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FILED  
2015 MAR -9 AM 11:15  
VIRLYNN TRUETT  
SUPERIOR COURT CLERK

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

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

14 **STATE OF ARIZONA,**

15 **PLAINTIFF,**

16 **vs.**

17 **JUSTIN JAMES RECTOR,**

18 **DEFENDANT.**

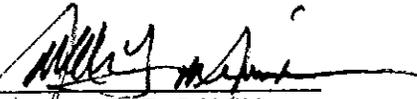
)  
) NO. CR-2014-01193  
)  
) **DEFENDANT'S MOTION FOR**  
) **PRODUCTION OF DAILY COURT**  
) **TRANSCRIPTS OF PROCEEDINGS**

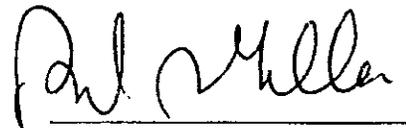
) (Assigned to the Hon. Lee Jantzen)  
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19  
20 Defendant Justin James Rector, by and through undersigned counsel, hereby  
21 *moves this Court for an Order* providing counsel with daily transcripts of the court  
22 proceedings in this case, for the reasons contained in the Memorandum attached hereto  
23 and incorporated herein.

24 **RESPECTFULLY SUBMITTED** this 9th day of March, 2015.

25  
26 By

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GERALD T. GAVIN  
Defendant's Co-Counsel

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RON GILLES  
Defendant's Co-Counsel



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MEMORANDUM IN SUPPORT

Given the complexity of proceedings in a capital case, which lead to an increased possibility of error and inconsistent testimony, Defendant Justin Rector asserts that extraordinary measures are required in order to assure a fair trial. These extraordinary measures include the provision of daily transcripts of all trial proceedings.

The United States Supreme Court, in Farmer v. Arabian Oil Company, 379 U.S. 227 (1964), upheld the lower court's denial of an allowance for daily transcripts of the trial proceedings where the case "was not a complicated or extended trial where lawyers were required to submit briefs and proposed findings". Id. at 234. This case, by contrast, is one in which daily transcripts are a necessary tool for adequate trial preparation, because of the prospective length and complexity of the proceedings. Due to the extreme nature of the punishment in this case and its finality if carried out, daily transcripts are necessary to guarantee the reliability of the verdict and the sentencing procedure, and to ensure the constitutional effectiveness of defense counsel.

Mr. Rector is entitled to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution, and corresponding rights under the Constitution of Arizona. The United States Supreme Court has further recognized that the right to effective assistance of counsel, due process, and equal indigent appellant. See Evitts v. Lucey, 469 U.S. 387, 401 (1985); Douglas v. California, 372 U.S. 353 (1963). The requirement has been extended to require the State to provide an indigent defendant with a transcript of prior proceedings when that transcript is necessary for an adequate and effective defense. Britt v. North Carolina, 404 U.S. 226 (1971).

1 In Britt, the Supreme Court said that "Griffin v. Illinois" and its progeny  
2 established the principle that the state must, as a matter of equal protection, provide  
3 indigent prisoners with the basic tools which are available for a price to other prisoners".  
4 Britt, 404 U.S. at 227 (footnote omitted). By analogy, a non-indigent defendant facing a  
5 capital murder trial would no doubt pay for a daily transcript because of the obvious  
6 benefits it brings to effectively confronting the State's case and presenting the  
7 Defendant's case. Mr. Rector very much needs these transcripts; he cannot afford it.  
8 The same basic tool should be afforded indigent capital defendants as similarly-situated  
9 Defendants with the financial means to do so.

10 Pursuant to the constitutional right of confrontation, Mr. Rector is entitled to an  
11 opportunity to cross-examine and impeach all witnesses who testify. Defendant's ability  
12 to exercise this right is far less effective without daily transcripts. See Chambers v.  
13 Mississippi, 410 U.S. 284, 295 (1973) (holding the main purpose of confrontation is to  
14 secure the opportunity to cross-examine); see also Davis v. Alaska, 415 U.S. 308, 315-  
15 16 (1974) (finding the right to cross-examine implicit in the right of confrontation).

17 Assuming, arguendo, that this requested procedure itself does not emanate  
18 directly from clear constitutional provisions, as the United States Supreme Court's  
19 jurisprudence has made evident, death is different; for that reason more due process is  
20 due, not less. See Lockett v. Ohio, 438 U.S. 586, 605 (1978); Woodson v. North  
21 Carolina, 428 U.S. 280, 305 (1976) (plurality opinion). This is all the more so when a  
22 petitioner's life interest, protected by the " life, liberty and property" language in the Due  
23 Process Clause, is at stake in the proceeding. Ohio Adult Parole Authority v. Woodard,  
24 523 U.S. 272, 288 (1988) (O'Conner, Souter, Ginsberg and Breyer, J.J., concurring); id.  
25 at 291 (Stephens, J. dissenting) (recognizing a distinct, continuing life interest protected  
26 by the Due Process Clause in capital cases). All measures must be taken to prevent  
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1 arbitrary, cruel and unusual results in a capital trial. See Lockett, 438 U.S. at 604;  
2 Woodson, 428 U.S. 304-05.

3 Defendant respectfully moves this Court for an order that counsel SHALL BE  
4 PROVIDED with daily transcripts during the trial at the State's expense.  
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**ORIGINAL** of the foregoing filed  
this 9<sup>th</sup> day of March, 2015 with:

Clerk of the Court  
401 E. Spring Street  
Kingman Arizona 86401

**COPY** of the foregoing delivered  
This 9th day of March, 2015 to:

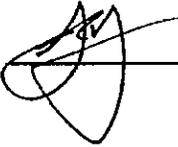
Honorable Lee Jantzen  
Judge of the Superior Court  
Mohave County Courthouse  
401 E. Spring Street  
Kingman Arizona 86401

Greg McPhillips  
Assigned Deputy County Attorney  
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Mohave County Legal Defender  
Co-Counsel for Justin James Rector  
313 Pine Street  
P.O. Box 7000  
Kingman Arizona 86401

Defendant Justin James Rector  
Mohave County Jail

File

By  \_\_\_\_\_