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

Dan R. Slayton, Judge
Division 2
Date: April 7, 2017

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

MINUTE ENTRY

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

ACTION: JURY TRIAL – DAY FOUR

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.

8:41 a.m. Court is in session. The Defendant, Counsel, the investigating officer and the Jury are present.

The State (Bryan Shea) calls Courtney Waked to the stand. The Witness is sworn and testifies on direct examination. At times, the Witness testifies as the Leica Scan (Exh. 316) is published.

The Witness continues to testify on cross by Defense Counsel (Burges McGowan) and redirect examination.

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

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The State (Bryan Shea) calls Miqui Scollard to the stand. The Witness is sworn and testifies on direct examination. At times, the Witness testifies as the Leica Scan (Exh. 316) is published.

At the request of the (Bryan Shea), Court and Counsel hold a bench conference off the record.

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

9:37 a.m. The Defendant, Counsel and the investigating officer are present, outside the presence of the Jury.

The Court asks to be provided with photos, Exhs. #107, #108 and #109, and proceeds to review them.

Upon Court inquiry, the State (Bryan Shea) intends on offering them into evidence.

Defense Counsel (Burgess McCowan) objects as to relevancy and further, the photos are inflammatory.

The State (Bryan Shea) presents statements.

Defense Counsel's objection is sustained. The Court advises that there is no relevancy to the three exhibits and the prejudicial value outweighs the probative value.

9:40 a.m. Court is in recess.

During the recess, State's Exhibits #352 through #355 are marked for purposes of identification.

9:56 a.m. Court reconvenes. The Defendant, Counsel, the investigating officer and the Jury are present.

There are no further questions from the State.

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

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The Witness continues to testify on redirect examination.

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

The Witness continues to testify on Jury Questions.

As there is no follow-up examination and there being no objection, the Witness is excused.

The State (Bryan Shea) calls Paloma Rochin to the stand. The Witness is sworn and testifies on direct examination. At times, the Witness testifies as the Leica scan (Exh. 316) is published.

The Witness continues to testify on cross examination by Defense Counsel (Burges McCowan).

There is no redirect examination and no Jury Questions. There being no objection, the Witness is excused.

The State (Bryan Shea) calls Michelle Leonard to the stand. The Witness is sworn and testifies on direct and cross examination by Defense Counsel (Burges McCowan). At times during cross examination, the Witness testifies as the Leica Scan (Exh. 316) is published.

The Witness continues to testify on redirect examination.

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

At the request of Defense Counsel (Burges McCowan), Court and Counsel hold a bench conference off the record.

The Court advises It will take the last morning recess.

10:56 a.m. Court is in recess.

11:13 a.m. Court reconvenes. The Defendant, Counsel, the investigating officer and the Jury are present.

The State (Bryan Shea) calls Officer Jason Cota, Flagstaff Police Department to the stand. The Witness is sworn and testifies on direct examination.

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The State (Bryan Shea) moves to admit **Exh. #353** into evidence. There being no objection, **IT IS SO ORDERED.**

Permission is granted for the State to publish this exhibit to the Jury.

The Witness continues to testify on direct, cross by Defense Counsel (Joshua Davidson) and redirect examination. At times during redirect examination, the Witness testifies as the Leica Scan (Exh. #316) is published.

As there are no Jury Questions and, 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 luncheon recess and gives the Admonition.

11:49 a.m. Court is in recess.

1:18 p.m. Court reconvenes. The Defendant, Counsel and the investigating officer are present, outside the presence of the Jury.

The Court notes that the State is proposing to play one (1) video, Exh. #354, to the Jury and Defense Counsel is opposed in playing all or part of said video.

Defense Counsel (Joshua Davidson) presents statements opposing the video in its current format and present statements as to some of the Defense's objection pertaining to:

- Hearsay
- Prejudice
- Cumulative
- Probative Value

The State (Ammon Barker) responds and addresses some of Defense Counsel's concerns.

Defense Counsel (Joshua Davidson) responds as to the probative value and asks that Exh. #354 be precluded.

The Court places findings on the record. The Court advises It has reviewed the videos in this case. This video, in particular, is emotional and horrifying and shows the real pandemonium of the event. The issues that the Jury has to decide is at the time of the shooting and during the

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shooting; it has nothing to do with after the shooting. The Defendant admits he shot the four men; therefore, the wounds are not in contention. Defense Counsel is not contesting that the Defendant shot those four men, the placement of the wounds, the nature of the wounds, the location of the wounds; all of this is either not contested or the State has other means of showing. This video invokes the rawest of emotions and, in fact, would invite the Jury to determine this case based on the horrific scene that the individuals are suffering at the time. This lends nothing to the issues, the mental state, the intention and the actions leading up to the shooting and the shooting itself. For these reasons, the Court finds that the probative value is substantially outweighed by the tremendous emotional prejudice that would be presented to the Jury if it was shown; therefore, **IT IS ORDERED** precluding this video.

