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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 5, 2017

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

MINUTE ENTRY

THE STATE OF ARIZONA,
Plaintiff,
vs.
STEVEN EDWARD JONES,
Defendant.

Cause No. CR 2015-00862

**ACTION: JURY SELECTION (Continued) / JURY TRIAL – DAY TWO/
ARGUMENT RE: DEFENDANT’S MOTIONS IN LIMINE**

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 commencement of the Trial, State's Exhibits #335 through #346 are marked for purposes of identification.

8:40 a.m. On the record in Chambers. The Defendant and Counsel are present.

The Court advises It will now proceed with individual voir dire as to certain Prospective Jurors' knowledge of this case.

Sacha Charny, Prospective Juror No. 20, is now present for voir dire by Defense Counsel (Joshua Davidson), follow-up by the State (Ammon Barker) and the Court.

The Prospective Juror is excused.

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Defense Counsel (Joshua Davidson) moves to strike and presents statements.

The State (Ammon Barker) responds.

The Court places findings on the record. **IT IS ORDERED** denying Defense Counsel's Motion to Strike.

Lynn Martin, Prospective Juror No. 14, is now present for individual voir dire by Defense Counsel (Joshua Davidson), follow-up by the State (Ammon Barker) and the Court.

The Prospective Juror is excused.

Upon Court inquiry, there are no motions.

Dana Price, Prospective Juror No. 18, is present.

Defense Counsel (Joshua Davidson) proceeds with individual voir dire. Nothing from the State.

The Prospective Juror is excused.

Upon Court inquiry, Defense Counsel presents statement and moves to strike the Prospective Juror.

The State (Ammon Barker) responds.

The Court places findings on the record. **IT IS ORDERED** denying Defense Counsel's Motion to Strike.

Maryellen Pugh, Prospective Juror No. 5, is now present.

Defense Counsel (Joshua Davidson) proceeds with individual voir dire with follow-up by the State (Ammon Barker).

The Prospective Juror is excused.

The Court's Judicial Assistant is now present. She advises that Elizabeth Burke, a Prospective Juror in the Jury Pool, has advised that she is ill.

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By agreement of Court and Counsel, this Prospective Juror is excused for hardship.

Amber Serrone, Prospective Juror No. 21, is now present.

Defense Counsel (Joshua Davidson) proceeds with individual voir dire. There is nothing from the State.

The Prospective Juror is excused.

Elizabeth Oscar, Prospective Juror No. 12, is now present

The State (Ammon Barker) proceeds with individual voir dire and follow-up by Defense Counsel (Joshua Davidson).

Upon Court inquiry, there is no motion.

The Court advises that It has reviewed the Defendant's Motions in Limine, which may impact opening statements by the State.

The Court notes that the Victims and the Victim Representative have a right to be present; however, this cannot usurp the right of the Jurors to be seated. It is noted that this applies to the Defendant's parents as well.

9:53 a.m. Off the record in Chambers.

10:01 a.m. The Defendant, Counsel and the investigating officer are present, outside the presence of the Prospective Jurors.

The Court notes there is an increase of observers in this case. The Court cautions and Orders that all observers are not to talk during this process of selecting a Jury. The Prospective Jurors will be intermingled with the observers and it is critical that both Mr. Jones and the Prosecution be assured that the fourteen people, who will sit in that Jury Box, will do so without any taint as to anything they may have heard, scene or exposed to being carried with them in that Jury Box. If an observer has to say something, they should remove themselves from the courtroom.

The State (Ammon Barker) advises that [REDACTED], Prospective Juror No. 26, still has to go through the process of voir dire.

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The Court advises that Prospective Juror No. 2 still has to be replaced.

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

10:12 a.m. The Prospective Jurors are now present.

The Court greets the Prospective Jurors from both Groups.

Upon Court inquiry, Counsel advise they are ready to proceed.

The Court explains the process and that It will have to call a Prospective Juror from the new group.

The State (Ammon Barker) introduces himself, Co-Counsel Bryan Shea, Sergeant Mike O'Hagan, NAU Police Department, and Tammy Spears, assistant to the State.

Defense Counsel (Joshua Davidson) introduces himself, Co-Counsel Burges McCowan, and their client, Steven Edward Jones.

