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FILED
BY: 

2015 JUL 15 AM 11 21
VIRLYNN TINNELL
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

STATE OF ARIZONA,

Plaintiff,

vs.

JUSTIN JAMES RECTOR

Defendant.

NO: CR 2014-01193

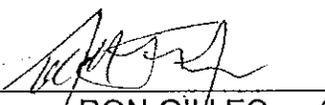
DEFENSE MOTION TO ALLOW
DEFENDANT ACCESS TO LAPTOP IN
JAIL TO REVIEW DISCOVERY AND
ASSIST CASE PREPARATION

(ASSIGNED TO THE HON. LEE JANTZEN)

Defendant Justin James Rector, by and through undersigned counsel, hereby moves this Court for an order Defendant Justin Rector be permitted access to a laptop computer to review voluminous digital discovery from the state, as well as mitigation evidence being assembled by his defense team, as explained in the Memorandum of Points and Authorities attached hereto and incorporated herein.

RESPECTFULLY SUBMITTED this 15th day of July, 2015.

By: 
GERALD T. GAVIN
Co-Counsel for the Defendant

By: 
RON GILLES
Co-Counsel for Defendant



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MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Justin James Rector is facing a capital murder charge in 2015. In years past, discovery was limited to paper documents and photographic evidence. In today's world, with the advent of growing digital technology and its use in courtrooms nationwide, the ability of a defendant to have unfettered access to a laptop computer is essential in preparation of his defense.

To date, the defense believes the State has provided over 40 separate digital downloads on DVD's regarding evidence and case materials. Use of such technology greatly reduces the amount of paper evidence necessary to process such a case. In addition, the availability of such mediums reduces the risks of jailhouse informants.... Jailhouse "snitches"....who often gain quick access to such paper documents while a defendant may be distracted, thus complicating a case and subverting justice.

Additionally, with advances in modern recording technologies, from camcorders, I-Phones, surveillance cameras, as well as PowerPoint presentations, Photographic and video recordings, documents, spreadsheets, graphs, diagrams, appearing on numerous digital mediums, it is essential a defendant, in a capital case especially, have access to laptop technology. This is necessary to review voluminous discovery materials, including crimes scene photographs, medical documentation, recorded interviews and the like. It is necessary to assist his defense team in preparing a possible defense, review the State's discovery, review incoming mitigation evidence, and fully and accurately participate in helping his counsel defend him properly. Some of this material can only be accessed by a computer.

Mr. Rector has no physical access to his counsel except briefly in a courtroom, and then only appearing before a room full of people, the Judge, and at least two armed corrections officers with a couple of feet of Mr. Rector. Any such laptop, and materials

1 to be played in it, would necessarily have to be first given to corrections officers for
2 inspection.

3 Law and Argument

4 Mr. Rector moves this court for an order directing the Mohave County Sheriff's
5 Office to permit Mr. Rector access to and use of a laptop computer to privately review
6 the discovery in his death penalty case. Mr. Rector asks the court to order the Sheriff's
7 office to deliver a laptop computer, with a set of privacy headphones, to Mr. Rector for
8 his unfettered access to his case materials and defense preparation. The defense
9 would ask the Sheriff to provide a laptop computer used for that purpose at the jail; if
10 for Mr. Rector's use. Of course, such machine would be available for inspection by the
11 Sheriff's officers trained in Information Technology, to insure no contraband downloads
12 (like pornography, drug recipes, anarchist or terrorist materials, escape plans, or
13 whatever else may be imagined) existed on the computer. Once checked by jail staff,
14 the computer would remain in M.C.S.O. custody, with no chance the defense, defendant
15 or anyone else could download illegal materials onto the machine.
16

17 An accused is entitled to assistance of counsel in defending against the charges
18 in a criminal case by both the Sixth and Fourteenth Amendments of the United States
19 Constitutions, and Article II, §24 of the Arizona Constitution. The fundamental
20 guarantee of the Sixth Amendment is "the defendant's right to control and participate in
21 his defense." Bishop v. Superior Court, 150 Ariz. 404, 406, 724 P.2d 23, 25 (1986). As
22 a corollary to this right, the defendant in a criminal case must be able to assist counsel
23 in the conduct of his defense. *Id.*
24

