

VALERIE WYANT, CLERK
2017 APR 21 PM 2:51
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 20, 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 NINE

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.

9:09 a. m. Court is in session. The Defendant, Counsel, the investigating officer, and the Jury are present.

The State (Ammon Barker) advises that the State and the Defense have entered into a stipulation as two stipulations which are Exhs. #471 and #472.

The State (Ammon Barker) moves to admit **Exhs. #471 and #472** into evidence. There being no objection, **IT IS SO ORDERED.**

The Court proceeds to read both stipulations into the record.

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

The State (Ammon Barker) calls Detective Casey Rucker to the stand. The Witness is sworn and testifies on direct examination.

The State (Ammon Barker) moves to admit the follow Exhibits into evidence:; **#164, #165, #274, #276, #182, #185, #187, #188, #190, #195, #196, #198, #201, #203, #207, #210, #211, #215, #223, #226, #229, #231, #235, #236, #237, #239, #240, #241, #243, #249, #251, #255, #256, and #371 through #380.** There being no objection by Defense Counsel (Borges McCowan), **IT IS ORDERED** admitting the preceding exhibits into evidence.

The Witness continues to testify on direct examination.

The State (Ammon Barker) moves to admit **Exh. #317** (the Leica Scan and hotlinks) into evidence. There being no objection, **IT IS SO ORDERED.**

As these exhibits are published to the Jury, the Witness continues to testify on direct examination.

Having concluded publishing the Exhibits, the Witness continues to testify on direct examination.

The State (Ammon Barker) moves to admit **Exh. #381** into evidence. There being no objection, **IT IS SO ORDERED.**

The Witness continues to testify on direct examination.

At this time, Exh. #381 is published to the Jury during direct examination of the Witness.

The Witness continues to testify on cross examination by Defense Counsel (Borges McCowan). At times during cross examination, the Witness testifies as Exh. #316 is published.

Defense Counsel (Borges McCowan) moves for the admission of **Exhs. #402 through #407** into evidence. There being no objection, **IT IS SO ORDERED.**

While the exhibits are published to the Jury, the Witness continues to testify on cross examination by Defense Counsel (Borges McCowan).

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

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

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

10:18 a.m. Court is in recess.

10:40 a.m. Court reconvenes. The Defendant, Counsel, the investigating officer, and the Jury are present.

The Witness continues to testify on cross examination by Defense Counsel (Burgess McCowan). At times during cross examination, the Witness testifies as Exh. #316 is published.

Defense Counsel (Burgess McCowan) moves for the admission of **Exh. #418** into evidence. There being no objection, **IT IS SO ORDERED.**

With the Court's permission. Exh. #418 is published to the Jury.

The Witness continues to testify on cross examination by Defense Counsel (Burgess McCowan). At times during cross examination, the Witness testifies as Exh. #316 is again published.

The State (Ammon Barker) moves to admit **Exh. #233** into evidence. There being no objection, **IT IS SO ORDERED.**

The Witness continues to testify on redirect examination by the State (Ammon Barker). At times during redirect examination, the Witness testifies as Exh. #316 is again published.

As there are Jury Questions, Court and Counsel sidebar and review off the record.

The Witness continues to testify on Jury Questions and follow-up examination by the State (Ammon Barker).

The State (Ammon Barker) moves for the admission of **Exh. #350** into evidence. There being no objection, **IT IS ORDERED.**

There is no follow-up examination by either Counsel.

There being no objection, the Witness is excused.

At this time, the State rests.

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

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

The Court advises that the State has rested in their case in chief. At this time, the Court needs to address matters with Counsel and Court will reconvene at 1:30 p.m.

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

Pursuant to Rule 20, Defense Counsel (Joshua Davidson) asks the Court to enter a Judgment of Acquittal as to Counts 4, 5, 6 and 7. Said Counsel presents argument and urges the Court to enter a directed verdict for these counts.

Defense Counsel (Joshua Davidson) now addresses Count 1. The State has charged the Defendant with Murder in the First Degree under the legal theory that when Mr. Brough was killed the Defendant acted with premeditation. There has been simply no substantial evidence presented by the State that demonstrates any reflection on behalf of the Defendant. There has simply been no evidence presented that a reasonable Juror can determine that the State has established premeditation beyond a reasonable doubt. Said Counsel continues to argue his position as to the lack of premeditation by the Defendant and the lack of evidence.

The State (Ammon Barker) reviews the indictment and notes intent as to Counts 4 and 5. As to Counts 6 and 7, the State also notes that there is intent to fire upon the Victim. As to Count 1, intent has been established by all the facts and circumstances which is detailed by the State. Said Counsel continues to argue premeditation on the part of the Defendant.

The Court presents statements to those in the courtroom and explains the Rule 20 Motion. Under the Arizona Rules of Criminal Procedure, the Rule 20 Motion can be brought about by Counsel or the Court to render a Judgment of Acquittal based upon the review of the evidence presented.

