

The Law Office of Gerald T. Gavin
3880 Stockton Hill Road Suite 103-450
Kingman Arizona 86409
((928)530-0948 480) 233-6038
geraldgavinlaw@email.com

1 **Gerald T. Gavin**
2 State Bar #013842
3 **Ron Gilleo**
4 State Bar # 016928
5 3880 Stockton Hill Road STE 103-450
6 Kingman Arizona 86409
7 Email: geraldgavinlaw@gmail.com
8 (928) 530-0948 / (480) 233 -6038
9 Attorneys for Justin James Rector

FILED
BY: _____
2015 OCT -7 AM 11:29
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.

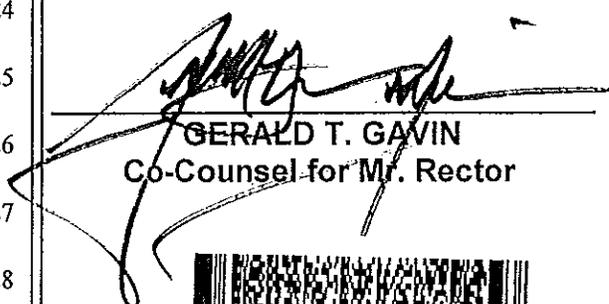
NO: CR 2014 - 01193

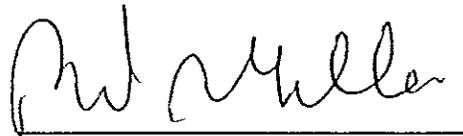
DEFENDANT'S MOTION FOR
PROBABLE CAUSE AS TO ANY
ALLEGED CAPITAL AND NON-
CAPITAL AGGRAVATING FACTORS /
(REQUEST FOR CHRONIS HEARING)

(ASSIGNED TO THE HON. LEE JANTZEN)

14 Defendant Justin James Rector, by and through undersigned counsel, moves
15 this court to set a hearing to require the government to show probable cause for any
16 aggravator it intends to allege in the above entitled cause, by holding a Chronis hearing,
17 for the reasons and authority contained in the Memorandum of Point and Authorities
18 attached hereto and incorporated herein.
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23 RESPECTFULLY SUBMITTED This 7th day of October, 2015.

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

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26 **RON GILLES**
27 Co-Counsel for Mr. Rector



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MEMORANDUM OF POINTS AND AUTHORITES

Justin James Rector, through counsel and pursuant to Rule 13.5 of the Arizona Rules of Criminal Procedure, moves this Court to set a hearing to require the government to show probable cause for any alleged aggravators in the above entitled cause. State v. Patterson, 283 P.3d 1, 10 (Ariz. 2012), the 5th, 6th and 8th, and 14th Amendments to the United States Constitution, and Article II, §§ 4, 15 and 24 of the Arizona Constitution.

The rules require a finding of probable cause to determine the validity of an alleged aggravating circumstance. See McKaney v. Foreman, 209 Ariz. 268, 100 P.3d 18 (2004). *The defendant has a right under the Rules of Criminal Procedure to have aggravators screened for probable cause.* See Chronis v. Steinle, 220 Ariz. 559, 208 P.3d 210 (2009) (emphasis added). Under Rule 13.5(d) of the Arizona Rules of Criminal Procedure, the accused in a noncapital case may challenge the “legal sufficiency” of an alleged aggravating circumstance; Rule 13.5(c) a virtually identical section applying to capital cases, has been interpreted as entitling the accused to test the “legal sufficiency” of capital aggravating circumstances by means of a hearing to determine the existence of probable cause. Steinle, 208 P.3d at 213.

The State must show that there is probable cause to support its allegations of aggravating circumstances or that allegations must be dismissed. Patterson, *supra*.

The State inquired at the hearing of September 30th, 2015 if we were putting on such a hearing; the defense indicated it would make a formal request. This is that request. Therefore, the Defendant requests that the court set this matter for a hearing, and thereafter either find probable cause has been established (see Rule 5, Arizona Rules of Criminal Procedure) or dismiss the alleged aggravating circumstance and not submit it to the jury.

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ORIGINAL of the foregoing filed
this 7th day of October, 2015 with:

Clerk of Court
401 E Spring Street
Kingman Arizona 86401

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

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

Greg McPhillips
Assigned Deputy County Attorney
PO Box 7000
Kingman Arizona 86401

Ron Gilleo
Mohave County Legal Defender
Co-Counsel for Justin James Rector
313 Pine Street
PO Box 7000
Kingman Arizona 86401

Client Justin James Rector
Mohave County Jail

File

BY: 