each retained expert should be informed of the trial date to confirm their availability in the event that the expert becomes a testifying witness. If an expert witness is not available at the time of trial, counsel should arrange to take a videotape deposition for presentation of that expert witness' testimony to the jury.

This Court has an obligation to facilitate that capital cases are tried in a timely manner by prepared counsel meeting qualifications set by the Supreme Court. Counsel for Defendant has already established on the record his qualifications under Rule 6.2. The Court has already ordered that a second chair be appointed to represent Defendant.

**IT IS THEREFORE ORDERED** setting a Rule 6.2 hearing on Wednesday, January 28 2015 at 1:30 p.m., to determine if second defense counsel is qualified to sit as second chair. At the hearing, proposed counsel shall provide the Court with

counsel's qualifications to defend as second chair in a capital case and be prepared to discuss the number of cases, capital and non-capital, in which they are currently counsel of record.

**IT IS FURTHER ORDERED** that the following disclosure schedule shall apply:

1. The State shall abide by the time limits set forth in Rule 15.1, and in particular, Rule 15.1(i), Arizona Rules of Criminal Procedure.
2. The Defendant shall abide by the time limits set forth in Rule 15.2, and in particular, Rule 15.2(h), Arizona Rules of Criminal Procedure. All mitigation evidence shall be disclosed in accordance with the requirements of Rule 15.2(h).
3. Alternatively, counsel may personally confer and present to the court at the next status conference on Wednesday January 28, 2015 at 1:30 p.m., a case management plan including a discovery and disclosure schedule which, if adopted by the court, will be the controlling schedule for the case. The case management plan proposed by counsel must accommodate the above trial date and last day.
4. The disclosure of each expert witness shall be accompanied by at least three dates on which the expert and the disclosing party's counsel are available for opposing counsel to conduct an interview of the expert witness.

The schedule established by the Arizona Rules of Criminal Procedure or adopted by the court may be deviated from by written agreement between counsel and approval of the judge, but any deviation from the time limits prescribed by the Arizona Rules of Criminal Procedure or the adopted case management plan shall not affect the last day or trial date.

Evidence, material facts or exhibits not fairly disclosed may be precluded from use at any phase of the trial.

**IT IS FURTHER ORDERED** that after the January 28, 2015 status conference but prior to the next scheduled case management conference, counsel who will try

the case shall personally meet and decide on a date by which all witness interviews shall be completed. This information will be in the status conference minute entry.

**IT IS FURTHER ORDERED** affirming status conference on Wednesday, January 28, 2015 at 1:30 p.m. The court will set subsequent case management conferences not more than every 60 days.

**IT IS FURTHER ORDERED** that at each subsequent case management conference, counsel shall submit a jointly agreed upon written case status report showing the progress made on the case. At a minimum, the report shall set forth the status of all forensic testing and the number of interviews completed. Failure to submit a written report may result in the imposition of sanctions.

At Defendant's counsel's request, an Order for Production of Mitigation Documents pertaining to acquisition of Defendant's records will be signed by the Judge and will be available for pickup at the Judge's chambers by Defendant's counsel, Defendant's mitigation specialist or an authorized representative of Defendant.

**IT IS FURTHER ORDERED** that all ex parte motions requesting additional orders for acquisition of mitigation evidence shall be submitted to the judge. Should an ex parte meeting with the judge to discuss the details of the mitigation work be deemed necessary, defense counsel may make that request pursuant to Rule 15.9(b), Arizona Rules of Criminal Procedure.

**IT IS FURTHER ORDERED** setting a final trial management conference on Tuesday, August 23, 2016 at 1:30 p.m.

**IT IS FURTHER ORDERED:**

1. No less than five (5) judicial days prior to the final management conference, counsel shall file:
  - A. Any trial memoranda, which will be in lieu of post-trial briefs unless otherwise requested by the Court at the conclusion of the trial.
  - B. Motions in limine, which must meet the test of State v. Superior

Court, 108 Ariz. 396, 499 P.2d 152 (1972): "The primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." Each motion shall be limited to one issue.

- C. A Joint Pretrial Statement. Objections to exhibits and deposition testimony may be waived unless set forth in the Joint Pretrial Statement.
- D. An agreed upon jury questionnaire.
- E. Proposed jury instructions. Prior to the due date for the proposed jury instructions, counsel shall personally consult for the purpose of preparing and submitting a joint request any non-uniform jury instruction, the Court requests that counsel provide a disk containing all non-uniform jury instructions in Word format.

Non-RAJI (Revised Arizona Jury Instructions – Criminal, 3<sup>rd</sup> Ed.) instructions should be typed, each on a separate page with a hearing (ie.: Defendant's instruction No. 2 etc.), and provide authority for the instruction. Please number each instruction consecutively, rather than leaving a blank space for someone else (such as the court) to number. Counsel should also submit a clean copy of each non-RAJI instruction.

- 2. Written response to a motion in limine may be filed no later than noon of the day before the final management conference.
- 3. At least three (3) days before the trial date, the trial lawyers or their knowledgeable assistants shall appear at the clerk's office to present all exhibits. The exhibits will be marked serially as they are listed in the LIST OF EXHIBITS which will be prepared by counsel and downloaded (saved) onto a CD in Microsoft Word and given to the clerk with the exhibits. The parties shall advise the division, referring specifically to the pretrial statement, which exhibits may be marked directly in evidence. All exhibits will be clearly marked to correspond with the list provided. Counsels are

directed to meet in person to exchange the exhibits before coming to court. Counsel will make sure that they do not bring to the clerk a set of exhibits that includes duplicate exhibits. Counsel should not reserve exhibit numbers for additional exhibits, miscellaneous demonstrative exhibits, and the like. Counsel shall also present original depositions for filing at that time. Written stipulations to admit specified exhibits in evidence are encouraged. If an objection to an exhibit is not stated in the pretrial statement, all objections are deemed waived and the trial judge will assume the exhibit may be marked directly in evidence.

4. All documents and pleadings described above shall be delivered or telefaxed to opposing counsel on the date they are delivered to the Court.
5. All motions other than motions in limine shall be filed at least sixty (60) days before the final pretrial management conference to allow sufficient time for briefing and oral argument. The trial will not be continued because a motion is pending.

cc:

Greg McPhillips\*  
Mohave County Attorney

Harry Moore\*  
Mohave County Public Defender

Mohave County Jail\*

Honorable Lee F. Jantzen  
Division IV