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OCT 27 2010

**IN THE SUPERIOR COURT
MOHAVE COUNTY, STATE OF ARIZONA**

**VIRLYNN TINNELL
CLERK SUPERIOR COURT
DEPUTY**

**Judge: Honorable Steven F. Conn
Division: 3
Courtroom: A
Court Reporter: Jim Glover**

**Virlynn Tinnell, Clerk of Superior Court
By: Christine Murphy, Deputy Clerk
Hearing Date: October 27, 2010**

<p>STATE OF ARIZONA, vs. JOHN CHARLES MCCLUSKEY,</p> <p style="text-align: right;">Plaintiff, Defendant.</p>	<p>CASE NO: CR-2010-00823 STATUS CONFERENCE START: 2:45 P.M.</p>
<p>STATE OF ARIZONA, vs. TRACY ALAN PROVINCE,</p> <p style="text-align: right;">Plaintiff, Defendant.</p>	<p>CASE NO: CR- 2010-00820</p>
<p>STATE OF ARIZONA, vs. CASSLYN MAE WELCH,</p> <p style="text-align: right;">Plaintiff, Defendant.</p>	<p>CASE NO: CR-2010-00821</p>

APPEARANCES: Victoria Stazio, Deputy County Attorney; John Pecchia and Jason Steffen, Attorneys for and with the Defendant McCluskey; Ron Gilleo, Attorney for the Defendant Province and Adam Zickerman, Attorney for the Defendant Welch, appears telephonically.

This is the time set for a Status Conference in this matter; Defendants Tracy Alan Province and Casslyn Mae Welch are not present.

At the last hearing it was indicated by the State that a Writ had been signed by a Federal Judge directing the Federal Authorities to take custody of the Defendants. The indication at that hearing was that the State was agreeable to the Federal Authorities taking custody of the Defendants and trying them first on the charges out of New Mexico. At that hearing Defense counsel for the Defendant McCluskey objected to the Federal Authorities taking custody of the Defendant before the State charges in Mohave County

had been resolved. The Court had set this hearing and ordered that the Mohave County Sheriff's Office would not release any of the Defendants to the Federal Authorities until this hearing took place.

Defense Counsel for McCluskey has filed a Motion to Hold Defendant in the Mohave County Jail Pending Trial in this matter. The Court has reviewed this Motion and asks the State for the current status of this matter.

Ms. Stazio advises the Court that the State was under the notion that they had no standing to object to the Federal Authorities taking custody of the Defendants and that the State's current position is to prosecute the Defendants.

Ms. Stazio informs the Court that Ms. Linda Mott representing the United States Attorney's Office District of New Mexico is present and would like to make statements. Mr. Pecchia objects and questions if Ms. Mott is licensed to practice law in the State of Arizona. Ms. Mott responds that she is not, but she was prepared to ask leave of the Court to present any argument that the Court may wish to hear as a representative of the United States, or to make an Oral Motion to allow her to present an argument on Pro Hac Vice this one time.

The Court does not believe that Ms. Mott has any authority to argue this issue and does not rule out the possibility that the Federal Government through attorneys that are licensed in Arizona can file some further pleadings to revisit this issue. The Defendants are in the State of Arizona; the State is still asserting their right to prosecute the Defendants on the charges in Arizona and the Court does not believe that there is anything further for the Court to rule on at this time.

The Court is not specifically granting the Defense Motion to Hold the Defendants in the Mohave County Jail because the Court is convinced that if the State were willing to turn the Defendants over to the Federal Authorities, the Defendants would have no standing to express an opinion as to who is going to try them first. The State has determined that they wish to prosecute the Defendants, the Defendants will continue to go through the Court system here in Arizona and they will not be turned over to the Federal Authorities unless the Court is persuaded at some later point to do so.

The Court affirms any future hearings already set for the Defendants Tracy Alan Province and Casslyn Mae Welch.

The call with Mr. Zickerman is ended.

The Court addresses a request that was received from KPNX TV in Phoenix to televise these proceedings. The Court had denied that request at that time. Counsel on behalf of KPNX has filed a Motion to Reconsider; the Court will enter an Order addressing that Motion.

The Defense has filed a Motion for Change of Venue; the Court will set this matter for hearing by separate minute entry. The Court notes there is a hearing set for November 2, 2010 at 9:30 a.m. on the Defense Motion to Designate as a Complex Case.

The Court is inclined to set this matter for Omnibus Hearing and Hearing on the Motion for Change of Venue at the same time and will do so by separate minute entry.

Mr. Pecchia requests that the Court enter a standing Order that the Mohave County Sheriff's Office will not release the Defendant's to the Federal Authorities.

IT IS ORDERED that the Mohave County Sheriff will not turn over custody of any of these three Defendants to the authorities from any other jurisdiction be it State or Federal without the specific order of this Court.

The Court recesses at 3:02 p.m.

cc:

MOHAVE COUNTY ATTORNEY *

MOHAVE COUNTY PUBLIC DEFENDER'S OFFICE *
Attorneys for the Defendant McCluskey

MOHAVE COUNTY LEGAL DEFENDER'S OFFICE *
Attorney for the Defendant Province

LAW OFFICES OF STEPHEN GLAZER *
Attorney for the Defendant Welch

MOHAVE COUNTY JAIL*

MOHAVE COUNTY SHERIFF'S OFFICE *

HONORABLE STEVEN F. CONN *
Division 3