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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,

No. CR-2014-1193

11 vs.

12 **JUSTIN JAMES RECTOR,**
13 Defendant.

**RESPONSE TO DEFENDANT'S
MOTION FOR SPECIAL
PROCEDURES TO INSULATE THE
VENIRE AND THE EMPANELED
JURY**

14 COMES NOW, the State of Arizona, by the Mohave County Attorney and through
15 the undersigned deputy, Gregory A. McPhillips, respectfully requests defendant's motion
16 for special procedures to insulate the venire and the empaneled jury be denied.
17 Defendant's motion lacks factual and legal merit.

18 The current process for jury selection protects the rights of the parties and
19 defendant's motion presented no fact or legal precedent that suggests the process be
20 changed.

21 **Facts**

Defendant's motion does not describe any factual basis to support any change in
the manner that juries are empaneled. There is no description of how Mohave County
jurors are empaneled or analysis of how the current manner of empaneling juries is
constitutionally lacking.

A secretary, in the office of undersigned counsel, was summonsed as a juror, to
the Mohave County Superior Court, on August 25, 2015. The notice for jury service was



1 not entitled with the name of the litigants or the cause number of the action. The notice
2 did specify the place and time of service and a group number. There was reference to an
3 automated Jury Line and a website. Undersigned counsel visited the website and it did
4 not specify either the name of the litigants or the cause number of the action.

5 Undersigned counsel has tried 123 felony jury trials in Mohave County between
6 April of 1998 and August of 2015. Several of those cases garnered media attention. In
7 that time, undersigned counsel is unaware of any occasion where the names of
8 prospective jurors were given to the press. Over the last several years, the clerk's office
9 has protected the identities of prospective jurors by taking the list of jurors from
10 undersigned counsel after completion of jury selection. Judges have started referring to
11 jurors by number after the jury is selected. Undersigned counsel contacted the jury clerk
12 and was informed that the Mohave County Clerk's Office will not release the names of
13 prospective jurors, to the press, in any case.

14 Law and Argument

15 Defendant's motion does not cite any legal basis, case law, or statute to support
16 any change in the manner that juries are empaneled in Mohave County.

17 **1. Defendant's request that the summons contain no reference to the specific 18 case is moot**

19 The notice for jury service, utilized by the Mohave County Clerk, does not mention
20 the name of the litigants or the cause number of the action. As such, defendant's request
21 is moot and should be denied.

22 **2. Defendant's request that employees of the Sheriff's Department, Clerk's 23 Office, or Jury Commission make no reference to this case when contacting 24 Prospective Jurors is moot**

25 The notice for jury service, utilized by the Mohave County Clerk, does not mention
the name of the litigants or the cause number of the action. As such, people serving such
a summons will not know the name of the litigants. Defendant's request is moot and
should be denied.

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2 **3. Defendant's request that the names, addresses, and telephone numbers of**
3 **the prospective Jurors not be subject to publication in the media is not ripe**

4 As of today's date, the media has not made a public records request for juror
5 names or addresses. Undersigned counsel has not seen such a request in the past. If
6 such a request is made, then the court will be forced to balance the respective rights of
7 the parties and the press. Without a request from the press, the court cannot prejudge the
8 decision based on only some of the facts. As such, defendant's argument is not ripe and
9 defendant's motion should be denied.

10 Further, the State does not agree that dissemination of juror names or contact
11 information is a violation of rights guaranteeing effective assistance of counsel.
12 Defendant does spend some time trying to assert that the ABA guidelines, for
13 performance of death penalty attorneys, somehow also manifests a violation of effective
14 assistance of counsel. The ABA guidelines, for performance of death penalty attorneys,
15 does not create a constitutional duty for the court. The ABA guidelines are not a ruling
16 that creates binding precedent. Defendant's argument makes no legal sense.

17 **CONCLUSION**

18 Defendant's motion lacks factual and legal merit. Further, the Mohave County
19 Clerk's Office has policies that do not allow jurors to know the name of the litigants.
20 Defendant's motion for special procedures to insulate the venire and the empaneled jury
21 should be denied.

22 RESPECTFULLY SUBMITTED THIS 26TH DAY OF AUGUST, 2015.

23 MOHAVE COUNTY ATTORNEY
24 MATTHEW J. SMITH

25 By 
DEPUTY COUNTY ATTORNEY
GREGORY A. MCPHILLIPS

1 A copy of the foregoing
sent this same day to:

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3 HONORABLE LEE F. JANTZEN
SUPERIOR COURT JUDGE

4 Gerald T. Gavin
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5 Kingman, AZ 86409

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9 By Gij

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