

Gerald T. Gavin
 State Bar #013842
 Ron Gilleo
 State Bar #016928
 3880 Stockton Hill Road
 Suite 103-450
 Kingman Arizona 86409
 Email: geraldgavinlaw@gmail.com
 Telephone: (928) 530-0948 / (480) 233-6038
 Attorneys for Justin James Rector

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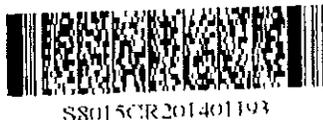
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

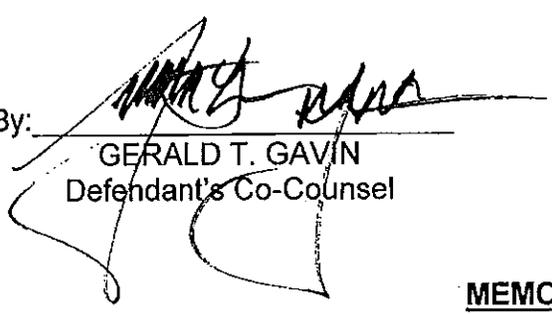
STATE OF ARIZONA)	
)	
)	
PLAINTIFF,)	NO. CR2014-01193
)	
vs.)	DEFENDANT'S MOTION TO COMPEL LAW
)	ENFORCEMENT GATHER, PRESERVE AND
)	TENDER ALL EVIDENTIARY ITEMS AND
JUSTIN JAMES RECTOR,)	ALL CASE INFORMATION TO THE
)	PROSECUTOR'S OFFICE
DEFENDANT.)	
)	(Assigned to the Hon. Lee Jantzen)

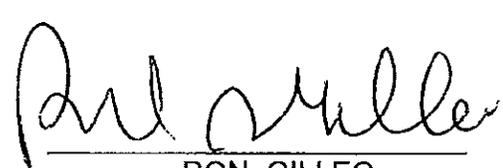
Defendant Justin James Rector, by and through undersigned counsel, hereby moves this Court for a protective and prophylactic order for law enforcement to gather, preserve, and tender all Evidence and information in this case to the State Prosecutor, in total, and not to edit, omit, destroy, forget or otherwise not provide all materials gathered in the investigation of this case, for the reasons cited in the "Memorandum" attached hereto and incorporated herein.

RESPECTFULLY SUBMITTED This 13th day of March, 2015



By:


GERALD T. GAVIN
Defendant's Co-Counsel


RON GILLO
Defendant's Co-Counsel

MEMORANDUM

It is essential to the integrity of this case that, if nothing else, all parties are operating from a baseline of complete, accurate information. What is requested is seemingly common sense and standard operating procedure for any investigation, but in many cases not observed. All parties benefit from a complete, accurate investigation. We trust law enforcement to gather and protect all evidence, so the Court system – the prosecution and the defense more precisely- can analyze all facts to determine, with the Court, what is relevant and what is not to the litigation of this case. This request is simply *all* evidence be gathered, preserved, and tendered to the prosecution, so complete discovery can be provided the defense attorney. This motion is a necessary corollary to deciding what needs to be turned over to the prosecutor, and what's "not important". *ITS ALL IMPORTANT.* It may take days, weeks, months or years before certain facts become crucial, even after being seemingly unimportant initially. Investigators failing to gather, preserve, and then tender all evidence do an equal disservice to the Prosecution and the Defense. Neither side can afford to operate from false premises. Justice demands a thorough, accurate and complete investigation be presented to the prosecution.

The knowledge of the prosecuting attorney's agents will be imputed to the prosecutor. See Youngblood v. West Virginia, 547 U.S. 867, 870; Giglio v. United

States, 405 U.S. 150, 154 (1972). "The individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police." Kyles v. Whitley, 514 U.S. 419, 438 (1995). A constitutional violation of the duty to disclose favorable evidence "occurs when the government fails to turn over even evidence that is 'known only to police investigators and not to the prosecutor.'" Youngblood, 547 U.S. at 508 (footnote omitted).

As a practical matter, however, the defense will not get proper discovery if the prosecuting attorney has only constructive, not actual knowledge of discoverable information. Counsel for the defense desires proper discovery, not a post-conviction issue built upon the post-trial discovery of undisclosed favorable evidence. By compelling law enforcement officials to pass along all information related to this case, the parties can be assured that all discoverable information will come to the attention of the prosecuting attorney. The prosecuting attorney will then be in a position to disclose this information and avoid the legal ramifications of the failure to disclose information that the police wittingly or unwittingly failed to give the prosecutor.

