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VIRLYNN TINNELL
SUPERIOR COURT CLERK

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MOHAVE**

9 STATE OF ARIZONA,
10 Plaintiff,
11 vs.
12 JUSTIN JAMES RECTOR,
13 Defendant.

No. CR-2014-1193
**RESPONSE TO DEFENDANT'S
MOTION TO DELAY ANY MENTAL
HEALTH, I.Q. OR RELATED
TESTING**

14 COMES NOW, the State of Arizona, by the Mohave County Attorney and through
15 the undersigned deputy, Gregory A. McPhillips, respectfully responds to defendant's
16 motion to delay mental health testing.

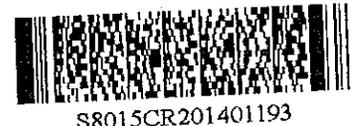
17 **The law**

18 In a death penalty case the Court shall appoint experts to conduct prescreening
19 evaluations to determine the defendant's intelligence quotient, competency to stand trial,
and sanity at the time of the offense.

20 The Court must appoint an expert to make a prescreening determination of the
21 defendant's intelligence quotient, unless the defendant objects:

22 If the state files a notice of intent to seek the death penalty, the court,
23 unless the defendant objects, shall appoint a prescreening psychological
24 expert in order to determine the defendant's intelligence quotient using
current community, nationally and culturally accepted intelligence testing
procedures. . . .

25 "Prescreening psychological expert" means a psychologist licensed
pursuant to title 32, chapter 19.1 with at least five years' experience in the
testing, evaluation and diagnosis of mental retardation.



1 A.R.S. § 13-753.

2 Similarly, the Court must appoint an expert to make a prescreening determination
3 of the defendant's competency to stand trial and sanity at the time of the commission of
4 the offense, unless the defendant objects:

5 A. If the state files a notice of intent to seek the death penalty, unless
6 the defendant objects, the court shall appoint a psychologist or
7 psychiatrist licensed pursuant to title 32, chapter 13, 17 or 19.1 to
8 conduct a prescreening evaluation to determine if reasonable
9 grounds exist to conduct another examination to determine the
10 following:

1. The defendant's competency to stand trial.
2. Whether the defendant was sane at the time the
defendant allegedly committed the offense.

B. The court may appoint separate psychological experts to conduct
each of the evaluations ordered pursuant to subsection A.

11 A.R.S. § 13-754.

12 These tests are only required if the defendant does not object to them. Said
13 another way, defendant may decide not to submit to an examination of defendant's sanity
14 at the time the defendant allegedly committed the offense.

15 **Procedural posture**

16 Defendant did not waive the mental health evaluation. He does not seem to be
17 waiving such an evaluation at this time—despite the wording of his current motion.

18 On the 5th of November 2015, the Court appointed Dr. Harvancik to do a Rule 11
19 exam on defendant. On the 20th of November 2015, Dr. Harvancik examined defendant.
20 During that exam, Dr. Harvancik administered an IQ test, to defendant. The IQ test is
21 documented in Dr. Harvancik's report from his 11/20/14 Rule 11 evaluation of defendant.

22 Dr. Harvancik's Rule 11 report identified three facilities that may possess
23 defendant's prior mental health records. Those facilities are: 1) Mohave Mental Health
24 (records were transferred to the Kingman Office in 2014), 2) Mohave County Juvenile
25 Detention Center, and 3) Adobe Mountain, Eagle Point. Adobe Mountain, Eagle Point
reported to undersigned prosecutor that defendant's records were purged due to his
current age.

1 On the 28th day of January 2015, Dr. Ernest Harman was appointed by the Court to
2 examine defendant's sanity at the time of defendant committed the offense as required by
3 A.R.S. § 13-754. Dr. Ernest Harman requested defendants prior mental health records in
4 order to fully evaluate defendant's mental health.

5 On the 28th day of January 2015, the Court indicated that the Court will order the
6 defendant's prior mental health records be gathered and given to Dr. Harmon. During the
7 litigation, it was decided that the State would have no hand in drafting those orders.

8 At a recent court hearing the State inquired about the status of obtaining the
9 medical records and completing the mental health exam. The State's inquiry led to
10 Defendant's pending Motion to Delay Mental Health Testing.

11 Argument

12 As Dr. Harvancik already evaluated defendant's intelligence quotient and
13 competency to stand trial. Currently, an expert needed to be nominated to evaluate
14 defendant's sanity at the time the defendant allegedly committed the offense.

15 The State does not object to delay of the evaluation of defendant's sanity at the
16 time of the offense to obtain mental health records. The State believes the records are
17 necessary for Dr. Harmon to complete the court ordered evaluation of defendant. That is
18 why the State requested the Court order production of the records.

19 The State would like an update on where we are in this process of obtaining
20 defendant's prior mental health records. The exam is intended to determine defendant's
21 sanity at the time of the offense. Every day the exam is delayed is a day further from the
22 time of defendant's sanity that the Doctor must evaluate. Obviously, completing the exam
23 sooner rather than later will be helpful in that process.

24 Conclusion

25 The State does not object to a defense continuance of the exam to gather
defendant's prior mental health records.

1 Further, the State is requesting an update on where we are in this process of
2 obtaining defendant's prior mental health records.

3 RESPECTFULLY SUBMITTED THIS 20TH DAY OF MAY, 2015.

4 MOHAVE COUNTY ATTORNEY
5 MATTHEW J. SMITH

6
7 By 
8 DEPUTY COUNTY ATTORNEY
9 GREGORY A. MCPHILLIPS

10 A copy of the foregoing
11 sent this same day to:

12 HONORABLE LEE F. JANTZEN
13 SUPERIOR COURT JUDGE

14 RONALD S. GILLES
15 LEGAL DEFENDER
16 Mohave County Legal Defender's Office
17 P O Box 7000
18 Kingman AZ 86402

19 By 