The Court now reviews case law, State v. West, a decision issued by the Arizona Supreme Court. The Court proceeds to read headnotes 3, 4 and 5 into the record. In addition, the Court reads headnotes 6 and 7. On the basis of this case law, this Court does find that reasonable minds could differ and therefore the Court has no choice and **IT IS ORDERED** denying the Motion for Acquittal on the charges. However, the Court will, if requested by the Defense, entertain a lesser included offense of Disorderly Conduct With a Weapon to the Aggravated Assault charges based on the evidence presented so far.

11:24 a.m. Court is in session.

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

1:33 p.m. Court reconvenes. The Defendant, Counsel, the investigating officer, and the Jury are present.

Defense Counsel (Joshua Davidson) calls Andrew Aldrich to the stand. The Witness is sworn and testifies on direct, cross examination by the State (Ammon Barker), and redirect by Defense Counsel (Joshua Davidson).

As there are no Jury Questions, the Witness is excused.

Defense Counsel (Joshua Davidson) calls Steven Edward Jones, the Defendant, to the stand. The Witness is sworn and testifies on direct examination.

As there is an objection by the State (Ammon Barker) as to relevance, Court and Counsel hold a bench conference off the record.

The objection is sustained.

The Witness continues to testify on direct examination.

Defense Counsel (Joshua Davidson) moves for the admission of **Exhs. #441, #442, #443 and #447** into evidence. There being no objection, **IT IS SO ORDERED.**

Defense Counsel is given permission to publish the exhibits to the Jury and the Witness continues to testify on direct examination.

At the request of the State (Ammon Barker), Court and Counsel hold a bench conference off the record.

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

2:30 p.m. The Defendant, Counsel and the investigating officer are present outside the presence of the Jury.

Court and Counsel review additional Defendant's photographs (exhibits) on the record:

Exh. #420 full body photograph of the Defendant and Exh. #424, Close-up of Defendant's face.

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

As to Exh. #420, Defense Counsel (Joshua Davidson) advises that this is the only full body photograph of the Defendant, showing his general appearance and how he was dressed.

The State (Ammon Barker) does not dispute what the Defendant was wearing in this particular photograph. It shows the emotional state that is prejudicial and not relevant.

The Court advises Exh. #420 may not be admitted.

As to Exh. #424, Defense Counsel (Joshua Davidson) advises this shows the Defendant's injuries.

The State (Ammon Barker) feels the exhibit is cumulative.

The Court advises Exh. #420 may be admitted.

Two Photographs of the Defendant's shoes, left and right side, Exhs. #468 and #439.

Defense Counsel (Joshua Davidson) advises that the exhibits display blood on the Defendant's shoes from the Defendant's face to his shoes. This helps the Jury determine what was going on.

The State (Ammon Barker) objects to relevance. It cannot be known where the blood came from. The exhibits do not corroborate this.

The Court advises Exh. #439 may be admitted and Exh. #468 will not be admitted.

Photo of the side of the Defendant's face, Exh. #423.

Defense Counsel (Joshua Davidson) advises the photograph clearly shows injury to the Defendant's temple.

The State (Ammon Barker) asks that only #423 be admitted and not the other one.

The Court advises Exh. #423 may be admitted.

Exh. #432, photograph of the scalp.

Defense Counsel (Joshua Davidson) advises this shows the abrasion or contusion to the Defendant's scalp and the ear.

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

The Court advises Exh. #432 may be admitted.

Exh. #427 shows an abrasion to the top of the Defendant's thumb.

Defense Counsel (Joshua Davidson) notes that this is clearly an injury to the Defendant's hand.

The State (Ammon Barker) has no objection.

The Court advises Exh. #427 may be admitted.

Exh. #436 and Exh. #437 Defendant's knees.

Defense Counsel (Joshua Davidson) advises that this is a photograph of the Defendant's right knee scuffed up from kneeling down.

The State (Ammon Barker) doesn't see anything but has no objection to the two photographs.

The Court advises Exh. #436 and Exh. #437 may be admitted.

Exh. #434 photograph of the Defendant's left elbow.

The State (Ammon Barker) reviews and has no objection.

The Court advises Exh. #434 may be admitted.

Exh. #461, Defendant's top left forearm.

The State (Ammon Barker) reviews and does not see the relevance.

Defense Counsel (Joshua Davidson) advises the abrasion is shown at the top of the photograph.

The Court advises Exh. #461 may be admitted.

Exhs. #451 and #452 show the left and right back shoulders of the Defendant.

The State (Ammon Barker) reviews and has no objection.

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

The Court advises Exhs. #451 and #452 may be admitted.

Exh. #457 shows upper right collarbone area.

The State (Ammon Barker) has no objection.

The Court advises Exh. #457 may be admitted.