The Court explains the process regarding questioning and asks that those in the Jury Pool pay close attention.

Samuel Decker, Prospective Juror No. 2, replaces Rita Hoover, who was previously excused.

The Court gives the anticipated daily schedule of the Trial, as well as the length of the Trial.

The Court gives the standard that It uses in excusing a Prospective Juror.

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

The State (Ammon Barker) and Defense Counsel (Joshua Davidson) voir dire [REDACTED] Prospective Juror No. 26.

The State (Ammon Barker) and Defense Counsel (Burges McCowan) voir dire Samuel Decker, Prospective Juror No. 2, with follow-up by the Court.

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

Defense Counsel (Burges McCowan) continues with voir dire.

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

Samuel Decker, Prospective Juror No. 2, is excused for cause and is replaced by Robert Nagel.

The Court advises that the Prospective Jurors can provide answers in private, if they wish to do so.

The Court and the State (Ammon Barker) continue with voir dire.

The State (Ammon Barker) proceeds with group questions of the Prospective Jurors.

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

Defense Counsel (Joshua Davidson) continues with voir dire of Regan Rowson, Prospective Juror No. 1.

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

Regan Rowson, Prospective Juror No. 1, is excused for cause and is replaced by Gavin Fitch.

Voir dire of Prospective Juror No. 1 continues with the Court and the State (Ammon Barker). There is no voir dire by Defense Counsel (Burges McCowan).

Dehoag Zenas, Prospective Juror No. 22, advises that Gavin Fitch, Prospective Juror No. 1, is his son.

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

Counsel both confer with Co-Counsel, off the record.

Court and Counsel hold a bench conference off the record.

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Gavin Fitch, Prospective Juror No. 1, is excused for hardship and is replaced by [REDACTED]

The Court and the State (Ammon Barker) continue with the voir dire of [REDACTED].

The State (Ammon Barker) continues with group voir dire.

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

The Court advises It will now take a morning recess and advises the Prospective Jurors that they are not to discuss this case with anyone.

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

Defense Counsel (Joshua Davidson) presents statements regarding a possible issue. Said Counsel advises he will look through his notes and discuss with Co-Counsel Burges McCowan and get back to the Court, if necessary.

11:12 a.m. Court is in recess.

11:32 a.m. Court reconvenes. The Defendant, Counsel, the investigating officer and the Prospective Jurors are present.

Defense Counsel (Joshua Davidson) proceeds with group voir dire.

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

11:44 a.m. Court is in recess.

11:46 a.m. On the record in Chambers. The Defendant and Counsel are present.

Yao Ntifafa, Prospective Juror No. 11, is now present for individual voir dire.

The Prospective Juror inquires as to the Court guaranteeing his protection and his safety.

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The Court advises It cannot guarantee someone's safety and that this Court has never had a Juror harmed because of a verdict.

There is no follow-up by Counsel.

The Prospective Juror is excused.

The Court presents statements.

Defense Counsel (Joshua Davidson) moves to excuse Prospective Juror No. 11 for cause and **IT IS SO ORDERED.**

Defense Counsel (Joshua Davidson) presents statements and does not want to call an issue as to protection and presents additional statements as to privacy.

The Court and Defense Counsel confer.

11:55 a.m. Off the record in Chambers.

11:56 a.m. Court resumes.

Yao Ntifafa, Prospective Juror No. 11, is excused and is replaced by Heidi Gingrich.

The Court conducts voir dire of the Prospective Juror.

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

Heidi Gingrich, Prospective Juror No. 11, is excused for hardship and is replaced by Crystal Holmes.

The Court and the State (Ammon Barker) conduct voir dire. Nothing from Defense Counsel.

Court and Counsel hold a bench conference off the record. At this time, Counsel pass the Panel.

The Court advises It will now take the luncheon recess. At this time, Counsel will finalize the Jury Selection process. The Court further advises that any Prospective Juror that is not

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selected to be on the Jury should not take it personally. Everyone remaining in the Jury Pool are thanked for their willingness to serve and they are excused and discharged from any further participation in this case.

12:04 p.m. The Defendant, Counsel and the investigating officer are present, outside the presence of the Prospective Jurors.

The Court proceeds with hearing oral argument on the Defendant's Motions in Limine:

1. To preclude any testimony of evidence related to images, social media and other photographs depicting Mr. Jones in the possession of or proximity of firearms and/or ammunition.

