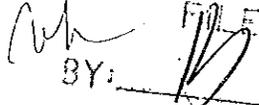


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FILED
BY: 

2015 OCT -7 AM 11:00
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.

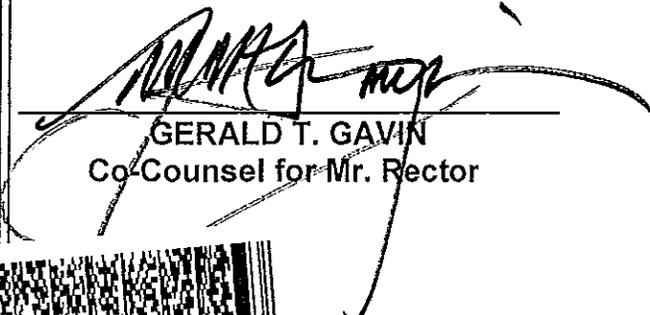
NO: CR 2014 - 01193

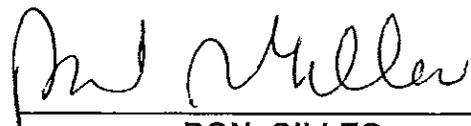
**DEFENDANT'S MOTION FOR
CONFIRMATION THE STATE WILL
NOT BE UTILIZING D.N.A. EVIDENCE
AT JUSTIN RECTOR'S TRIAL**

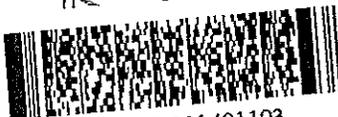
(ASSIGNED TO THE HON. LEE JANTZEN)

14 Defendant Justin James Rector, by and through undersigned counsel, moves
15 this court for a formal confirmation from the government, on the record, that the State of
16 Arizona *is not utilizing* any D.N.A evidence, at any stage, in Mr. Rector's above-listed
17 cause. This confirmation is requested for the reasons and authority contained in the
18 Memorandum of Point and Authorities attached hereto and incorporated herein.
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21

22
23 RESPECTFULLY SUBMITTED This 7th day of October, 2015.

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25 
26 **GERALD T. GAVIN**
27 Co-Counsel for Mr. Rector


RON GILLES
Co-Counsel for Mr. Rector



S8015CR201401193

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MEMORANDUM OF POINTS AND AUTHORITES

Defendant Justin Rector believes the State *is not utilizing*, at any stage of these proceedings, D.N.A. testing, analysis or evidence. To put on evidence regarding D.N.A. analysis, both sides must expend an enormous amount of time, capital and thought to presenting such evidence in court. The purpose of this motion is simple, yet important: the defense seeks confirmation from the State, on the record, that the State will not be using D.N.A. analysis, testing or evidence at any stage in this cause number. If the defense is wrong in that belief, the defense needs extensive time to address the use of D.N.A. in the courtroom.

Federal and Arizona constitutional provisions, pursuant to the 5th, 6th, and 14th Amendments to the United States Constitution, as well as the corresponding Article II, §§ 4 and 24 of the Arizona Constitution, as well as Arizona Rules of Criminal Procedure 15.1(b)(4) and (8), 15.1(e)(3), 15.1(f)(2) and (3), and 15.1(g), Justin Rector hereby moves this court to seek confirmation, on the record, from the State, that such evidence will not be utilized. The Defense is not seeking to waste time, but this issue is case critical. ***The Defense believes an unequivocal response to this Defense Motion, indicating the State will not be using any D.N.A. related testimony or evidence, will suffice, and make any further discussion unnecessary.*** The Defense is simply protecting the record, and also protecting Mr. Rector from false assumptions his defense team may be making on his behalf. The Defense does not want to assume the State is not utilizing D.N.A., only to learn shortly before trial the State is using such evidence.

If the State is planning such evidence, the Defense is entitled to immediate discovery. Arizona Rule of Criminal Procedure 15.1(b)(4) requires the State to disclose

1 to Mr. Rector the "results of physical examinations and or scientific tests, experiments or
2 comparisons that have been completed" on evidence items. Rule 15.1(b)(8) requires
3 the State to disclose to Mr. Rector " all material or information which tends to mitigate or
4 negate the defendant's guilt." Rule 15.1(f)(3) requires the State to disclose to Mr.
5 Rector all "examination notes made by [its] experts...in connection with the particular
6 case." Rule 15.1(f)(2) extends the State's above-listed disclosure obligations to cover
7 material and information in the possession or control of law enforcement agencies that
8 have participated in the case investigation under the prosecutor's direction or control.
9 Rule 15.1(f)(3) further extends the State's disclosure obligations to cover material and
10 information in the possession or control of "any other person" who has investigated or
11 evaluated the case under the prosecutor's direction or control.

12
13 Rule 15.1(g) provides a separate ground for Mr. Rector to obtain materials and
14 information thus described. If Mr. Rector shows (a) a substantial need in case
15 preparation for material and information not otherwise covered by Rule 15.1 and (b) that
16 he is unable to obtain the substantial equivalent of the material and information by other
17 means, the court is authorized to order any person to make the material and information
18 available to him.

19 The Defense simply seeks clarification on the record to put this issue to rest
20 quickly and clearly.
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1 ORIGINAL of the foregoing filed
2 this 7th day of October, 2015 with:

3 Clerk of Court
4 401 E Spring Street
5 Kingman Arizona 86401

6
7 COPY of the forgoing
8 Delivered this 7th day
of October, 2015, to:

9 Honorable Lee Jantzen
10 Judge of the Superior Court
11 Mohave County Courthouse
12 2nd floor
Kingman Arizona 86401

13 Greg McPhillips
14 Assigned Deputy County Attorney
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15 Ron Gilleo
16 Mohave County Legal Defender
17 Co-Counsel for Justin James Rector
18 313 Pine Street
PO Box 7000
Kingman Arizona 86401

19 Client Justin James Rector
20 Mohave County Jail

21 File

22
23 BY: 
24

25
26
27
28