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10 Attorneys for Justin James Rector

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

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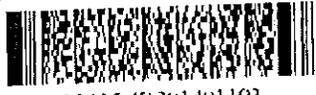
**DEFENDANT'S INITIAL MOTION FOR DISCOVERY**

(Assigned to the Hon. Lee Jantzen)

Pursuant to Rule 15.1, Az. R. Crim. Proc., Defendant Justin James Rector, by and through undersigned counsel, respectfully asks the prosecutor to make available to the defense for examination and reproduction the following material or information within the State's possession or control, or in the alternative have the Court Order production of the following:

- 1. Name, address, and phone number of all persons whom the State will call as witnesses in its case-in-chief, together with each person's relevant written or recorded statements;
- 2. All statements of the Mr. Rector and any person to be tried with him;
- 3. Name and address of experts who have personally examined the defendant or any evidence in this case or investigation, together with ALL results of their examinations or scientific tests, experiments, or comparisons, including written reports or statements made by them in connection with this case;

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1 *State ex rel. Helm v. Superior Court of Cochise County*, 90 Ariz. 133, 367  
2 P.2d 6 (1961). The work product exception of Rule 15.4(b)(1) does not apply  
3 to the opinions, theories and conclusions of experts contained in reports to be  
4 disclosed under this section. See Comment; Ariz.R.Crim.Pro. Rule 15.1(a)(3).

5 This request includes results of any kind of examination performed on any  
6 witness or other person contacted in the course of this investigation, as well  
7 as any laboratory tests conducted on behalf of the State, including, but not  
8 limited to, DNA, fingerprint, blood spatter, ballistics, polygraph, and drug  
9 examination or test. See *Kyles v. Whitley*, 514 U.S. 419, (1995) (prosecutor  
10 has obligation to learn of existing exculpatory evidence); *United States v.*  
11 *Bagley*, 473 U.S. 667 (1985) (impeachment evidence must be disclosed);  
12 *Brady v. Maryland*, 373 U.S. 83 (1963) (disclosure of information material to  
13 guilt or punishment is required).

- 14
- 15 4. List all papers, documents, photographs or tangible objects which the State  
16 will use at trial or which were obtained from, or purportedly belong to,  
17 Defendant; and any exhibits presented to the grand jury (whether admitted,  
18 marked only, or unmarked and not admitted);
- 19 5. List all prior convictions of Mr. Rector which the State intends to use at trial;  
20 and the means by which the prosecutor intends to prove such prior  
21 convictions. This request includes, but is not limited to, all information  
22 pertaining to the alleged act or crime, including where and when it occurred,  
23 and the name, address, and phone number of any witness who will be called  
24 to testify about it;
- 25 6. List all prior acts of Mr. Rector which the State will use to prove motive, intent,  
26 character or knowledge or otherwise use at trial; including for Rule 404(b)  
27 purposes, the names and addresses of all witnesses which the prosecutor will  
28 use to prove the act, the legal basis upon which the state believes the other  
act is admissible, and the issue at trial to which it is purported to be relevant.  
See *State v. Lee*, 189 Ariz. 590, 599, 944 P.2d 1204, 1213 (1997);
7. All material or information -- in the possession or knowledge of the state or its  
agents, including the investigating police agency, county attorney's  
investigators, and victim witness advocates, whether or not in recorded form -  
- which tends to mitigate or negate Mr. Rector's guilt as to the offense  
charged, or which would tend to reduce his punishment therefor<sup>1</sup>, including,  
but not limited to:
- a. All prior adult or juvenile felony convictions of witnesses which the  
prosecutor expects to call at trial<sup>2</sup>;
  - b. Any adult or juvenile charges against witnesses which are pending or  
were dismissed after the commission of the offense<sup>3</sup>;

1 *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963); *Kyles v. Whitley*, 514 U.S. 419, 115  
S.Ct. 1555 (1995).

2 *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763 (1972); *State v. Morales*, 120 Ariz. 517,  
587 P.2d 236 (1978); *Davis v. Alaska*, 415 U.S. 308, 94 S.Ct. 1105 (1974).

3 *State v. Swinburne*, 116 Ariz. 403, 569 P.2d 833 (1977); *State v. Torres*, 97 Ariz. 364, 400 P.2d  
843 (1965).