The State (Ammon Barker) advises that the State will not be presenting this in their case in chief. Said Counsel reserves the possibility that it could be an issue if the Defendant testifies; therefore, he asks that the Court rule as to the State's case in chief and that evidence will not be presented in this regard.

IT IS ORDERED granting the Motion; however, there is still the issue of "opening the door."

2. To preclude any testimony or evidence related to a knife scabbard and/or additional firearm magazines located in the trunk of Mr. Jones' vehicle.

The State (Ammon Barker) takes the same position as he did for #1.

IT IS ORDERED granting this Motion for the same reasons as #1.

3. To preclude any testimony or evidence related to the aftermarket barrel with which Mr. Jones' firearm was equipped.

The State (Ammon Barker) opposes this and presents statements.

The State (Bryan Shea) presents statements as to relevance and the analysis of this particular gun.

Defense Counsel (Joshua Davidson) replies.

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The Court advises that It will preclude the Witness, Mr. Weaver, from mentioning the word aftermarket as the Court does not feel it is necessary for identification. Also, it raises issues of possible confusion to the Jury as opposed to aftermarket or a stock barrel and the significance or insignificance of it. The Court does not feel it will compromise the State's case in any way if it is not mentioned as an aftermarket barrel.

The Court notes that the Defense is willing to stipulate as to the identification of those bullets. Therefore, **IT IS ORDERED** precluding the word aftermarket.

4. To preclude any reference by the State to the illumination device on Mr. Jones' firearm as a "tactical" light.

Again, the Court feels that the State is focusing on the word tactical.

The State (Ammon Barker) presents statements as to the use of the word tactical.

Defense Counsel (Joshua Davidson) replies.

IT IS ORDERED precluding the use of the word "tactical."

5. To preclude any testimony or evidence related to an unrelated prior order of protection involving Mr. Jones and/or any prior alleged traffic or misdemeanor history involving Mr. Jones.

The State (Ammon Barker) does not object.

IT IS ORDERED granting the Motion.

6. To preclude any testimony or evidence related to Mr. Jones' contemplation and/or discussion of contacting an attorney while in police custody.

The State (Ammon Barker) does not object. The State will not be presenting this in their case in chief; however, it could come up during cross examination of the Defendant.

IT IS ORDERED granting the Motion with the provision that, if the Defendant testifies about wanting to contact an attorney or anything like that, it would be in essence opening the door and the Court would allow the State to pursue that in cross examination, if they wish to do so.

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7. To preclude any testimony or evidence related to the general character of the alleged victims.

The State (Ammon Barker) advises that the State will not be presenting this in the case in chief. This may be an issue that comes up during Trial and presents statements. The State feels it is premature to preclude it outright.

The Defense (Joshua Davidson) replies.

IT IS ORDERED granting this Motion.

8. To preclude any testimony or evidence related to the disciplinary actions initiated or taken by Northern Arizona University against Mr. Jones in connection with his NAU enrollment of this matter.

The State (Ammon Barker) advises the State will not be presenting this in their case in chief; however, they will do so if the door is opened.

IT IS ORDERED granting the Motion.

9. To preclude any testimony or evidence related to marijuana discovered in Mr. Jones' dormitory (for which the roommate admitted possession).

The State (Ammon Barker) has no objection.

Defense Counsel (Joshua Davidson) presents statements.

The State does not see why that would come in.

IT IS ORDERED granting the Motion.

10. To preclude any testimony of the defendant's father (Warren Jones) together with the opinion of any testifying witness regarding the reasonableness of the use of physical or deadly physical force by Mr. Jones.

The State (Ammon Barker) presents statements.

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Defense Counsel (Joshua Davidson) presents statements regarding the blanket testimony of Warren Jones and this Motion.

The Court presents statements. Regarding anyone testifying and saying, "I believe the use of force was reasonable" or "I believe the use of deadly force in this situation was reasonable," the Court has already precluded that. No one gets to make those statements. This is for the Jury to decide.

The State continues to present oral argument.

The Court and the State confer regarding the testimony of Warren Jones.

The Court advises that It will not preclude the State from calling Mr. Jones; however, from what the Court has heard, the Court does not know the relevance of calling Mr. Jones, but will leave it up to the State in an Offer of Proof in this case.

