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VIRLYNN TINHELL
SUPERIOR COURT CLERK

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MOHAVE**

11 **STATE OF ARIZONA,**
12 Plaintiff,
13 vs.
14 **JUSTIN JAMES RECTOR,**
15 Defendant.

NO: CR 2014-01193

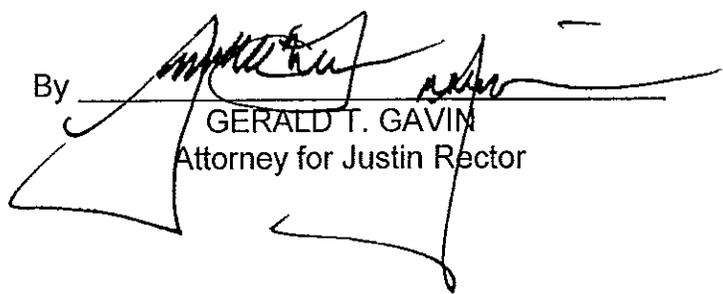
**DEFENSE MOTION FOR FUNDING FOR
APPOINTMENT OF DEFENSE
INVESTIGATOR TO ASSIST WITH
CAPITAL DEFENSE**

(EXPEDITED RULING REQUESTED)

(ASSIGNED TO THE HON. LEE JANTZEN)

16
17 COMES NOW Defendant Justin James Rector, by and through undersigned
18 counsel, requests this Court approve appointment of investigator James Vasquez to
19 assist defense counsel in preparing Mr. Rector's defense for the reasons contained in
20 the memorandum attached hereto and incorporated herein.

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22
23 **RESPECTFULLY SUBMITTED** this 6th day of May, 2016.

24
25
26 By 
GERALD T. GAVIN
Attorney for Justin Rector

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S8015CR201401193

MOHAVE

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2 MEMORANDUM

3 The State, through Deputy County Attorney Greg McPhillips, formally notified the
4 Court and Defense that it intended to utilize two additional witnesses, witnesses
5 creating an unanticipated ethical/legal conflict for Mr. Gilleo. This conflict was quickly
6 resolved, and Mr. Gilleo was permitted to withdraw from the case to protect Mr. Rector's
7 case. The decision had another consequence.
8

9 Until that time, in an effort to maintain continuity for Mr. Rector, and also reduce
10 costs, Investigator Ralph Ruiz was utilized to provide investigation services for the case.
11 Given the conflict of interest with Mr. Gilleo, it imparted the same conflict of interest to
12 Mr. Ruiz. As such, Mr. Ruiz has not assisted Mr. Rector since February 19, 2016, and
13 can no longer do so.

14 Defense counsel has made inquiries as to obtaining the services of an
15 experienced, respected independent private investigator to assist Mr. Rector. Counsel
16 has located Mr. Jimmy Vasquez, and investigator out of Prescott, Arizona, who has
17 assisted other capital cases in Mohave County. After telephonic discussions with Mr.
18 Valdez, he indicates he would be available to assist with the case if permitted. Counsel
19 has also worked briefly with Mr. Vasquez, and believes he would be an excellent asset
20 for Mr. Rector. This potential assignment was discussed with Mr. Blake Schritter,
21 Administrator of Indigent Defense Services in Mohave County, the agency responsible
22 for employing contract defenders and staff as directed by the Court. Mr. Schritter has
23 tentatively approved Mr. Vasquez coming aboard, pending approval of this court.
24

25 Counsel was hoping to get a 2nd chair attorney on board before making this
26 decision, seeking input and approval, trying to avoid any reason for conflict in the future
27 undersigned counsel cannot now foresee. Frankly, counsel did not anticipate the current
28

1 delay in getting a 4th chair on board, and does not have the luxury of waiting for that to
2 happen.

3 This is a capital case. Investigation is crucial....literally of "life and death"
4 importance. If counsel cannot undermine the State's case, Mr. Rector will die. To
5 uncover evidence and track down important documentation and witnesses, counsel
6 needs the assistance of a competent investigator. Investigators are routinely appointed
7 on serious non-capital cases; here, there can be no short cuts.

8 Mr. Rector has been determined by the Court to be indigent, and is currently
9 represented by an Indigent Defense Services Attorney from Mohave County; his
10 previous co-counsel was the Mohave County Legal Defender, Mr. Gilleo.

11 Arizona Rule of Criminal Procedure, Rule 15.9 states:

12
13 An indigent defendant may apply for the appointment of an
14 Investigator and expert witness...to be paid at the county
15 Expense if the defendant can show that such assistance
is reasonably necessary to present a defense adequately
At trial or sentencing.

16 The Arizona Supreme Court has broadly interpreted Rule 15.9. In Jones v.
17 Sterling, 210 Ariz. 308, 110 P.3d 1271 (2005), the Arizona Supreme Court found that
18 experts can be appointed for use at trial or for use at sentencing. *Id.* at 314, 110 P.3d
19 1277. The Court specifically noted arguments for leniency at sentencing qualify as a
20 "defense" contemplated in Rule 15.9 *Id.* Finally, the Court found the appointment of
21 experts applies to "the whole of criminal proceeding[s]" including the sentencing phase.
22 *Id.* The defense anticipates the need pretrial, and trial, for Mr. Vasquez. The State has
23 enormous resources at its disposal; currently, Mr. Rector is understaffed without his 2nd
24 chair and investigator. This must be rectified without further delay. To do so only
25 invites potential post conviction problems (if convicted) and increased costs and delay.
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CONCLUSION

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Based on the forgoing statements of fact and principles of law, Mr. Rector respectfully requests the void of no investigator on his case, caused directly by the States decision to utilize two new crucial witnesses creating a legal conflict for his prior investigator, be rectified immediately so his defense can resume adequate investigation and representation. Of course, the Court has already determined Mr. Rector's indigency. Counsel maintains this motion is made in good faith, and is in the interests of justice, judicial economy and Mr. Rectors life.

WJX

1 ORIGINAL filed this 6th day of May, 2016 with:

2
3 Clerk of the Court
4 401 E Spring Street
5 Kingman Arizona 86401

6 COPY of the forgoing hand delivered
7 This 6th day of May, 2016 to:

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

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

17 Client Justin James Rector
18 Mohave County jail

19 File

20 BY:

A handwritten signature in black ink, appearing to be "Greg McPhillips", written over a horizontal line.