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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 State's Response to the Defense's Notice for Change of Judge for Cause

THE STATE OF ARIZONA, through its undersigned County Attorney, Michael B. Whiting, hereby files its response to the defense's notice for change of judge for cause.

First, the state is concerned about the conflicting statements regarding the availability of funding for treatment. The State has filed a separate and more detailed motion regarding this subject and asks the Court to review this motion to obtain the State's detailed position regarding this issue. The short version is the Court stated for six or seven months that there was not sufficient money for treatment, and last week reversed its position one-hundred and eighty degrees and stated there is money for treatment. The Court has before it two extensive and professional evaluations conducted after hundreds of hours of diagnostic investigation. These two reports are from board certified child psychiatrists, who both recommend a similar course of action and a treatment facility. If there is money for treatment the State believes the court-ordered psychiatrists' recommendations should be implemented.

Secondly, the State is concerned that the judge continues to discuss the issue of the juvenile's education. The State feels that the treatment of the juvenile and the safety of the community override a continual desire to educate the juvenile outside of the detention center education he is currently receiving. When a person, whether juvenile or not, takes away

another's God given right to life, a consequence may be that he loses his constitutional given right to an education.

Finally, the State is concerned that if the judge picks and chooses the terms of the plea he likes, or does not like, the defendant will withdraw from the plea agreement. The judge has not indicated that any other terms of the plea agreement are unacceptable, except some of the disposition (sentencing) terms. As the court is aware, a plea agreement is taken in whole or not at all. To now selectively choose to eliminate a few of the plea's provisions, places the state in a precarious position, as the defendant may choose to withdraw from such. This would effectively destroy many months of negotiations between all parties, hundreds of hours of evaluations by court-appointed psychiatrists, and tens of thousands of dollars in brining this case to its current position.

In conclusion, the Court's continued desire to focus on the juvenile's schooling as opposed to placing him in a secured treatment facility, its conflicting statements regarding available funding for treatment and its stated desire to selectively eliminate a few of the plea's provisions, cause the State great concern.

The State is not aware of any legal authority that allows the Court to selectively enforce terms of a plea agreement in a juvenile case. Accordingly, the State does not oppose the defense's notice of change of judge.

RESPECTFULLY SUBMITTED this 9th day of November, 2009.

MICHAEL B. WHITING
Apache County Attorney

Michael B. Whiting
County Attorney

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

Apache County Clerk of the Superior Court
P.O. Box 365
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Navajo County Clerk of the Superior Court
P.O. Box 668
Holbrook, AZ 86025

Apache County Superior Court
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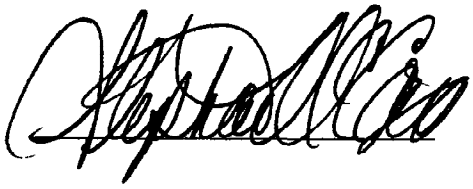
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