Exh. #465 shows front view of Defendant's hand.

The State (Ammon Barker) inquires as to the relevance.

Defense Counsel (Joshua Davidson) advises that it shows bleeding and corroborates the testimony.

The Court advises Exh. #465 may be admitted.

Exh. #433, the Defendant's T-shirt.

Defense Counsel (Joshua Davidson) advises the photograph shows a red spot in the sternum area.

The State (Ammon Barker) has no objection.

The Court advises Exh. #437 may be admitted.

In summary, the Court advises that Exhs. #420 and #468 may not be admitted.

Defense Counsel brings to the State and the Court's attention Defendant's Exh. #470 that has been marked. This is an enlarged diagram that was taken from Dr. Czarnecki's testimony.

The State (Ammon Barker) has no objection.

The Court advises Exh. #470 may be admitted.

Defense Counsel (Joshua Davidson) wants to make an offer of proof as to the line of questioning concerning the Defendant's knowledge as to the reputation of Delta Kai members because said Counsel does believe it is relevant to the reasonableness of his use of force.

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

The Court allows Defense Counsel to do so.

Defense Counsel (Joshua Davidson) advises that when the Defendant was interviewed by the police, subsequent to his arrest, the Defendant made a statement to the effect that everybody says that the D guys are dangerous. Later on in his interview he made the statement to the effect that the Delta Chi's have a violent reputation. Said Counsel believes the Defendant's subjective belief, true or not true, that the Delta Chi's are dangerous and violent, is absolutely probative to the reasonableness of his fear that he was going to be seriously hurt or killed as a result of their threats and their advancing on him and would therefore ask leave of the Court to elicit that testimony from him.

The Court's ruling stands in sustaining the objection as to relevance.

2:43 p.m. Court is adjourned.

During the recess, Defendant's Exh. #482 is marked for purposes of identification.

2:53 p.m. Court reconvenes. The Defendant, Counsel, the investigating officer, and the Jury are present.

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

Defense Counsel (Joshua Davidson) moves to admit Exh. #423 into evidence.

In the interest of expediency, the State (Ammon Barker) advises that the rest of the photographs will be accepted and he has no objection to their admission into evidence.

Defense Counsel (Joshua Davidson) moves to admit **Exhs. #423, #424, #427, #432, #433, #435, #436, #439, #451, #452, #454, #457, #461, and #465** into evidence.

Permission to publish the preceding exhibits to the Jury is granted.

As the exhibits are published, the Witness testifies on direct examination.

Defense Counsel (Joshua Davidson) moves to admit **Exh. #482** into evidence. There being no objection, **IT IS SO ORDERED.**

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

Permission is granted to publish this exhibit to the Jury and the Witness continues to testify on direct examination.

Defense Counsel (Joshua Davidson) moves to admit **Exh. #470** into evidence. There being no objection, **IT IS SO ORDERED.**

The Witness continues to testify on direct by Defense Counsel (Joshua Davidson) and cross examination by the State (Ammon Barker).

Defense Counsel (Joshua Davidson) objects to a line of questioning.

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

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

The Court advises It will now take a recess and reminds the Jury to remember the Admonition.

3:50 p.m. Court is in recess.

4:05 p.m. Court reconvenes. The Defendant, Counsel, the investigating officer, and the Jury are present.

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

The State (Ammon Barker) moves to admit **Exhs. #475, #476 and #478** into evidence. There being no objection, **IT IS SO ORDERED.**

The State (Ammon Barker) moves to admit **Exhs. #347 and #348** into evidence. There being no objection, **IT IS SO ORDERED.**

The exhibits are published to the Jury and the Witness continues to testify on cross examination by the State (Ammon Barker). At times during cross examination, the Witness testifies as Exh. #316 is again published.

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

State vs. Steven Edward Jones
Cause No. CR 2015-00862
April 20, 2017

As the State (Ammon Barker) has an objection to a line of questioning, Court and Counsel hold a bench conference off the record.

Court and Counsel sidebar on the record and in Chambers.

The objection is sustained.

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

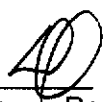
The Court advises It will take the evening recess and gives the Admonition.

4:45 p.m. The Defendant, Counsel and the investigating officer are present, outside the presence of the Jury.

Defense Counsel (Joshua Davidson) asks if he can have the court reporter go back and research the last issue.

The Court has no objection and advises Counsel to tell the court reporter exactly what he wants.

4:46 p.m. Court is adjourned.


cc: Deputy County Attorney (Barker/Shea)
Burges N. McCowan, Burges McCowan, PLC, 1421 E. Thomas Rd., Phoenix, AZ 85014
Joshua Davidson, Law Offices of Joshua S. Davidson, PLC, 8110 E. Cactus Road,
Suite 100, Scottsdale, AZ 85260
Legal Defender's Office (Pearlmutter)
Div. 2