

1 **WILLIAM P. RING**
2 **COCONINO COUNTY ATTORNEY**

VALERIE WYANT CLERK
2017 FEB 28 PM 3:01

3 Ammon D. Barker
4 Bar # 028010
5 Bryan Shea
6 Bar # 027631
7 Deputy County Attorneys
8 110 E. Cherry Avenue
9 Flagstaff, Arizona 86001-4627
10 PHONE: (928)679-8200
11 FAX: (928) 679-8201
12 Attorneys for the State

FILED

9 **IN THE SUPERIOR COURT, THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF COCONINO**

11 STATE OF ARIZONA,
12 Plaintiff,
13 vs.
14 STEVEN EDWARD JONES,
15 Defendant.

No. CR2015-00862

STATE'S PRETRIAL MOTIONS *IN LIMINE*

Hon. Dan Slayton – Div. 2

WILLIAM P. RING
COCONINO COUNTY ATTORNEY
110 E. CHERRY AVENUE
FLAGSTAFF, ARIZONA 86001-4627
(928) 779-6518

17 The State of Arizona, by and through the undersigned Deputy County Attorney,
18 hereby moves this Court to preclude certain evidence or categories of evidence as
19 irrelevant, unduly prejudicial, and/or inadmissible hearsay pursuant to Rules 401, 402,
20 403, 801, and 802 as set forth below:

21 **1. Rumors and opinion regarding parties/police contact at "the Courtyard"**

22 The defense has, at times, inquired about the reputation of "the Courtyard" as a
23 place of regular parties, disturbances, or police contact. What is referred to as "the
24 Courtyard" is a complex of apartments where some of the victims in this case resided,
25 including Colin Brough. Many other people live within that same complex, including
26 individuals from the Sigma Chi fraternity, the same fraternity where Defendant had
pledged prior to his shooting spree. As far as the State can tell, this location did not have

WILLIAM P. RING
COCONINO COUNTY ATTORNEY
110 E. CHERRY AVENUE
FLAGSTAFF, ARIZONA 86001-4627
(928) 779-6518

1 a reputation for disturbances more than the typical college living situation. However, this
2 line of inquiry is improper and it is an attempt by the defense to spread blame toward the
3 victims for any prior event that may have occurred at that location. It is also not relevant
4 to Defendant's claim of self-defense. Whether that location is or was a location known
5 for loud parties does not speak to whether Defendant acted reasonably on the night in
6 question.
7

8 Additionally, this topic is rife with hearsay issues. Unless specific individuals were
9 involved in these "disturbances," if they exist at all, they would have no personal
10 knowledge to speak upon this topic. Conveying rumors and opinions based on rumors is
11 not countenanced by the Rules of Evidence.
12

13 **2. Deceased victim's tattoos**

14 Colin Brough had a tattoo on his chest. It is referred to in the autopsy report, per
15 the medical examiner's usual practice. There is no relevance to any aspect of this case
16 that Colin Brough had a tattoo. This is not a gang case, where a tattoo may have special
17 significance to a claim of self-defense. There is also no way Defendant would have seen
18 his tattoo since Colin was wearing a shirt at the time he was murdered. Although, in this
19 day and age, tattoos have gained popularity and mainstream acceptance, there is the
20 potential that some jurors may look upon a tattoo with judgment, and thereby unfairly
21 judge the victim or his friends. Because there is no relevance to the tattoo in the first
22 place, the State requests that his tattoo not be mentioned at trial.
23

24 **3. Deceased victim's false ID**

25 When the police and first responders located Colin's body, they attempted to
26 ascertain his identity. This was confused slightly by the fact that Colin had a false ID in
his wallet. There is no indication that this fake ID played any part in the events proceeding

WILLIAM P. RING
COCONINO COUNTY ATTORNEY
110 E. CHERRY AVENUE
FLAGSTAFF, ARIZONA 86001-4627
(928) 779-6518

1 Colin's murder. Further, because Colin is deceased and will not be testifying in this case,
2 there is no reason why his character for truthfulness could reasonably be impeached by
3 such evidence. His truthfulness is not at issue. Consequently, the defense should be
4 precluded from mentioning that the victim possessed a fake ID.
5

6 **4. Victims' drug use**

7 The State is aware of the case law which allows for the discussion of drug use by
8 witnesses to inquire about their ability to see, hear, or otherwise perceive things clearly
9 and accurately. The State agrees with this general concept. This Motion does not intend
10 to curtail that type of inquiry. This Motion does, however, seek to preclude the defense
11 from discussing any drugs in Colin Brough's body, or any drugs that may have been used
12 by other witnesses but had no effect on the witnesses at the time of the shooting.
13

14 **a. Deceased victim's drug use**

15 The State has discussed at length the irrelevance of Alprazolam and THC in Colin
16 Brough's blood in its Motion to Preclude Irrelevant and Inadmissible Expert Testimony
17 (Dr. French). It will not repeat that argument here. Suffice it to say, there is no relevance
18 to these substances in Colin's body. He will not be testifying, so his memory or perception
19 will not be at issue. And, at the low doses these drugs were found, there is no ability to
20 affirmatively say that these drugs negatively affected Colin's behavior, or that Defendant
21 observed the effects of these drugs. In fact, Defendant never mentioned that Colin
22 appeared to be intoxicated by drugs.
23
24

25 **b. Mr. Prato and Mr. Zientek's marijuana use**

26 Toxicology screens provided by the hospital show that Mr. Prato and Mr. Zientek
had cannabinoid in their urine. When a drug is discovered in the urine, it cannot be said
to be effecting the individual. There is no indication about the THC levels in their blood.

WILLIAM P. RING
COCONINO COUNTY ATTORNEY
110 E. CHERRY AVENUE
FLAGSTAFF, ARIZONA 86001-4627
(928) 779-6518

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

All indications are that Mr. Prato and Mr. Zientek were not under the influence of any drugs. The State agrees that the defense may inquire of the victims about their drug use that evening. However, any further inquiry into drug use before that night is not relevant and should not be allowed.

5. Conclusion

For the foregoing reasons, the State requests the Court preclude this irrelevant and/or prejudicial information at trial.

RESPECTFULLY SUBMITTED this 28 day of February, 2017.

WILLIAM P. RING
COCONINO COUNTY ATTORNEY

By 
Ammon D. Barker
Deputy County Attorney

COPY of the foregoing mailed/delivered this day of February, 2017, to:

The Honorable Dan Slayton
Division 2
Coconino County Courthouse
Flagstaff, AZ 86001

Burges McCowan
Joshua Davidson
Attorneys for Defendant

By: 