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FILED
BY: *DA*
2017 JUL 19 PM 3:42
VIRLYNN TINNELL
SUPERIOR COURT CLERK

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MOHAVE**

10 **STATE OF ARIZONA,**

11 Plaintiff,

12 vs.

13 **JUSTIN JAMES RECTOR**

14 Defendant.

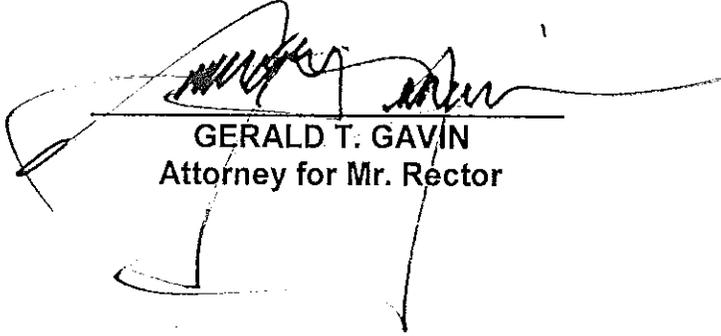
NO: CR 2014 - 01193

**DEFENSE COUNSEL'S MOTION TO
WITHDRAW AS ATTORNEY OF
RECORD**

(ASSIGNED TO THE HON. LEE JANTZEN)

15 Defendant Justin James Rector, by and through undersigned counsel, moves
16 this court to permit counsel to withdraw from representation of Justin Rector, for the
17 reasons and authority contained in the Memorandum of Point and Authorities attached
18 hereto and incorporated herein.
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20
21 **RESPECTFULLY SUBMITTED This 19th day of July, 2017.**

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23 
24 **GERALD T. GAVIN**
25 Attorney for Mr. Rector
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S8015CR201401193

MEMORANDUM OF POINTS AND AUTHORITIES

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2 Defense counsel Gerald Gavin is required to withdraw as counsel of record.
3 On Monday, July 10th, 2017 counsel became aware of an *ethical conflict* of interest
4 making further representation impossible. Counsel AVOWS that a conflict fatal to
5 ongoing representation exists. It cannot be resolved or avoided.

6 On that date, the defense team met and conferred and discussed how to best
7 proceed to protect the interests of client Justin Rector, first and foremost.

8 After discussion with co-counsel, it was determined that if Attorney Gavin
9 removes himself from further representation, the remaining members of the defense
10 team could remain in service to Justin, continue preparing his case for ongoing
11 negotiation and trial, if necessary, with a minimum of impact to Justin's case, and the
12 case schedule being set by the court.

13 Both Attorney Gavin, and co-counsel Julia Cassels, maintain any discussion with
14 the Court about the conflict will taint the ongoing process. Both attorneys maintain that
15 an ethical conflict exists, and any discussion will complicate and delay greatly the
16 proceedings; in doing so, it will certainly taint the case going forward. It will likely cause
17 the entire defense team to withdraw from further representation....creating a much
18 greater delay and interruption in the defense.

19 Both Attorneys are aware the Court would like to deny this motion and order the
20 case go forward without delay. To do so will cause certain complications that will
21 certainly result in counsel leaving. Further, it will introduce reversible error that any
22 reviewing State or Federal Court would determine are fatal to the swift administration of
23 justice.

24 Undersigned counsel does not make this request lightly; he has devoted his
25 career to Capital Case defense. Counsel was second chair on his first capital trial in
26 this very Mohave County Courthouse, in the Courtroom directly above this one, in State.

1 v. Roger Murray, in 1992. Counsel has been attorney in numerous capital cases,
2 including the outright dismissal of State v. Arthur Osborne, and avoiding a capital
3 conviction on State v. Johnny Cayeros, State v. Jesse Con Uj, and St. v. Pedro Peralta
4 among others. The absolute last thing counsel wants to do is abandon Mr. Rector in the
5 pendency of his case. It is the only possible course of action, legally and ethically, to
6 protect his interests. It is the action that will result in the least delay to the Court to
7 administer this case.

8 **Mr. Rector is now facing another felony case; Attorney Gavin does not**
9 **want to even file a Notice of Appearance on this new case.**

10 *It is counsel's strong desire to remain lead counsel and continue assisting Mr.*
11 *Rector; that is now impossible. Both defense counsel seek to limit the damage and*
12 *delay to this case, protect Justin Rector, the integrity of his defense, and honor its*
13 *responsibility to the Court, the State, and the swift administration of justice.*

14 Pursuant to the 6th Amendment to the Constitution of the United States, and Holloway v.
15 Arkansas, 435 U.S. 475 (1978) and Maricopa County Public Defenders Office v.
16 Superior Court, 187 Ariz. 162, 927 P.2d 822 (1996) (Where the Court held that a trial
17 judge should not ordinarily require defense counsel to disclose confidential information
18 when there has been an avowal that counsel has an ethical conflict requiring
19 withdrawal). The Court held that a lawyers statement that professional considerations
20 require termination of the representation ordinarily should be accepted as sufficient and
21 that a trial court should not condition the grant or denial of a motion to withdraw on a
22 lawyers willingness to avoid ethical rule (E.R. 1.6). Mr. Rector is agreeable to the
23 withdrawal and is not opposed.
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ORIGINAL of the foregoing filed
this 19th day of July, 2017 with:

Clerk of Court 401 E Spring Street
Kingman Arizona 86401

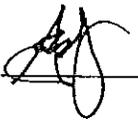
COPY of the forgoing
Hand delivered this 6th day
of May, 2016, to:

Honorable Lee Jantzen
Judge of the Superior Court
Mohave County Courthouse
2nd floor
Kingman Arizona 86401

Greg McPhillips
Assigned Deputy County Attorney
PO Box 7000
Kingman Arizona 86401

Client Justin James Rector
Mohave County Jail

File

BY: 

3/19/2017 10:23