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7
 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.

14 **JUSTIN JAMES RECTOR,**
 15 **DEFENDANT.**

CASE NO. CR 2014-01193

**DEFENSE REPLY TO STATE'S
 RESPONSE TO DEFENSE MOTION
 REQUESTING ACCESS TO VIEW/
 INSPECT / PHOTOGRAPH/ MEASURE /
 DOCUMENT ALLEGED CRIME SCENES
 AS PART OF INDEPENDENT DEFENSE
 INVESTIGATION OF CASE**

(ASSIGNED TO THE HON. LEE JANTZEN)

19 COMES NOW the defendant Justin James Rector, by and through
 20 undersigned counsel, who respectfully REPLIES to the State RESPONSE to the
 21 Defense motion requesting this Court allow the defense to view (in person), inspect,
 22 photograph, measure, and otherwise document the alleged crime scenes as part of the
 23 defense investigation of the case and preparation for trial, as detailed in the
 24 Memorandum of Points and Authorities attached hereto and incorporated herein.
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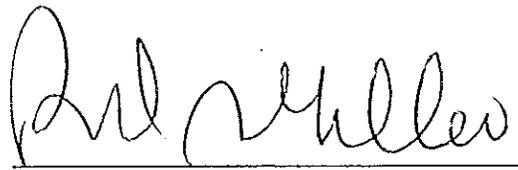


S8015CR201401193

1 By:



3 Gerald T. Gavin
4 Defendant's Co-Counsel



5 Ron Gilleo
6 Defendant's Co-Counsel

7
8 **MEMORANDUM**

9 This is a simple, common-sense request necessary to ensure Mr. Rector's
10 defense team gives him their best effort to fully investigate this case on his behalf. At
11 some point, State and Federal law enforcement agencies were called in to investigate a
12 potential missing person, and later, homicide victim. State and Federal investigators, in
13 performance of their duties, went to very specific locations they identified as potential
14 crime scenes. For example...investigators located the exact spot...within several feet
15 ...of the victims body. *One or more law enforcement personnel were present at this*
16 *exact location; no member of Mr. Rector's defense was even appointed, let alone*
17 *notified, of this investigation, nor asked to join the investigation.*

18
19 Of course, the defense is not claiming it should have been. The simple defense
20 request is...for instance...one or more of the law enforcement officers were present at
21 the crime scene where the victim was located. At some point at a time and date
22 convenient to the parties, the defense asks a member present at that scene accompany
23 defense team members to the exact location, to ensure the defense is at the exact spot
24 investigated by law enforcement. It does no good to Mr. Rector if, for instance, defense
25 investigators photograph and measure what they belief to be the burial scene, if in fact
26 the actual crime scene is 50, 100, or 500 feet or more away. The defense needs to go
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1 to the exact location; the only people who can ensure that is accurate are members of
2 law enforcement who were present at that scene. The burden on the State is minimal...
3 a morning or afternoon of an officer's time; the need of the defense is enormous: Mr.
4 Rector's defense investigation must be thorough and accurate to ensure his interests'
5 are protected, and this cannot be accomplished if his team goes to an incorrect location.
6
7 Mr. Rectors lawyer are charged with the duty of providing Mr. Rector a proper
8 investigation; without the State's assistance, it cannot possibly be accomplished. As
9 such, Mr. Rector will not have received a proper investigation as mandated by our
10 Courts, his counsel will be deemed ineffective, and a very expensive and emotional trial
11 may be vacated by reviewing Courts, with great hardship to the victim's family, the
12 taxpayers, and Mr. Rector.
13

14 The State imposed its authority initially to secure these crime scenes and
15 document them for the State; the defense asks a member or members of law
16 enforcement accompany defense investigators *to the exact locations of crime scenes*,
17 and attempt to again gain access to permit a mandated investigation by the defense. If
18 some private party refuses access, the defense can then return to the Court to secure
19 necessary subpoena's and/or court orders permitting such access. The defense seeks
20 the same access, to the same exact locations, the State investigated; the defense
21 asserts that the defense is entitled to Due Process and Equal Protection of the Law, as
22 well as Confrontation rights, under the United States and Arizona Constitutions...to
23 provide a quality defense investigation on Mr. Rector's behalf.
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26 The State maintains it doesn't now have the power to return to these locations.
27 That is nonsense. If the State believed, for instance, it had missed critical evidence at a
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1 crime scene and needed to return, officers would in fact return to the scene and request
2 access. Again...if private parties refused, the officers could seek the Court's
3 assistance. The defense doesn't have the luxury of knowing exact crime scene
4 locations. We need law enforcement assistance, from officers actually present at
5 scenes, to ensure we are the correct areas. If private parties refuse, the defense can at
6 least seek court help and notify the court, with certainty, the exact locations it needs
7 assistance gaining access to.
8

9 Should the State seek to refuse this simple request, and oppose insuring the
10 defense investigation is being done at correction locations, the State runs the risk....
11 again...of having a reviewing Court determine Mr. Rector's defense team did not
12 provide an adequate investigation, and Mr. Rector's potential guilty verdicts be vacated
13 because of ineffective assistance of counsel, and Mr. Rector receive a new trial. This
14 would cause enormous heartbreak and grief to the victim's family, as well as Mr. Rector
15 and his family. It will also waste enormous taxpayer dollars, as a long, expensive initial
16 trial be ordered redone at enormous expense. It would weaken confidence in our
17 judicial system and law enforcement. It would not be in the interests of judicial
18 economy. It would not be in the interest of justice.
19

20 The State opposing this request is "penny wise and poundfoolish". It saves the
21 County an afternoon of officer's time, and gives satisfaction that the Prosecution
22 defeated this annoying defense request. That is...until a reviewing Court agrees
23 defense investigators made critical errors in the investigation, errors that could have
24 been prevented if involved law enforcement simply returned with the defense to *exact*
25 *locations*, to ensure the defense was documenting the correct area. The Prosecution
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1 may believe it has a duty to oppose defense motions, because they are our adversary.
2 As with prior motions, like ensuring a complete record be made for all parties, or all
3 evidence be protected and provided to the Prosecution, this request also assures the
4 legitimacy of the State's case, and avoids higher Courts from finding fault with sloppy
5 investigations, or ineffective defense counsel. Accurate investigations are in all parties
6 interests. It is in the interest of judicial economy, victim's rights, defendant's rights,
7 fiscal responsibility, ethical duties of all counsel, and the interests of justice. The State
8 opposing these motions now, and succeeding, only invites significant defense appellate
9 issues that may undue all the States seeming victories. It is in all parties interests we
10 work together to do this correctly the first time. Hampering the defense, by refusing
11 cooperation, by withholding documents, or refusing to assist in common sense defense
12 investigation, opens the door to undue all the State's work and waste enormous
13 resources and emotions. The State is not the defense's adversary. The defense is
14 charged with ensuring Mr. Rector get the best quality defense we can provide; the
15 State's duty is not to prevent that, but see Justice is done. Sometimes....as hard as it
16 may be to admit...this means assisting the defense provide quality representation, or
17 place its entire prosecution at risk.
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1 ORIGINAL FILED WITH
2 CLERK OF THE COURT
3 This 23rd day of March, 2015,
4 And copies hand-delivered this
5 Same date to:

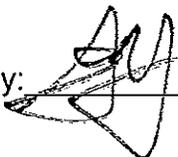
6 Honorable Lee Jantzen
7 Judge of the Mohave Superior Court
8 Mohave County Courthouse
9 Kingman Arizona 86401

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16 Mohave County Legal Defender
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20 Client

21 File

22 By:  _____
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