- 1 c. Whether or not the witnesses are now on adult or juvenile probation or  
2 parole or were on probation or parole at the time of the incident<sup>4</sup>;
- 3 d. Copies of the witnesses' N.C.I.C., LEGIS, and F.B.I. sheets;
- 4 e. All adult or juvenile convictions involving dishonesty or false  
5 statement<sup>5</sup>;
- 6 f. Evidence of any and all proffers of cooperation from/to Co-Defendants,  
7 including notes from meetings related to the proffers, the number of  
8 meetings held, who was present, the testimony proffered at the initial  
9 meeting and the final proffer presented by the witness along with any  
10 materials that suggest a variation in the witnesses testimony. See *U.S.*  
11 *v. Sudikoff*, 36 F.Supp.2d 1196 (C.D. Cal. 1999);
- 12 g. A copy of the entire plea agreement or contract of cooperation  
13 between the state and any witness, whether or not under seal, and/or  
14 any written contract of cooperation between a state's witness and any  
15 law enforcement agency, including promises or things of value not  
16 contained in the document itself. Things of value include, but are not  
17 limited to, money, housing, protection for themselves or their families,  
18 cars, transportation of any kind, medicines or drugs (prescribed or not),  
19 special treatment while in custody (e.g., phone calls, meals, conjugal  
20 or other visits, etc., which are not ordinarily permitted for other  
21 inmates) and any other consideration toward charges or sentencing  
22 which do not appear in their plea agreement or contract of cooperation;
- 23 h. Whether any witness has any history of mental illness or drug  
24 addiction, and whether the state has had any witness examined by any  
25 type of expert, medical or otherwise;
- 26 i. Whether the witness has taken a polygraph or has refused a polygraph  
27 examination. If a polygraph examination was taken, the Defense asks  
28 the State to disclose results of that examination, including: the  
questions asked, any responses determined not to be truthful or  
equivocal, and the name, address, and telephone number of the  
person administering the exam;
- 29 j. All information regarding anything of value given or promised to any  
30 friend or relative of any witness noticed by the state;
- 31 8. Whether there has been any electronic surveillance of any conversations to  
32 which the Accused was a party, or of their business or residence;
- 33 9. Whether a search warrant was requested and/or executed in connection with  
34 the case, and if so, copies of the Affidavit in Support, Proposed Warrant, and  
35 Signed Warrant;

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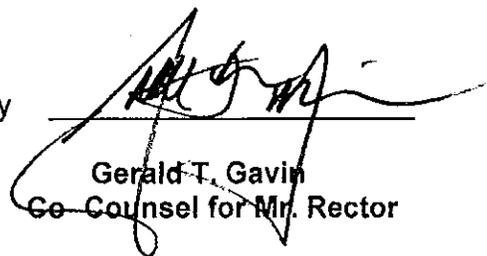
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10. Whether or not the case involved an informant, and if so, the informant's identity if Defendant is entitled to know either or both of these facts under Rule 15.4(b)(2);
  11. A list of all felony and misdemeanor convictions, and all felony and misdemeanor arrests, of all disclosed defense witnesses;
  12. All written or otherwise recorded statements of any witness disclosed by the State to victim assistance caseworkers and/or volunteers, and any statements made by the disclosed witnesses at any grand jury proceedings relating to the current charges against Defendant, whether or not they resulted in a true bill;
  13. Whether there has been any contact with any witness by any caseworker and/or volunteer of any victim/witness assistance program and the name, address and telephone number of such caseworkers and/or volunteers;
  13. Pursuant to 15.1(d), the Defense requests disclosure of the names of any law enforcement agencies involved in the investigation or evaluation of the case, together with the names of any persons connected with those agencies, including but not limited to assistant attorney generals, deputy county attorneys and/or their investigators, that were present at the scene of the crime during the arrest of the defendant, and/or the execution of a warrant, the seizure of any evidence, and/or were present for the taking of any statements from any persons whether or not named in a police or investigative report, along with their relevant written or recorded statements. See Comment, Ariz.R. Crim. Pro. 15.1(d);
  14. To assure that non-lawyers are not making legal decisions, the prosecuting attorney is hereby requested to review all material and gather all information in the possession of their agents, including the investigating police agency, county attorney's investigators and the victim rights advocates, and make the disclosure decisions themselves. See *Kyles v. Whitley*, 514 U.S. 419;
  15. In addition, the defense requests that the state make available to the defendant for examination and reproduction the following specified items:  
[Insert Specific Discovery Request]

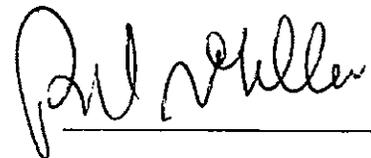
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RESPECTFULLY SUBMITTED this 9th day of March, 2015.

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By

  
Gerald T. Gavin  
Co-Counsel for Mr. Rector



Ron Gilleo  
Co-Counsel for Mr. Rector

1 ORIGINAL of the foregoing filed  
2 this 9<sup>th</sup> day of March, 2015 with:

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

6 COPY of the foregoing delivered  
7 this 9<sup>th</sup> day of March, 2015 to:

8 Honorable Lee Jantzen  
9 Judge of the Superior Court  
10 Mohave County Courthouse  
11 401 E Spring Street  
12 Kingman Arizona 86401

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

17 Ron Gilleo  
18 Mohave County Legal Defender  
19 Co-Counsel for Justin James Rector  
20 313 Pine Street  
21 PO Box 7000  
22 Kingman Arizona 86401

23 Client Justin James Rector  
24 Mohave County Jail

25 File

26 By: \_\_\_\_\_

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