

PSL

FILED

CS

BY:

2017 SEP -5 AM 10:09

VIRGINIA HUBBELL  
SUPERIOR COURT CLERK

1 Matthew J. Smith  
Mohave County Attorney  
2 Gregory A. McPhillips  
Deputy County Attorney  
3 State Bar No. 016262  
315 N. 4th Street  
4 P.O. Box 7000  
Kingman, AZ 86402  
5 Telephone: (928) 753-0719  
6 Fax: (928) 753-2669  
CAO.Court@mohavecounty.us  
Attorney for the State

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 EXTEND TIME TO  
CHALLENGE THE GRAND JURY  
PROCEEDINGS**

14 COMES NOW, the State of Arizona, by the Mohave County Attorney and through  
15 the undersigned Deputy County Attorney, Gregory A. McPhillips, respectfully requests  
16 this court deny defendant's Motion to Extend Time to Challenge the Grand Jury  
17 Proceedings.

18 The court should deny defendant's motion defendant's Motion to Extend Time to  
19 Challenge the Grand Jury Proceedings. "A motion under Rule 12.9(a) may be filed only  
20 after an indictment is returned and no later than 25 days after the transcript and minutes  
21 of the grand jury proceedings have been filed or 25 days after the arraignment is held,  
whichever is later." Ariz. Rules of Crim.Proc. Rule 12.9(b). "A defendant may not sit  
back during the 25-day period under subsection (b) and do nothing without being  
subject to a claim that he waived his objections to the grand jury proceedings by failing  
to comply with the timeliness requirement." *Maule v. Arizona Superior Court ex rel.*  
*Maricopa County*, 142 Ariz. 512, 690 P.2d 813 (Ct. App. 1984). "This rule is not  
jurisdictional, in that a trial court has no authority to grant a request for extension;



1 however, the rule is mandatory in that the trial court has no authority to grant an  
2 extension that is not made on a timely basis." *Maule v. Arizona Superior Court ex rel.*  
3 *Maricopa County*, 142 Ariz. 512, 690 P.2d 813 (Ct. App. 1984).

4 In the current matter, the grand jury minutes were filed on September 11, 2014,  
5 and the transcript was filed on September 29, 2014, and defendant was arraigned on  
6 September 19, 2014, and then defendant filed his motion on August 28, 2017.  
7 Defendant filed his motion more than 25 days after filing of the transcript. In fact,  
8 defendant waited 1,064 days to file this motion. Defendant's motion for remand is  
9 untimely. Therefore, defendant's motion for remand must be denied.

10 Further, defendant filed a Motion to Extend Time to Challenge the Grand Jury  
11 Proceedings on March 9, 2015. That motion was filed 200 days after filing of the  
12 transcript. That motion was also untimely. The State indicated that the Motion to  
13 Extend Time to Challenge the Grand Jury Proceedings did not have a disposition in its  
14 status reports dated July 14, 2015 and September 29, 2015 and December, 8, 2015.  
15 The State is not aware of a ruling on the 2015 motion. Admittedly, the ruling could be  
16 hidden in a minute order somewhere in the file.

17 Defendant's motion to Extend Time to Challenge the Grand Jury Proceedings  
18 should be denied because it is untimely.

19 RESPECTFULLY SUBMITTED THIS 5TH DAY OF SEPTEMBER, 2017.

20 MOHAVE COUNTY ATTORNEY  
21 MATTHEW J. SMITH

22 By   
23 DEPUTY COUNTY ATTORNEY  
24 GREGORY A. MCPHILLIPS  
25

1 A copy of the foregoing  
sent this same day to:

2  
3 HONORABLE LEE F. JANTZEN  
SUPERIOR COURT JUDGE

4 QUINN T. JOLLY  
ATTORNEY FOR DEFENDANT  
5 Quinn Jolly Law  
2642 East Thomas Road  
6 Phoenix, AZ 85016

7 By *Gry*

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25