Appellate case law reveals the all-too-common situation in a criminal case where counsel for both parties were surprised to learn during trial that police officers harbored information that they never disclosed. This is a risk that cannot be countenanced in a capital case, and can be guarded against if this Court grants this motion. This cautious step is constitutionally mandated in a capital case in order to vindicate the defendant's State and Federal constitutional rights to effective assistance of counsel, due process of law, equal protection of the law, confrontation of the State's evidence, and freedom from

cruel and unusual punishment, pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Constitution of Arizona §§

As the United States Supreme Court's jurisprudence has made evident, death is different; for that reason more process is due, not less. See Lockett v. Ohio, 438 U.S. 586, 605 (1978); Woodson v. North Carolina, 428 U.S. 280, 305 (1976) (plurality opinion). It is well settled that "when a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in accord with the dictates of the Constitution — and, in particular, in accord with the Due Process Clause." Evitts v. Lucey, 469 U.S. 387, 401 (1985). This is all the more so when a petitioner's life interest, protected by the "life, liberty and property" language in the Due Process Clause, is at stake in the proceeding. Ohio Adult Parole Authority v. Woodard, 523 U.S. 272, 288 (1998) (O'Connor, Souter, Ginsberg, and Breyer, J.J., concurring); id. at 291 (Stevens, J., dissenting) (recognizing a distinct, continuing, life interest protected by the Due Process Clause in capital cases). All measures must be taken to prevent arbitrary, cruel, and unusual results in a capital trial. See Lockett, 438 U.S. at 604; Woodson, 428 U.S. at 304-05.

For these reasons, this Court should issue an order compelling law enforcement officials to turn over and advise the prosecuting attorney of *all* information acquired during the course of investigation, including but not limited to items like:

1. All photographs;
2. All video and audio recordings, including all 911 calls;
3. All applicable computer records;
4. All documents playing any role in the investigation;

5. Names of all witnesses, investigative leads, or any other people, including all contact information, and statements made by anyone;
6. Copies of all lab requests, lab reports, DNA materials, or any other scientific information, including but not limited to blood, hair, tissue, fluid, ballistic, pharmacological, genetic, or any other scientific investigation;
7. Information regarding any measurements taken regarding the investigation;
8. Copies of any "free talk", "snitch", or "cooperating witness" agreements, statements, offers, or notes to any such conversation(s), including the names of any confidential informants used in this investigation, along with their statements;
9. An accurate inventory of all items taken into evidence;
10. All field notes or initial notes taken by any officer prior to writing any supplement, report, memo or any other written communication;
11. All emails sent between Detectives and other officers investigating this case;
12. All dispatch logs associated with the investigation of this case;
13. All social media inquiries made regarding the case, including "Facebook", "Instagram", "Twitter", or any other electronic website playing any role in the investigation;
14. All travel information related to this investigation;
15. All information on gangs or gang affiliation involved in any way in this investigation;
16. Addresses, locations or other identifiers regarding every crime scene or location visited or anyway involved in this investigation;

17. All police reports, "DR's", "Supplements", or any other terminology regarding any written report generated by the investigating law enforcement agencies;
18. The name and rank of the "Case Agent", "Lead Detective", or any other person in charge of this case for law enforcement;
19. The names and contact information of all law enforcement agents, employees or contractors contacted to assist in this investigation from outside the lead agency investigating this case ;
20. Any other information generated by law enforcement regarding the investigation of this case.

1 Original filed this 16th day
2 of March, 2015, with

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

6 and copies
7 hand-delivered this date to:

8 Hon. Lee Jantzen
9 Judge of the Superior Court
10 Mohave County Superior Cour
11 401 E Spring Street
12 Kingman Arizona 86401

13
14 Greg McPhillips
15 Assigned Deputy Mohave County Attorney
16 PO Box 7000
17 Kingman Arizona 86401

18 Ron Gilleo
19 Mohave County Legal Defender
20 Co-Counsel for Defendant
21 313 Pine St
22 PO Box 7000
23 Kingman Arizona 8640

24 Client Justin James Rector
25 Mohave County Jail

26
27 File

28
By:  _____