

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA **FILED**
TIME 3:20 AM
IN AND FOR THE COUNTY OF MOHAVE JUN 16 2015

HONORABLE LEE F. JANTZEN
DIVISION 4
DATE: JUNE 16, 2015

VIRLYNN TINNELL
CLERK SUPERIOR COURT
BY: ASG DEPUTY

COURT ORDER/NOTICE/RULING

STATE OF ARIZONA,
Plaintiff,

NO. CR-2014-01193

vs.

JUSTIN JAMES RECTOR,
Defendant.

The Court has reviewed recent motions and rules as follows:

1. Defense Motion to Preclude Overly Emotional Testimony

The Defendant seeks an order compelling the State to admonish all statutory Victims in this case against overly emotional displays in the courtroom. The State responds that to date, the Victims have not made emotional displays and the Defendant's motion is not ripe.

The Court expects that all spectators at Court proceedings will behave with the proper decorum. The Court will not anticipate whether any testimony and/or Victim impact evidence will cause any Victims or other spectators to display emotion during trial. The Defendant's anticipatory objection to an event that has not yet occurred is premature. If an objection is made at the appropriate time, the Court will rule on it.

IT IS THEREFORE ORDERED denying Defense Motion to Preclude Overly Emotional Testimony.

2. Defendant's Motion to Permit Mr. Rector to Appear in Civilian Clothing and Without Restraint at all Proceedings and all Pretrial/and/Trial Phases

The Defendant asks to be allowed to wear civilian clothing and be free of restraints at all Court proceedings. The Court finds defendant's request to be too broad. Neither the United States Supreme Court nor the Arizona Supreme Court has held that shackling of an in-custody Defendant and the wearing of jail garb during non-jury Court proceedings offends due process. *See also, United States v. Howard et al.*, 480 F.3d 1005 (9th Cir.



2007) (rules regarding shackling do not apply in proceedings before a judge, rather than a jury).

Regarding the trial proceedings, the Court will allow the Defendant to appear before the jury in civilian clothing and will conduct an Evidentiary Hearing shortly before trial to determine the necessity and extent of restraints to be worn by him. See *State v. Dixon*, 226 Ariz. 545, 250 P.3d 1174 (2011) (“We reiterate that judges should not simply defer to jail policy in ordering restraints of defendants. Rather, they should determine on a case-by-case basis whether security measures are required as to the particular defendant before them.”).

IT IS THEREFORE ORDERED denying Defendant’s Motion to Permit Mr. Rector to Appear in Civilian Clothing and Without Restraint at *all* Proceedings and all Pretrial/and/Trial Phases.

3. Defendant’s Motion in Limine: “Nexus” or Causation

Defendant moves *in limine* for an order precluding the State from offering any argument or evidence that he has failed to prove a nexus or causal relationship between any mitigation evidence and the offense.

The Arizona Supreme Court has permitted the State to argue that certain mitigating evidence should be given little weight because it has little relevance to the crime. This argument was addressed in *State v. Villalobos*, 225 Ariz. 74, 83, 235 P.3d 227, 236 (2010):

A jury cannot be precluded from hearing mitigation evidence because it lacks a causal nexus to the murder. *Tennard v. Dretke*, 542 U.S. at 274, 124 S.Ct. 2562 (2004). However, “there is no constitutional prohibition against the State arguing that evidence is not particularly relevant or that it is entitled to little weight.” *State v. Anderson*, 210 Ariz. 327, at 350 ¶¶ 97, 111 P.3d 369 (2005); see also *State v. Pandeli*, 215 Ariz. 514, 525–26 ¶¶ 31–32, 161 P.3d 557, 568–69 (2007). The jury may thus appropriately consider a lack of causal nexus

4. Defendant’s Motion to Delay Mental Health Testing

The Court has reviewed Defendant’s Motion to Delay Any Mental Health, I.Q., or Related Testing *until* Mr. Rector’s Medical, Mental Health and Treatment Records Can Be Gathered/Objection to Any Such Testing at This Time and rules as follows:

Pursuant to A.R.S. §§13-753 and 13-754, the Court ordered the Defendant to undergo competency and IQ prescreening evaluations if no objections to the testing were filed within ten business days. No objections were filed by Defendant’s former counsel. Defendant was evaluated for competency and found to be competent to proceed. Due to the change in defense counsel, the Court has held the IQ prescreening and insanity

evaluations in abeyance.

As stated in his motion, Defendant now objects to these evaluations. Both statutes provide that the evaluations shall not go forward if the Defendant objects.

IT IS THEREFORE ORDERED granting Defendant's Motion to Delay Any Mental Health, I.Q., or Related Testing *until* Mr. Rector's Medical, Mental Health and Treatment Records Can Be Gathered/Objection to Any Such Testing at This Time. Pursuant to A.R.S. §13-753(B), this waiver does not preclude the Defendant from offering evidence of his intellectual disability in the penalty phase.

cc:

Mohave County Attorney*

Mohave County Legal Defender*
Attorney for Defendant

Gerald T Gavin*
Attorney for Defendant

Mohave County Jail*

Honorable Lee F Jantzen
Division 4