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APACHE COUNTY SUPERIOR COURT

...to do justly, to love mercy, and to walk humbly with God. Micah 6:8

IN THE SUPERIOR COURT, STATE OF ARIZONA
APACHE COUNTY, JUVENILE DIVISION

In the Matter of:)
) Case No. JV 2008-065
Christian Ryan Romero)
) **Response to State's Request to Set Hearing**
) **on Motion to Dismiss**
)
A person under 18 years)
)

The Juvenile, through counsel, responds to the government's motion to set a hearing on its previously filed motion to dismiss.

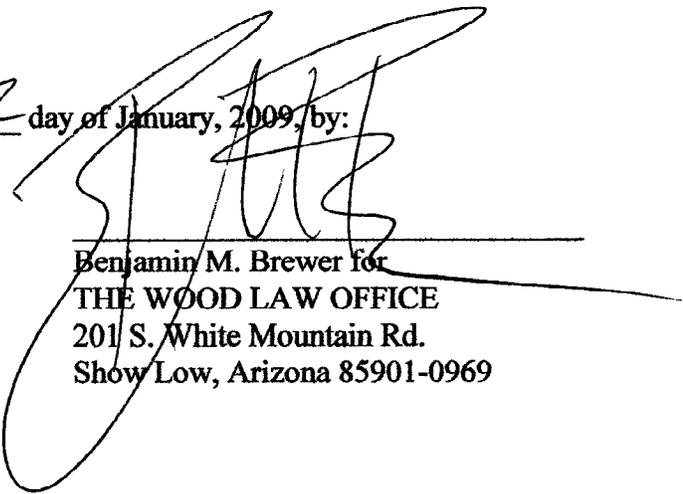
The Court is well within its discretion, pursuant to the Court of Appeals decision on the special action, to set a hearing on the motion to dismiss. However, the Court is also well within its discretion to withhold its ruling on the motion to dismiss until competency is determined, or at any other time the Court deems appropriate. The Court of Appeals simply corrected this Court's belief that it was **not authorized** to rule on substantive motions during a pending competency evaluation. The Court of Appeals ruled that substantive matters **MAY** be ruled upon during the competency evaluation process, contrary to this Court's ruling, but did not require this Court to rule on them if it chose not to.

In fact, in paragraph 4 on page 4 of the memorandum decision, the Court of Appeals seems to agree with this Court that the finding of competency should occur prior

to any substantive matters being considered. The government's motion to dismiss Count 1 is clearly a substantive motion and should not be considered until competency is determined.

Although the Court is authorized to set the matter for a hearing on the motion to dismiss and thereafter rule on said motion, it is requested the Court stick with its initial ruling and delay any ruling on this motion until competency is determined. Counsel would object to this Court setting a hearing on the motion to dismiss until competency is determined.

Respectfully Submitted this 22 day of January, 2009, by:



Benjamin M. Brewer for
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Copies mailed this 22 day of
January, 2009, to:
Judge Roca
Mr. Carlyon, Apache County Attorney
Client