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FILED
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SUE HALL, CLERK
APACHE COUNTY SUPERIOR COURT

In the Juvenile Court of the State of Arizona
In and For the County of Apache

In re: the Matter of: Christian Ryan Romero, A Person under 18.	NO. JV2008-065 Motion Requesting the Court Accurately Inform the Parties of its Ability to Implement the Recommendations of the Court-Appointed Psychiatrists

THE STATE OF ARIZONA, through its undersigned County Attorney, Michael B. Whiting, hereby files this Motion requesting the Court accurately state on the record whether or not it has the funds necessary to implement the recommendations of the court-appointed psychiatrists.

The Court up until last week stated many times it does NOT have adequate money to implement the recommendations of the court-appointed psychiatrists. A few recent statements by the Court are set forth below as examples:

1. On September 14, 2009, presiding Superior Court Judge, Donna Grimsley, met with all parties in this case to discuss the issue of funding for treatment. In this meeting, Judge Grimsley made it known funding was not available for the recommendations made by the court-appointed psychiatrists. As a result, the Disposition was continued for thirty (30) days so other funding sources could be investigated.
2. In a press release drafted by the court's public agent, Betty Smith, the Court once again stated "[c]learly funding is an issue in these difficult economic times . . .." News Release Oct 21, 2009. (Attached as Exhibit A).

Then not 24 hours later on October 22, 2009, Pro-Tem Judge, Michael P. Roca verbalized a shocking reversal of the Court's position and stated on the record:

1. "I don't see it as a money issue . . .." October 22, 2009, Hearing Transcript P. 6, Ln. 15.
2. "The money issue in that respect is a red herring." Id. at Ln. 17.
3. "They money excuse is not the problem. It's a problem of nowhere to spend it." Id. at P. 7, Ln. 8-9.
4. After the hearing, the Court's press agent, Betty Smith, issued another news release contradicting her news release 24 hours earlier, stating, "that funding is not the issue. . .." News Release October 22, 2009.[1] (Attached as Exhibit B).

The State and Parties must know: Which is it? Is there enough money or is there NOT enough money to implement the court-appointed doctors' recommendations? If the Court really does have the money, then why not implement the recommendations of the Court-appointed doctors? If the Court does not, then the parties need to know this fact so other alternatives can be researched.

At the October 22, 2009, hearing, the Court through Judge Roca also stated, "[s]imply put there is no program anywhere on the horizon that addresses security for the community, security for the minor, necessary intervention."Id. at Ln. 8-9. The court-appointed doctors have recommended a facility. The State is at a loss on why, if the money is not an issue, and the court-appointed doctors have recommended a facility, the Court does not place the juvenile in this facility?

It is the responsibility of the Court to remain unbiased and honest and accurately apprise the parties of the available funding. Accordingly, if funding for the juvenile is NOT an issue

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[1] This is a direct contradiction of Mrs. Smith's new release issued the day before in which the Court (she) states "[c]learly, funding is an issue in these difficult economic times . . .." News Release Oct 21, 2009.

in this case, as the Court now states, then the State requests the Court inform the parties of such on the record.

RESPECTFULLY SUBMITTED this 9th day of November, 2009.

MICHAEL B. WHITING
Apache County Attorney

Michael B. Whiting
County Attorney

A copy of the foregoing
faxed/mailed this
9th day of November, 2009, to:

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St. Johns, AZ 85936

Navajo County Clerk of the Superior Court
P.O. Box 668
Holbrook, AZ 86025

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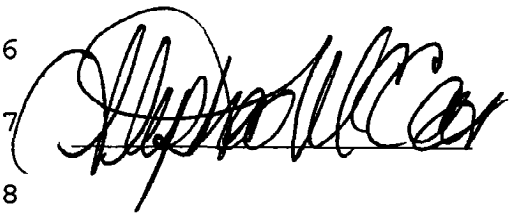

EXHIBIT A

NEWS RELEASE

APACHE COUNTY SUPERIOR COURT

For more information, please contact:
Betty Smith, Court Administrator
Apache County Superior Court
P.O. Box 667
St. Johns, AZ 85936-0667
Phone: (928) 337-7677
Bsmith2@courts.az.gov

October 21, 2009

ST. JOHNS – Apache County Superior Court and Juvenile Probation Services are committed to serving the public by appropriately placing and treating children under its jurisdiction. A great deal of research goes into determining what is most appropriate for each child that enters the juvenile justice system. When a child is able to be rehabilitated and treated in the local community, probation is the most appropriate sanction; however, when a child's needs and public protection concerns indicate that in-community rehabilitation services are not appropriate, probation is not a viable option. The sentencing judge makes a decision on the most appropriate disposition for each child based on the needs of the child, the nature of the offense, victim impact and community protection.

Apache County Court Administration is concerned about recent allegations in a high profile juvenile case that insinuate that funding was a driving force behind disposition recommendations.

The Administrative Office of the Courts (AOC), Apache County Juvenile Probation and Court Administration have worked for the past several months diligently to develop an appropriate disposition based on recommendations by numerous experts.

Unfortunately, the Apache County Attorney's Office entered into a plea agreement without consulting with other agencies and without first having the expert reports available to determine appropriate services. The Juvenile Probation Department worked very hard to identify a means of implementing the terms of the Plea Agreement. The allegations speculating that the AOC and Juvenile Probation made decisions and recommendations based upon funding are untrue. Clearly, funding is an issue in these difficult economic times, but the needs of the child, the nature of the offense, impact on the victims, and community protection are the primary consideration in any juvenile case.

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EXHIBIT B

NEWS RELEASE

APACHE COUNTY SUPERIOR COURT

For more information, please contact:
Betty Smith, Court Administrator
Apache County Superior Court
P.O. Box 667
St. Johns, AZ 85936-0667
Phone: (928) 337-7677
Bsmith2@courts.az.gov

October 22, 2009

Juvenile Disposition Hearing Delayed

ST. JOHNS – At a hearing earlier today, Apache County Attorney Michael Whiting advised the Court that recent media statements are inaccurately attributed to him. The Court inquired of Whiting in response to news articles reporting that lack of funding prevents the Court from sentencing the juvenile at this time.

Superior Court Judge Pro Tempore Roca told those present in the courtroom that his inclination is to reject the disposition provisions of the Memorandum of Agreement signed on February 18, 2009. The agreement stipulates that the juvenile be placed on Intensive Probation Supervision and provided treatment. The Court went on to state that funding is not the issue, indicating that the Presiding Judge committed the county's entire treatment budget to this juvenile. In addition, the Administrative Office of the Courts stepped up months ago and committed to help identify disposition solutions and provide additional funding.

The Court said that if he were to reject the plea agreement, he would be inclined to commit the juvenile to the Arizona Department of Juvenile Corrections (AJDOC). He sees no apparent alternative available to the Court. Even though the Juvenile Probation Department is second to none, AJDOC has access to a wider skill pool to meet the needs of the juvenile. It was agreed that counsel would discuss the implications of a plea rejection with their clients and that counsel will confer with AJDOC officials to identify available services. To assist AJDOC, the Court ordered that sealed reports of the experts who have examined the juvenile be provided to AJDOC.

Following discussion of the juvenile's educational needs, a Status Conference was set for November 10, 2009 at 1:30 p.m.

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