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FILED
BY: 
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VIRLYNN TINHELL
SUPERIOR COURT CLERK

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
11
12 IN AND FOR THE COUNTY OF MOHAVE

13 STATE OF ARIZONA,

14 Plaintiff,

15 vs.

16 JUSTIN JAMES RECTOR

17 Defendant.

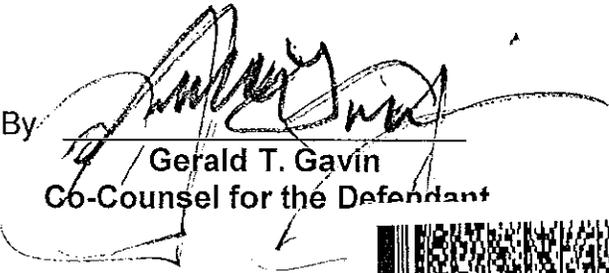
NO: CR 2014-01193

DEFENSE MOTION FOR DISCLOSURE
OF THE JUVENILE RECORDS OF
PLAINTIFF'S WITNESSES

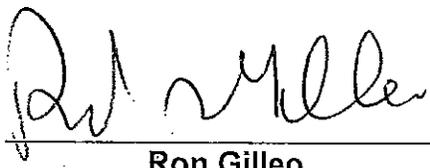
(Assigned to the Honorable Lee Jantzen)

18 Defendant Justin James Rector, by and through undersigned counsel, moves
19 this Court to order the assigned prosecutor to disclose the juvenile records of the
20 witnesses the State intends to call at trial. This motion is supported by the
21 Memorandum of Points and Authority attached hereto and incorporated herein.

22
23
24 RESPECTFULLY SUBMITTED this 28th day of August, 2015.

25
26
27 By: 

Gerald T. Gavin
Co-Counsel for the Defendant

By: 

Ron Gilleo
Co-Counsel for the Defendant



1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Defendant Justin Rector, if he is to be afforded adequate confrontation of
3 witnesses against him, is entitled to know the backgrounds of people the State will rely
4 on to try to exterminate his life. It is essential he be provided every bit of available
5 information on witnesses offering testimony against him, in that he may confront each
6 witness on equal footing, and be aware of any potential problems with their credibility
7 and veracity as witnesses. His life literally depends on it.
8

9 In Davis v. Alaska, 415 U.S. 308, the Supreme Court of the United States had
10 the opportunity to elaborate on confrontation. The Court reviewed the trial court's
11 prohibition, under color of state statute, of the defendant cross-examining a State's
12 witness (who was a juvenile) about his juvenile adjudications. The Court found that the
13 State's interest in protecting the juveniles records did not outweigh the defendants right
14 to confrontation. Id. at 319-320. The Court reaffirmed the holding in Delaware v. Van
15 Arsdall, 475 U.S. 673, 680 (1986), quoting Davis v. Alaska, 415 at 318.).
16

17 The right of confrontation has a long history of importance in our judicial system.
18 See ex. Crawford v. Washington, 541 U.S. 36 (2004); Olden v. Kentucky, 488 U.S. 227
19 (1988); Pennsylvania v. Ritchie, 480 U.S. 39 (1987) and Kentucky v. Stincer, 730
20 (1987).

21 In Arizona, A fair trial requires the accused be permitted to cross examine
22 effectively the witnesses against him. If the withholding of a prosecution witness
23 juvenile record makes it impossible for the accused to cross-examine effectively, the
24 State's policy of protecting juvenile offenders by refusing to disclose their records
25 except in juvenile proceedings must give way to the accused's constitutional right to
26 meaningful confrontation of the witnesses. State v. Meyers, 117 Ariz. 79, 88, 570 P.2d
27
28

1 1252, 1261 (cert. denied) 435 U.S. 928, 98 S.Ct. 1498, 55 L.Ed. 2d 524 (1978).
2 In State v. Morales, 129 Ariz. 283, 630 P.2d 1015 (1981), the defendant sought other
3 highly-protected records, prison records, in order to assist confronting a witness at trial.
4 The court found, in relevant part, that the right of a defendant to impeach the witness
5 against him must outweigh the right to the witness to the confidentiality of the records in
6 the Department of Corrections. We believe due process requires the defendant be
7 allowed to have access to the relevant materials to aid in the cross-examining of
8 Martinez about his inconsistent statements and other relevant information bearing on
9 his credibility, and it was reversible error to deny the defendant's right to discovery of
10 the witnesses file maintained by the Department of Corrections. State v. Morales, 129
11 Ariz. 283, 630 P.2d 1015 (1981)

12
13 A trial court has discretion in control of cross-examination, it cannot keep from
14 the jury relevant and important facts bearing on the trustworthiness of crucial testimony.
15 United States v. Harris, 501 F.2d 1, 8 (9th Cir. 1974).

16 While the right to confrontation and cross examination is not absolute, the denial
17 or significant diminution of that right must be closely and carefully scrutinized because it
18 calls into question the "ultimate integrity of the fact-finding process". California v.
19 Green, 399 U.S. 149, 196 (1970). Inquiry into a witness's potential bias or motivation is
20 proper and is not a collateral issue. Olden, 488 U.S. at 231-232. Bias is demonstrated
21 by " a witness' like, dislike, or fear of a party, or by the witness' self interest." United
22 States v. Abel, 469 U.S. 45, 52 (1984) (citing generally McCormick on Evidence, §40, p.
23 85, 89 (3d ed. 1984); Hale, "Bias as Affecting Credibility", 1 Hastings L.J. 1 (1949).

24
25 The juvenile records counsel seeks the State to disclose are necessary to show
26 possible biases, prejudices, and ulterior motives on the part of the witnesses for the
27 State. Davis, 415 U.S. at 316. If the State wishes to keep the juvenile records of its
28 witnesses secret, it should do as the United Supreme Court suggested in Davis –

1 "refrain [] from using him [or her] to make out its case. 415 U.S. at 320. The alleged
2 privacy interest of any emancipated State witnesses with a juvenile record is vitiated by
3 the defendant's confrontation rights if the State elects to call this witness.

4 The defense acknowledges the general need to protect and insulate juvenile
5 records. However, when Mr. Rector is literally facing life or death at trial, his rights must
6 trump other concerns, to insure justice and assure our citizens that convictions are
7 based on reliable evidence. Failure to provide this information to Mr. Rector will deprive
8 him of his rights under the State and Federal Constitutions to *confrontation, due*
9 *process of law, equal protection of the law, and freedom from cruel and unusual*
10 *punishment.* U.S. Constitution Amendments V, VI, VIII, and XIV, and Article II, §§ 4,
11 10, 15, and 24 of the Constitution of Arizona.
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1 ORIGINAL of the foregoing filed
2 this 22nd day of August, 2015 with:

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

6 COPY of the forgoing
7 Delivered this 22nd day
8 Of AUGUST 2015, to:

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

14 Greg McPhillips
15 Assigned Deputy County Attorney
16 PO Box 7000
17 Kingman Arizona 86401

18 Ron Gilleo
19 Mohave County Legal Defender
20 Co-Counsel for Justin Rector
21 PO Box 7000
22 Kingman Arizona 86401

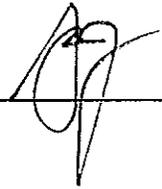
23 Client Justin James Rector
24 Mohave County Jail

25 File

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27 By: _____

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29 By  _____

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