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FILED  
BY: [Signature]  
2015 MAY -4 PM 4:01  
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,

No. CR-2014-1193

11 vs.

RESPONSE TO DEFENDANT'S  
INVOCATION OF ARIZONA RULE OF  
EVIDENCE 615 FOR ALL  
PROCEEDINGS

12 **JUSTIN JAMES RECTOR,**  
13 Defendant.

14 COMES NOW, the State of Arizona, by the Mohave County Attorney and through  
15 the undersigned deputy, Gregory A. McPhillips, respectfully requests defendant's  
16 Defendant's invocation of Arizona Rule of Evidence 615 for all proceedings be denied.

17 The law

18 Two rules govern the presence of witnesses in the Courtroom. Arizona Rules of  
19 Evidence, Rule 615 states:

20 At a party's request, the court must ***order witnesses excluded so that***  
21 ***they cannot hear other witnesses' testimony.*** Or the court may do so on its  
own. But this rule does not authorize excluding:

- 22 (a) a party who is a natural person;  
23 (b) an officer or employee of a party that is not a natural person, after being  
designated as the party's representative by its attorney;  
24 (c) a person whose presence a party shows to be essential to presenting  
the party's claim or defense;  
25 (d) a person authorized by statute to be present; or  
(e) a victim of crime, as defined by applicable law, who wishes to be present  
during proceedings against the defendant.



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2 Arizona Rules of Criminal Procedure, Rule 9.3 states:

3  
4 The court may, and at the request of either party shall, ***exclude prospective***  
5 ***witnesses from the courtroom during opening statements and the testimony***  
6 ***of other witnesses***. The court shall also direct them not to communicate with  
7 each other until all have testified. If the court finds that a party's claim that a person  
8 is a prospective witness is not made in good faith, the person shall not be excluded  
9 from the courtroom. Once a witness has testified on direct examination and has  
10 been made available to all parties for cross-examination, the witness shall be  
11 allowed to remain in the courtroom unless the court finds, upon application of a  
12 party or witness, that the presence of the witness would be prejudicial to a fair trial.  
13 Notwithstanding the foregoing, the victim, as defined in Rule 39a, Rules of  
14 Criminal Procedure, shall have the right to be present at all proceedings at which  
15 the defendant has such right.<sup>1</sup>

16  
17 **Argument**

18 Defendant requests that witnesses be excluded from all hearings, including  
19 hearings that will not elicit testimony such as status conferences. Both Rule 615 and Rule  
20 9.3 specify excluding witnesses during testimony. Neither Rule 615 nor Rule 9.3 grant  
21 authority to exclude witnesses from hearings without testimony. Defendant cites no case  
22 law that supports his position. Defendant's motion is not supported by the law.

23 Defendant's motion must be denied.

24 RESPECTFULLY SUBMITTED THIS 4TH DAY OF MAY, 2015.

25  
MOHAVE COUNTY ATTORNEY  
MATTHEW J. SMITH

By   
DEPUTY COUNTY ATTORNEY  
GREGORY A. MCPHILLIPS

<sup>1</sup> Emphasis added.  
Rector/CR-2014-1193

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

2  
3 HONORABLE LEE F. JANTZEN  
SUPERIOR COURT JUDGE

4 Gerald T. Gavin  
3880 Stockton Hill Road, Suite 103-450  
5 Kingman, AZ 86409

6 RONALD S. GILLES  
LEGAL DEFENDER  
7 Mohave County Legal Defender's Office  
P O Box 7000  
8 Kingman AZ 86402

9 By \_\_\_\_\_

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