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VIRLYNN TINNELL  
SUPERIOR COURT CLERK

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6 **IN THE SUPERIOR COURT, DIVISION IV OF THE STATE OF ARIZONA**

7 **IN AND FOR THE COUNTY OF MOHAVE**

8 STATE OF ARIZONA,

9 Plaintiff,

10 vs.

11 JUSTIN JAMES RECTOR,

12 Defendant.

Case No.: CR-2014-01193

**MOTION TO VACATE ORDERS  
FOR MENTAL HEALTH RECORDS**

13 COMES NOW Defendant, by and through his attorney undersigned, and moves the  
14 Court to vacate its Orders for Mental Health Records signed and entered on December 24,  
15 2014, for the following reasons:

- 16 1. The Orders were signed without a hearing and filed at 2:08 pm on December 24,  
17 2014, little more than 5 hours after the motion seeking the Orders was filed at 8:48  
18 that morning;
- 19 2. Counsel for Defendant did not receive State's motion requesting said Orders until  
20 3:50 pm on December 24, 2014, 7 hours after it was filed, because State's counsel  
21 chose to use the "in-house mailbox" to serve Defendant's counsel. Mail in this  
22 box is typically picked up by Public Defender staff once a day in mid-to-late  
23 afternoon;



24 S8015CR201401193

- 1           3. Counsel did receive the signed Orders electronically about a half hour after they
- 2           were signed, but never had any opportunity to respond or be heard beforehand;
- 3           4. Counsel for the State, by not requesting a hearing, perhaps unknowingly created an
- 4           impression in the Court that a hearing was not necessary and that counsel had
- 5           agreed upon the Orders;
- 6           5. In fact, defense counsel has several important objections filed contemporaneously
- 7           with this motion, and never knew, discussed or agreed upon anything concerning
- 8           these Orders;
- 9           6. The Orders, as signed and entered, violate A.R.S. §13-754(C), in that they direct
- 10          disclosure of information closely intertwined with preparation of the eventual
- 11          sanity and competency reports to the County Attorney instead of exclusively to
- 12          defense counsel and the Court;
- 13          7. The Orders, as signed and entered, require divulgement of Defendant's protected
- 14          health information without good cause shown, and without protective in camera
- 15          screening by the Court; and
- 16          8. The Orders, as signed and entered, contain a line apparently inadvertently adopted
- 17          by the Court from the State's incomplete use of language from A.R.S. §13-
- 18          754(A)(2). To wit, the Orders refer to the "... time of defendant committed the
- 19          offense (sic)...", which could be wrongly construed by some that the Court has
- 20          already reached a conclusion about defendant's guilt.

21          Defendant requests immediate hearing on this motion, for the reason that defendant will  
22          imminently, within days, suffer irreparable harm if his protected health information is  
23          divulged to the State.

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DATED THIS 26TH DAY OF DECEMBER, 2014.

JUSTIN JAMES RECTOR, Defendant

BY: Harry A. Moore  
HARRY A MOORE  
Mohave County Public Defender

A copy of the foregoing sent  
this 26 day of December 2014 to:

Greg McPhillips, Deputy  
Mohave County Attorney's Office

Justin James Rector, Defendant

Honorable Lee Jantzen

By: CW