25 Rule 15.1 of the Arizona Rules of Criminal Procedure requires the State to
26 provide to the defendant the statements and other evidence it intends to use at trial.
27 This requirement is meaningless if the defendant himself is not permitted to inspect and
28 review the evidence. See Cervantes v. Cates, 206 Ariz. 178, 181-183, 76 P.3^d 449,

1 452 – 454. In Cervantes, the Arizona Supreme Court accepted without question that
2 the defendant himself was entitled to review videotapes of pornographic evidence. *Id.*

3 In this case, the evidence is not pornography or other contraband, but the
4 recorded statements of witnesses, digital evidentiary images, case photographs, video
5 and audio materials, both from the State and his own defense team. Mr. Rector is
6 absolutely entitled to review all the evidence in his case. Given the form of some of the
7 evidence, he must be permitted private access, away from the prying eyes and ears of
8 other inmates, he must have access to a laptop computer. Given the volume of
9 evidence, he must be permitted to keep the computer in his cell so that he may be able
10 to work on his case defense in a timely manner, when he has the ability to do so.

11 The Mohave County Sheriffs Office is understandably concerned about computer
12 access, more importantly internet access, by inmates. Given Director Bischoff's
13 attention to detail, jail staff and guards have already anticipated and safeguarded
14 against any inmate having access to internet servers; given the thickness of walls and
15 the geographic isolation of the jail relative to the civilian population, there is no chance
16 of an unsecured internet signal being accessed by anyone, let alone a prisoner housed
17 in a concrete room, within another concrete room, within a concrete building. The only
18 material Mr. Rector could possibly review was the material provided from the State
19 Prosecutor or his own defense team, material that can be inspected by jail Information
20 Technology staff members prior to dissemination to Mr. Rector. The materials provided
21 by the State come, in part, from their own choice of medium to tender such material to
22 the defense. Mr. Rector, therefore, respectfully requests the following:

23
24
25 1. Provide Mr. Rector a laptop computer configured to permit access to
26 discovery in all formats provided by the State and, if preferred, loaded with all discovery
27 loaded onto the computers hard drive, or an external and removable hard drive, *OR*
28 allow Mr. Rector's counsel to provide such a computer to the defendant;

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2. Permit Mr. Rector to have access to his computer in his cell at all times;

3. Permit Mr. Rector to have a set of earphones, or headphones, to insure privacy while reviewing the audio portions of any discovery or materials, and maintain his ability to not inadvertently share such material with any other inmates, especially ones who may used such information against Mr. Rector in hopes of convincing authorities of their intimate knowledge of the case;

4. Permit, if necessary, Mr Rector an extension cord to allow his power cord to access the necessary electric charge to operate the computer

Mr. Rector, through his undersigned counsel, did contact Jail Commander Bischoff and first request, informally, the above items from the Sheriff's staff. This motion is filed, respectfully, after both sides discussed coming to an accommodation, and not being able to do so. Counsel understands the directors concerns, but respectfully believes his client's ability to help defend a case, were the state is seeking to execute him, trumps the unlikely complications that could result from permitting such access.

BLS

1 ORIGINAL of the foregoing filed
2 this 15th day of July, 2015 with:

3 Clerk of Court
4 401 E Spring Street
Kingman Arizona 86401

5 COPY of the forgoing
6 Delivered this 15th day
Of July, 2015, to:

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

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

13 Director Don Bischoff
14 Mohave County Sheriff's Office/ Jail Commander
15 501 W Highway 66
Kingman Arizona 86401

16 Ron Gilleo
17 Mohave County Legal Defender
18 Co-Counsel for Justin James Rector
19 313 Pine Street
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20 Client Justin James Rector
21 Mohave County Jail

22 File

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24 BY: 
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