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FILED

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF COCONINO

Dan R. Slayton, Judge  
Division 2  
Date: April 18, 2017

Valerie Wyant, Clerk  
Marie Jones, Deputy Clerk  
Steve Garwood, Court Reporter

MINUTE ENTRY

THE STATE OF ARIZONA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No. CR 2015-00862
	)	
STEVEN EDWARD JONES,	)	
	)	
Defendant.	)	

**ACTION: JURY TRIAL – DAY SEVEN**

**APPEARANCES:** Ammon Barker and Bryan Shea, Deputy County Attorneys, are present, appearing on behalf of the State. The Defendant is present and appearing out of custody with Counsel, Joshua Davidson and Burges McCowan. Sergeant Mike O'Hagan, Investigating Officer, is present.

Prior to the resumption of the Trial, State's Exhs. #371 to #381 are marked for purposes of identification.

9:07 a. m. Court reconvenes. The Defendant, Counsel, the investigating officer, and the Jury are present.

The Court reminds the Jury and Counsel that today is a short day. Again, we are perhaps on a course for finishing a little earlier.

The State (Ammon Barker) calls Zachary Volpo to the stand. The Witness is sworn and testifies on direct examination.

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Defense Counsel (Joshua Davidson) moves to strike the Witness' statement, "someone shot down my friend." Further, said Counsel asks the Court to admonish the Witness.

The objection is sustained and the Court admonishes the Witness. The Court further instructs the Witness to answer the questions as best he can and to just provide the facts.

The Witness continues to testify on direct examination. At times during direct examination, the Witness testifies as the Leica Scan (Exh. 316) is published.

The Witness continues to testify on cross examination by Defense Counsel (Joshua Davidson).

Defense Counsel (Joshua Davidson) moves to admit **Exh. 363** into evidence. There being no objection, **IT IS SO ORDERED.**

Permission is granted to publish the exhibit to the Jury.

The Witness continues to testify on cross examination.

Defense Counsel (Joshua Davidson) moves to strike as the Witness is unresponsive.

Sustained. The Witness's last comment about the "news conference talking about the murder" is stricken from the record.

The Witness continues to testify on cross examination and mentions that "this is the most traumatic event that will ever happen to him."

Defense Counsel (Joshua Davidson) moves to strike as the Witness is unresponsive.

Sustained. The Court advises the Witness to answer the questions "yes" or "no."

The Witness continues to testify on cross examination.

The Witness advises he feels "Colin is looking over him."

Defense Counsel (Joshua Davidson) moves to strike from the record and **IT IS SO ORDERED.**

The Witness continues to testify on cross examination.

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The Court advises It will now take a recess and gives the Admonition.

The Court asks the Media to cut the feedline while on recess.

10:32 a.m. Court is in recess.

10:52 a.m. Court reconvenes. The Defendant, Counsel, the investigating officer, and the Jury are present.

With the permission of the State (Ammon Barker) and the Court, Defense Counsel (Joshua Davidson) inadvertently misstated something, wants to clarify with the Witness and proceeds to do so.

The Witness continues to testify on redirect examination by the State (Ammon Barker).

Defense Counsel (Joshua Davidson) objects as unresponsive.

The objection is sustained.

The Witness continues to testify on redirect examination. At times during redirect examination, the Witness testifies as the Leica Scan (Exh. 316) is published.

There are no Jury Questions and there being no objection, the Witness is excused.

The State (Bryan Shea) calls Dr. Robert Berger to the stand. The Witness is sworn and testifies on direct examination.

Defense Counsel (Joshua Davidson) advises that Defense will stipulate as to the Witness' qualifications as a surgeon and physician.

The State (Bryan Shea) advises that the State still wants the Witness to give a brief overview as to his education and experience.

The Witness proceeds to testify on direct, cross by Defense Counsel (Joshua Davidson) and redirect examination by the State (Bryan Shea).

There are no Jury Questions and there being no objection, the Witness is excused.

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As there is a Jury Question, Court and Counsel sidebar and review off the record.

The Witness continues to testify on the Jury Question with brief follow-up examination by Defense Counsel (Joshua Davidson).

There being no objection, the Witness is excused.

At the request of the Court, Court and Counsel hold a bench conference off the record.

The Court advises It will now take the recess for the day and gives the Admonition. Court will reconvene tomorrow morning at 9:00 a.m. for the full day.

11:46 a.m. The Defendant, Counsel and the investigating officer are present, outside the presence of the Jury.

Defense Counsel (Joshua Davidson) advises the Defense did an interview with a criminalist, who was involved in the analysis of the Defendant's blood and urine. Said Counsel thinks they will be able to reach a stipulation with regard to the alcohol and the involvement of these criminalists; however, during the course of the interview, it was disclosed to Counsel by the Witness that there was actually DPS testing done by the State on the Defendant's urine sample for drugs that was completely negative. This was never disclosed to the Defense. It only sort of came out during the course of this interview that was done yesterday. The State did provide a lab report from another criminalist reflecting testing on the Defendant's blood that was negative for drugs.

Defense Counsel believes that the State is going to try to make the case that, due to the time that passed between the incident and the time the Defendant's urine and blood were collected, that the "look back period" or the degree to which those tests would be able to establish that the Defendant was also drug free at the time of the shooting, is going to be an issue in this case. That being so, the fact that both the blood and urine were negative for drugs is something that the Defense should have been advised of previously. Said Counsel feels that this is about as exculpatory as it gets. It certainly would have affected or, at least, had Counsel investigate or consider questioning the officers who were involved in the Defendant's custody shortly after his arrest, in establishing how frequently and when he used the restroom. It would also have affected the scope of Dr. French's involvement in this case and the extent to which the Defense would like to perhaps ask him to opine about the significance of the negative urine test in addition to a negative blood test. The State did disclose the report after the interview. Said Counsel is going to try and speak to Dr. French. Defense Counsel doesn't know, at this point, if he is going to ask anything specific. Depending on what opinions Dr. French has, Counsel may

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ask leave to expand the scope of his testimony to reflect this newly disclosed evidence. Defense Counsel just wanted to put on the record the events of yesterday and to let the Court know what the current position of the Defense is on that issue.

The State (Ammon Barker) advises that he found out yesterday, just like the Defense did, about this other report done by the central lab and the State disclosed it as soon as they found out. Since the Defense is not asking for anything at this point, the State has nothing to say.

11:49 a.m. Court is adjourned.

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After Court is adjourned, the Clerk marks Defendant's Exhs. #382 through #470.

  
cc: Deputy County Attorney (Barker/Shea)  
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