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FILED
BY: *fk*
2015 JUN 11 PM 3:07
VIRLYNN TINNELL
SUPERIOR COURT CLERK

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

STATE OF ARIZONA,

Plaintiff,

vs.

JUSTIN JAMES RECTOR

Defendant.

) NO: CR 2014-01193
)
)
) DEFENDANT'S REPLY TO STATE'S
) RESPONSE TO DEFENDANT'S MOTION
) IN LIMINE// PRETRIAL OBJECTIONS//
) TO IMPROPER PROSECUTORIAL
) ARGUMENTS THAT UNDULY INFLAME
) THE JURY

(ASSIGNED TO THE HON. LEE JANTZEN)

Defendant Justin James Rector, by and through undersigned counsel, replies to the States Response to Defendant's Motion to Defendant's Motion *In Limine*// Pretrial Objections to Improper Prosecutorial Arguments that Unduly Inflame the Jury, for the reasons contained in the Memorandum attached hereto and incorporated herein.

RESPECTFULLY SUBMITTED This 10th day of June, 2015.

[Signature]
GERALD T. GAVIN
Co-Counsel for Mr. Rector

[Signature]
RON GILLES
Co-Counsel for Mr. Rector



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M E M O R A N D U M

The State indicates the motion is premature as it references arguments during the Penalty Phase proceedings. The trial is obviously set late next year; any motion filed before an argument is made is "premature", as it anticipates an argument that has yet to be made. That is no reason to discount and deny such a motion; the intention of the defense is to put the State on notice that inflammatory arguments will be anticipated and objected to. There are many possible ways inflammatory language may surface; the defense is putting the State on early notice so it may eventually craft its arguments to avoid such problems, and possibly cause a mistrial that would necessitate the entire trial being repeated. If the defense were to wait, as is often tactically done, to file this motion on the eve of trial, the State would likely counter the defense was attempting to ambush or surprise the State into adjusting its arguments at the last minute. Since the defense will be making the motion, in fairness to the State it is filed before the onslaught of last minute filings that often precede such an important trial.

If the Court agrees a ruling at this juncture is premature, the defense would simply asked the motion be tabled, and not ruled on yet, until the court feels comfortable doing so. Denying the motion sends the wrong message to the State, conveying the court has little concern in preventing such statements. The defense would note that the mere passage of time, allowing trial to draw closer, will not impart some additional wisdom to the analysis of this decision. Either inflammatory statements will be tolerated by the court..... or not. If they are, they are over the defense' standing and continued objection to such practice. There is no harming in setting fair trial practice parameters early, allowing for as much planning to avoid a mistrial as possible. Should the motion

1 be denied now, the defense would file a Motion to Reconsider at a later date and renew
2 its objections.

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1 ORIGINAL of the foregoing filed
2 this 14th day of June, 2015 with:

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

6
7 COPY of the forgoing
8 Delivered this 14th day
9 Of June, 2015, to:

10 Honorable Lee Jantzen
11 Judge of the Superior Court
12 Mohave County Courthouse
13 2nd floor
14 Kingman Arizona 86401

15 Greg McPhillips
16 Assigned Deputy County Attorney
17 PO Box 7000
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25 Client Justin James Rector
26 Mohave County Jail

27 File

28 105

BY: 