

PSL

FILED

BY: _____



2018 AUG 17 AM 11:54

VICTOR TERRELL
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
Telephone: (928) 753-0719
5 Fax: (928) 753-2669
CAO.Court@mohavecounty.us
6 Attorney for Plaintiff

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
Defendant.

No. CR-2014-1193

**STATE RESPONSE TO
DEFENDANT'S SECOND
MOTION TO COMPEL**

13 COMES NOW, the State of Arizona, by the Mohave County Attorney and
14 through the undersigned Deputy County Attorney, Gregory A. McPhillips,
15 respectfully submits a response to defendant's second motion to compel.

16 **ISSUE**

17 Defendant's second motion to compel, filed on the 30th of July 2018,
18 requests the court compel disclosure of 3 items. The State answers these claims
individually:

- 19 1. The court will hold that the chain of custody lists was previously disclosed
20 and a motion to compel disclosure is unnecessary.
- 21 2. The court will hold as to the photos taken at T-Mobile that disclosure is on-
22 going.
- 23 3. The court will hold that the Cellular Information were previously disclosed
24 and a motion to compel disclosure is unnecessary.



1 FACTS

2 • **The Chain of custody lists and evidence control sheets**

3 The State has disclose chain of custody and evidence control documents
4 on many occasions and those documents are found in many locations of the
5 disclosure.

6 **a) Chain of Custody for items seized by Bullhead City**

7 On the 17th day of June 2015, the State disclosed pages 1222 through
8 1226 of disclosure. Pages 1222 through 1226 of disclosure are chain of custody
9 documentation for items seized by the BHCPD.

10 On August 7th of 2018, the State disclosed, via e-mail, 23 pages of
11 disclosure of chain of custody documents for items transferred between the
12 BHCPD and FBI. This documentation will be disclosed again with bates stamped
13 numbers. Footnote 1 of defendant's current motion acknowledges that the State
14 made this disclosure.

15 **b) Chain of Custody for items provided to the FBI**

16 On the 23rd day of May 2017, the State disclosed to defendant a disk
17 entitled "FBI Laboratory DNA Casework Unit Discovery Materials FBI Laboratory
18 #2014-01754." This disk was re-disclosed, and handed to Ms. Cassels by
19 undersigned counsel, on the 19th of March 2018. On the 15th of May 2018,
20 undersigned counsel sat with defense and confirmed defense had this disk. This
21 disk contains a PDF file that is 227 pages long. That file contains chain of
22 custody documents from the FBI on PDF pages 40-51.

23 **c) Evidence control sheets**

24 On the 1st of October 2014, the State disclosed pages 201 through 211 to
defendant. That disclosure consists of FBI Evidence Recovery Logs, receipts for
property, and worksheets for the burial site.

1 On the 31st day of October 2014, the State disclosed pages 856 through
2 859 to defendant. That disclosure consists of release of autopsy evidence to FBI
3 from BHCPD.

4 On the 31st day of October 2014, the State disclosed pages 860 through
5 865 to defendant. That disclosure consists of requests for FBI analysis.

6 On the 31st day of October 2014, the State disclosed pages 797 through
7 804 to defendant. That disclosure consists of requests for FBI analysis.

8 On the 31st day of October 2014, the State disclosed pages 805 through
9 807 to defendant. That disclosure consists of documentation for soil sample
collection by the FBI.

10 On the 31st day of October 2014, the State disclosed pages 905 through
11 910 to defendant. That disclosure consists of release of evidence to FBI from
12 BHCPD.

13 On the 24th day of December 2014, the State disclosed pages 971 and
14 1070. That disclosure consists of release of evidence to FBI from BHCPD.

15 **d) Crime scene log**

16 On the 1st of October 2014, the State disclosed page 210 to defendant
17 which is the FBI Crime Scene Sign-In Log for the burial site.

18 **• Photos taken at T-Mobile**

19 Undersigned counsel has been unable to locate photos taken at T-Mobile.
20 Undersigned counsel is attempting to locate the photos.

21 This factual background is initially confusing as there are more than one
22 set of photos from different report numbers.

