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ED/WJD*

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SUPERIOR COURT CLERK

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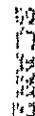
7 Attorney for Justin Rector

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

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11	STATE OF ARIZONA,)	CR2014-01193
12)	
13	PLAINTIFF,)	
14)	
15	v.)	RESPONSE TO STATE'S
16)	MOTION TO SET TRIAL
17	JUSTIN JAMES RECTOR,)	
18)	
19	DEFENDANT.)	HONORABLE LEE JANTZEN

20 The Defendant, Justin Rector, through undersigned counsel, respectfully
21 requests the Court take the following information into consideration upon ruling
22 on the State's Motions for Speedy Trial and to Set Trial Date of August 7th, 2018
23 and deny such motions pursuant to the Constitution of the United States as well as
24 the Arizona State Constitution and grant appropriate relief.

25 Counsel for the State purports that the defense is "refusing to set
26 interviews, so the State is considering interviews waived." This is a dramatic and
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1 material misrepresentation of the facts.¹ Counsel is not waiving any interview of
2 any individual noticed by the State and has absolutely not refused to provide
3 availability. In fact, counsel provided the State with a number of dates in August
4 and September when she is available in writing prior to the filing of the State's
5 Motions.
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8 Counsel and Investigator James Valdez engaged in a series of email
9 communications with the State on August 7, 2018 on a number of issues². Of
10 primary focus was whether a comprehensive witness list existed from the State or
11 whether counsel needed to rely upon the "piecemeal" and "stray" witness lists
12 from various discovery notices to create her own comprehensive list so that the
13 defense may determine a priority under which to begin interview scheduling.
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16 Upon the request for a comprehensive list, so that counsel may determine which
17 interviews had been conducted by prior counsel (as she was directed to do by
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21 ¹ Defense counsel is glad to provide the Court with copies of
22 the email strings between herself, Mr. Valdez, and Mr.
23 McPhillips in their entirety, but would prefer those not be a
24 part of the public record in this matter unless the Court
25 determines that to do so is absolutely necessary. Counsel is
26 also amenable to the Court doing an in camera review for
27 redactions necessary to protect Mr. Rector's interests prior to
28 making the communications part of the public record.

² Counsel had also communicated with the State regarding missing
items of discovery including photographs mentioned in the
discovery, but not disclosed; the existence of electronic items
seized; the need for impound and chain of custody documents;
and the viewing of the physical evidence.

1 looking at a CD which contained interview recordings by prior counsel) and
2 which remained outstanding, counsel for the State provided a new typewritten list
3 in the body of an email, but said that it would require additional updating as it
4 was prepared quite some time ago and that it would be updated "when [he] ha[s]
5 time." Counsel for the State then indicated that further witnesses may become
6 apparent as the case moves forward. Defense counsel then replied that it appears
7 then by the State's count, there are 94 witnesses as of this writing and that she
8 was in the process of providing dates.
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12 In response to questioning, counsel indicated that the defense wished to do
13 the interviews in person so as to effectively represent and protect the interests of
14 her client. This was also asserted during the last Case Management Conference.
15 Counsel for the State seems to rely upon statements made by prior counsel, Mr.
16 Gerald Gavin, regarding telephonic interviews. Mr. Gavin is not on this case.
17 Current counsel was not a party to those conversations if they occurred. Current
18 counsel does not believe telephonic interviews are sufficient and needs to conduct
19 defense interviews in person to be effective.
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23 Counsel further indicated that in regard to expert interviews, it was
24 necessary for her to secure funding of her own experts and for them to complete
25 their work so that those interviews could proceed most effectively. Counsel had
26 previously communicated to the State that she was in the process of collecting the
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1 information required to submit those requests. When the case was a capital
2 matter, contact was made with various experts. However, given the delay
3 occasioned by the withdrawal of Mr. Gerald Gavin, the time in locating new
4 counsel and his time required to get up to speed, and the State's dismissal of the
5 death penalty, the information provided over a year ago may well now be stale
6 and those individuals may no longer be available. Additionally, as the case is no
7 longer capital, the mechanism by which defense counsel obtains experts has
8 changed. Counsel was advised of the procedure and has begun determining if the
9 individuals previously contacted remain available and securing the information
10 required for the Court to make funding authorizations. This was communicated
11 to counsel for the State that it was underway after the last court date.