The State asks for clarification.

The Court presents statements.

Defense Counsel (Joshua Davidson) advises he believes there is a Crawford issue.

Court and Counsel confer regarding the Crawford Issue, a specific statement and a prior inconsistency.

IT IS ORDERED provisionally denying the use of the statement. If the State wants to bring it back, the State should provide the Court with the law and the Court will revisit the issue.

1:45 p.m. Court is in recess.

1:51 p.m. Court reconvenes. The Defendant, Counsel, the investigating officer and the Jury are present.

The State (Bryan Shea) calls Officer Daniel Beckwith, Flagstaff Police Department, to the stand. The Witness is sworn and testifies 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).

As there is no redirect or Jury Questions and, there being no objection, the Witness is excused.

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The State (Bryan Shea) calls Officer Alex Chirovsky, Flagstaff Police Department, to the stand. The Witness is sworn and testifies on direct examination.

At the request of Defense Counsel (Joshua Davidson), Court and Counsel hold a bench conference off the record.

The Witness continues to testify on direct examination. At times during direct examination, the Witness testifies as the Leica Scan (Exh. #316) is published and Exh. #353.

The Witness continues to testify on cross examination by Defense Counsel (Joshua Davidson). There is no redirect examination.

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

The Witness continues to testify on the Jury Question and follow-up examination by both Counsel.

There being no objection, the Witness is excused.

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

2:41 p.m. Court is in recess.

3:01 p.m. Court reconvenes. The Defendant, Counsel, the investigating officer and the Jury are present.

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

The State (Ammon Barker) asks that the record reflect that the Witness has identified the Defendant and **IT IS ORDERED**.

The Witness continues to testify on direct examination. At times during direct examination, the Witness testifies as portions of the Leica scan (Exh. #316) are published.

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

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As there is no redirect examination and no Jury Questions, and there being no objection, the Witness is excused.

The State (Bryan Shea) calls Nick Acevedo to the stand. The Witness is sworn and testifies on direct examination.

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

The State (Bryan Shea) moves to admit **Exh. #105** into evidence. There being no objection, **IT IS SO ORDERED.**

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

The Court advises that It will now take the final recess of the day and gives the Admonition.

4:09 p.m. Court is in recess.

4:23 p.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 (Burges McCowan). At times during cross examination, the Witness testifies as portions of the Leica scan (Exh. #316) are published.

The Witness continues to testify on redirect examination.

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

The Witness continues to testify on Jury Questions and follow-up examination by Defense Counsel (Burges McCowan).

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

The Court advises It will now take the weekend recess.

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4:43 p.m. The Defendant, Counsel, and the investigating officer are present, outside the presence of the Jury.

Defense Counsel (Joshua Davidson) presents statements regarding a potential Witness, Mike Mullen, a roommate of two of the Victims, that has been interviewed by both sides. The State has apparently made a decision not to call him; however, Defense Counsel intends to. Defense Counsel presents statements as to the potential witness' address and would like some guidance as to how to exercise Defendant's right to Compel the Witness.

The State (Ammon Barker) advises they would be happy to help the Defense and they will not be calling the potential witness to testify.

Defense Counsel (Joshua Davidson) presents statements regarding:

- an invoice from Tom Bevel,
- emails, and
- a list of the photographs

The State (Ammon Barker) asks for clarification, which Defense Counsel proceeds to do.

The State (Ammon Barker) advises he has received a response from Mr. Bevel as to the 280 photos. He was not going to provide the actual photos, just the file numbers and/or names. He indicated he was going to put it on a disk and mail it. The State has not received it yet and he will again follow-up with Mr. Bevel.

As to the emails, the State (Ammon Barker) does not recall the Court Ordering that the State was to provide every email. They were to review them in accordance with the questions the Defense had. The State did review them and they investigated; most of the emails were not related to this case but to another case. The State did file a Notice regarding that investigation.

Defense Counsel (Joshua Davidson) presents statements as to the extensive Order given by the Court.

The Court, the State (Ammon Barker) and Defense Counsel (Joshua Davidson) confer regarding the emails.

IT IS ORDERED the State is to disclose the Defense with any emails between their Office, any investigating agency, and Mr. Bevel.


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As to the 280 photographs, **IT IS ORDERED** that Mr. Bevel needs to disclose those well in advance of his possibility of testifying as a rebuttal witness. If he does not, the Court will allow Mr. Bevel to testify, but not about those 280 slides that he used because of his failure to disclose.

Defense Counsel (Joshua Davidson) advises he needs them for cross examination.

The Court advises that, if the photographs are not timely disclosed, then he will not be able to testify to them because of the lack of disclosure. If Mr. Bevel has specific opinions related to those 280 photographs, any basis or opinion, and they are not disclosed, the Court will not allow him to express his opinion on them. The Court is not precluding him from testifying on whatever else is out there.

4:51 p.m. Court is adjourned.


cc: Deputy County Attorney (Barker/Shea)
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