23 On the 3rd day of September 2014, BHCPD Ofc. Delaney responded to T-
24 Mobile and collected a garden tool. Ofc. Delaney took photos. This report was
identified as BHCPD DR #14-046653.

1 On the 5th day of September 2014, BHCPD Doyle Walters responded to T-
2 Mobile and took photos. Walters did not collect photos. Walters took photos.
3 This report was identified as DR 14-046298.

4 On the 14th day of October 2014, the State disclosed a CD with 8 photos
5 from the T-Mobile. Undersigned counsel believes the disclosed photos to be the
6 Doyle Walters photos and is trying to obtain the Ofc. Delaney photos. The only
7 photos the State has located are the one set initially disclosed on the 14th day of
8 October 2014.

8 The State is continuing to look for the other set of photos.

9 • **Cellular Information**

10 Defendant's motion here is duplicative of his other currently pending
11 motion. The State addressed these facts in it's an answer to defendant's reply to
12 state's response to motion to compel (updated) filed on the 14th of August 2018.

13 On the 21st day of May 2018, the Court ordered disclosure of cellular
14 information (phone records) at request of the defense.

15 On the 12th day of June 2018, the State disclosed, the State disclosed the
16 disk entitled Rector Phone Records (14-046298, BH-192131). The disk contains
17 a PDF file entitled "Samsung Galaxy SIII Physical Extraction" that is, in totality,
18 3658 pages long. This is the requested cellular information.

19 On filed on the 30th of July 2018 defendant filed his defendant's reply to
20 State's response to motion to compel (updated). Defendant asserted that he did
21 not have the cellular information. At that time, defendant already possessed the
22 cellular information previously disclosed on disk as a large PDF file.
23
24

1 ARGUMENT

2 **1. THE CHAIN OF CUSTODY LISTS AND EVIDENCE CONTROL SHEETS**
3 **HAVE BEEN DISCLOSED**

4 As illustrated above, the State has disclosed chain of custody and
5 evidence control documents on many occasions and those documents are found
6 in many locations of the disclosure. The State has recently disclosed such
7 information to defense.

8 Defendant's disclosure request is frivolous. Defendant's Motion to Compel
9 should be denied.

10 **2. PHOTOS TAKEN AT T-MOBILE**

11 The State has disclosed one set of photos taken at T-Mobile.

12 The State is continuing to look for the other set of photos.

13 **3. CELLULAR INFORMATION WAS DISCLOSED**

14 Defense alleges in written motion that the cellular information was not
15 obtained. That is not the fact. The State did disclose the cellular information.

16 In open court, the Court ordered disclosure of cellular information on the
17 21st day of May 2018.

18 On the 29th day of June 2018, the State disclosed the disk entitled "Rector
19 Phone Records (14-046298, BH-192131)." The disk contains a PDF file entitled
20 "Samsung Galaxy SIII Physical Extraction" that is 3658 pages long.

21 Defendant's second motion to compel asserts the cellular information was
22 not disclosed. As detailed above, there is no factual basis for defendant's
23 assertion.

24 As defense acknowledged at the hearing dated the 30th of July 2018, the
State did disclose a disk entitled Rector Phone Records. Defense indicated at
the hearing that they did not look at the disk immediately and waited until before

1 reality, the defendant is using the filing of motions to compel disclosure to
2 forestall the setting of witness interviews. Years of delay have been enough.

3 CONCLUSION

4 The State has complied with the disclosure requests of the defense.
5 Defendant's second motion to compel must be denied.

6 RESPECTFULLY SUBMITTED THIS 15TH DAY OF AUGUST, 2018.

7 MOHAVE COUNTY ATTORNEY
8 MATTHEW J. SMITH

9
10 By 
11 DEPUTY COUNTY ATTORNEY
12 GREGORY A. MCPHILLIPS

12 A copy of the foregoing
13 sent this same day to:

14 HONORABLE LEE F. JANTZEN
15 SUPERIOR COURT JUDGE

16 JULIA CASSELS
17 ATTORNEY FOR DEFENDANT
18 Law Office of Julia Cassels
19 2642 East Thomas Road
20 Phoenix, AZ 84015

21 By 