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16 Additionally, counsel suggested that the defense proceed with the evidence
17 viewing first, so that when interviews are conducted, counsel knows and has a
18 visual of what is being discussed. Counsel further asked for provision of the
19 evidence logs and after being told the logs would be available at the viewing,
20 counsel insisted upon receiving them prior so the defense could be prepared for
21 the viewing so that the time may be wisely spent. Some materials were received
22 late in the day, but counsel has not yet had the opportunity to review those in
23 detail to determine if they encompass and fulfill her requests.
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1 Counsel provided dates to the State throughout August and September of
2 her availability. Counsel further indicated that providing dates past October 1st
3 was likely not prudent as counsel and her investigator both have other cases
4 pending that will have new dates arise that may create a conflict. Counsel further
5 noted, as the State was aware, that she is undergoing a long series of medical
6 procedures that will continue through the summer and fall, some of which have
7 not yet been scheduled.
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10 Counsel for the State then accused defense counsel of “playing games”
11 twice and filed the above motions late in the day without further communication
12 as to the contents. Defense counsel absolutely does not believe Justin Rector’s
13 life is a game. Counsel’s sole focus is on representing Mr. Rector effectively and
14 as Constitutionally and ethically required. Counsel has made every attempt to
15 communicate with the State to obtain missing discovery items and complete the
16 work she is Constitutionally required to do, including the interviewing of
17 witnesses, to effectively represent Mr. Rector, however, has now been met with
18 personal attacks and the filing of frivolous, inflammatory motions which
19 misrepresent the facts as evidenced in the writings between the parties.
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25 Counsel is NOT waiving any interviews and is in fact going to be moving
26 the Court to order the State to permit her to re-interview witnesses previously
27 interviewed by former counsel. Defense counsel has stated in open court
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1 repeatedly her concern that the interviews previously done on this case were not
2 during a time when any single member of the current defense team was on the
3 case. It is the defense's opinion that in order to adequately and effectively
4 represent her client, that those interviews must be repeated. Current counsel has
5 no idea what theory prior counsel may have been operating under and further, the
6 very nature of the case has changed from a capital case to a non-capital case.
7
8 Counsel for the State has countered they are unwilling to repeat any interviews
9 and defense counsel indicated she would seek court intervention. Defense
10 counsel has been in the process of collating the thousand plus pages of State's
11 discovery with the audio recordings and transcripts of the interviews done by
12 previous counsel so that she may litigate that issue effectively.

16 Counsel frankly does not understand the change in tenor from the State that
17 seemed to happen very suddenly at the time of the last hearing and dramatically
18 escalated over the following week. Counsel has had frank conversations with
19 counsel for the State regarding the staffing changes that have occurred in the case
20 over the past year and believed a good working relationship had been established.
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22 In fact, she went to the office of counsel for the State after the last hearing in an
23 attempt to have additional frank discussions and resolve the issues. Defense
24 counsel understands the frustration in the time it has taken to bring this case to
25 trial, however, this frustration is inappropriately directed. The changes in counsel
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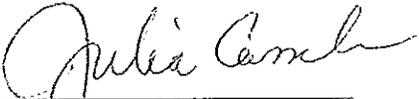
1 and the change in the nature of the case were not of defense counsel's doing.

2 Rather, the current defense team is doing everything within their power to serve
3 the interests of Mr. Rector and of justice under the circumstances which they find
4 themselves, with a sudden reduction of 3/5ths of the defense team, and
5 accordingly a massive reallocation of responsibilities. Defense counsel avows
6 she and Investigator Valdez are working diligently on this matter and will
7 continue to do so. However, the cooperation of the State is required.
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10 At this juncture, counsel asks the Court to intervene and order the State to
11 make its witnesses available for interviews; in the alternative to order the State's
12 witnesses be subject to deposition at County expense; or preclude the State from
13 calling its witnesses which it has now refused to make available.
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16 In the event the Court grants the State's Motions and precludes the defense
17 from conducting any interviews or securing any expert witnesses, defense counsel
18 will have no ethical option but to move to withdraw as she cannot effectively
19 represent Mr. Rector as required by the United States Constitution, the Arizona
20 Constitution, and the State Bar of Arizona. The issue may then be resolved in
21 the form of a special action, or by appellate, post-conviction, or habeas
22 proceedings, at further taxpayer expense.
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Respectfully submitted this 8th day of August, 2018.



JULIA CASSELS
Counsel for Defendant

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Original filed :
Clerk of the Court
Mohave County
401 E. Spring Street
Kingman, Arizona 86401

Honorable Lee Jantzen
Judge of the Superior Court

Mr. Greg McPhillips
Deputy County Attorney

Mr. Justin Rector
Mohave County Jail

Client File