Upon Defense Counsel (Joshua Davidson) inquiry, the Court advises It will ask for the Offer of Proof as soon as Mr. Jones takes the stand, once he is done and the Defense closes their case.

Defense Counsel presents additional statements as to the offer of proof and Warren Jones not being present in the courtroom during the Trial.

The Court presents statements. The Court advises It will not preclude the calling of witnesses in this case.

The Court presents statements as to the issues of hearsay and foundation. The Court will not issue a blanket preclusion of the State calling Warren Jones to testify in this case. The Court asks the State to really think about why they are calling him to testify and for what purpose. The Court will allow an offer of proof as to any rebuttal witness in this case.

The Court's Judicial Assistant has advised the Court that [REDACTED], Prospector Juror No. 11, and [REDACTED], Prospective Juror No. 1, work together and they have indicated that they would not have a problem serving on the Jury together.

Upon Court inquiry, Counsel find no need to voir dire these Prospective Jurors.

The State (Ammon Barker) inquires if the courtroom will be locked, especially a particular exit for purposes of Jury Selection.

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The Court advises that particular exit may remain open during Counsels' preemptory strikes; however, that door will remain locked during Trial.

12:26 a.m. Court is in recess.

During the luncheon recess, Counsel conduct their preemptory strikes.

2:03 p.m. The Defendant, Counsel, the investigating officer are present, outside the presence of the Prospective Jurors.

The Court addresses the courtroom. The rules for the Media are posted outside the courtroom door and the Court expects compliance with those Orders. They are direct Orders to the Media.

IT IS ORDERED that absolutely no personal information, names, recognizable information be published by anyone, including the Media.

IT IS ORDERED the attorneys make sure no one, other than those allowed by the Court's rules, attempt to tape or audio tape these proceedings in any way. To do so, could be seen as an act of witness intimidation or interference with the Jury. The Court wants everyone to understand that this Court's foremost job is to protect the fairness and the sanctity of these proceedings, the rights of all the Parties and for the Jury to be able to make a fair and impartial decision.

Upon Court inquiry, Counsel advise they are ready to proceed.

2:05 p.m. Court is in recess.

2:09 p.m. The Jury is now present.

The Court advises that the Clerk will read the names of those fourteen (14) individuals who have been select to be on the Jury. After they are seated, the Preliminary Jury Instructions will be distributed, and the Court will read them into the record as well as the Indictment. The Court will then take a fifteen minute recess. After the break, the Jury will hear opening statements and then the Court will adjourn for the evening.

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The following individuals have been selected to be on the Jury:



The Court thanks the Prospective Jurors, who were not selected to be on the Jury Panel, for their service and they are excused from the courtroom.

The Clerk administers the Oath to the Jury.

Copies of the Preliminary Jury Instructions are provided to each Juror.

The Court proceeds to read the Preliminary Jury Instructions into the record.

Upon Court inquiry, Counsel confirm that the Court did not fail to read or materially mislead when reading the Preliminary Jury Instructions.

The Court proceeds to read the Indictment into the record. To each of these counts, the Defendant has pled not guilty.

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

2:50 p.m. Court is in recess.

3:05 p.m. Court reconvenes. The Defendant, Counsel and the investigating officer are present, outside the presence of the Jury.

The Court advises that last week the Court informally indicated that there was one matter left and that pertained to statements that the Defendant made that the State wanted precluded. The Court had indicated that It could not make a decision as the Court had not reviewed the video/audio tape. The Court has now reviewed the video/audio tape from the Officer's car. The Court notes that Officer Park's body camera was working; however, the video did not play; the Court just got the audio.

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The State (Ammon Barker) presents statements.

Again, the Court did hear the audio, which was the portion the Court did need to hear. The Court advises there is a statement the Defendant made, "I thought I was going to die," and there were three "why" statements made in the car.

IT IS ORDERED these statements made in the car by the Defendant are self-serving hearsay statements and cannot be brought in through another witness.


3:10 p.m. The Jury is now present.

The State (Ammon Barker) presents opening statements.

Defense Counsel (Joshua Davidson) presents opening statements.

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

3:58 p.m. Court is adjourned.

cc:  Deputy County Attorney (Barker/Shea)
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