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2009 NOV 16 AM 9:18

SUE HALL, CLERK
APACHE COUNTY SUPERIOR COURT

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

In the Matter of:)
)
Christian Ryan Romero) **Case No. JV 2008-065**
)
) **REPLY, CHANGE OF JUDGE FOR**
) **CAUSE**
A person under 18 years)

The juvenile Replies.

Although a trial judge is presumed to be free of bias and prejudice, See *State v. Medina*, 193 Ariz. 504, 510, 975 P.2d 94, 100 (1999) (citing *State v. Rossi*, 154 Ariz. 245, 247, 741 P.2d 1223, 1225 (1987)). Such a presumption is rebutted by showing proof of bias or prejudice by a preponderance of the evidence. *State v. Hurley* 197 Ariz. 400, 404-405, 4 P.3d 455, 459 - 460 (Ariz.App. Div. 1,2000) In the adult, criminal system, if the judge has reviewed the presentence report prior to an defendant being allowed to withdraw his plea and it appears to the defendant that the judge is prejudiced or biased, the defendant has the option of exercising an unused peremptory challenge or proceeding under Rule 10.1 with a challenge for cause, *Hill v. Hall ex rel. County of Yuma* 194 Ariz. 255, 258, 980 P.2d 967, 970 (Ariz.App. Div. 1,1999)

In the matter before the Court, the trial court, prior to its unlawful rejection of the plea agreement, reviewed the presentence report and its attachments and admitted to as much on the record. Given the subsequent statements, a bias now exists against this juvenile was will prohibit either a fair hearing on the issues if the trial court is permitted

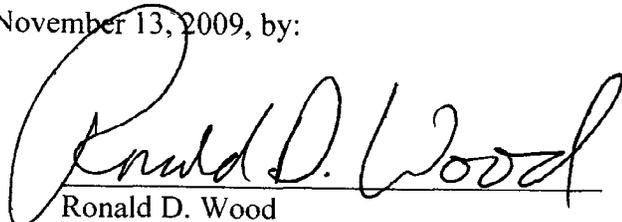
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discussion should never have taken place. And in the face of all the other information that the Court would have needed to consider, such a Procedure demonstrates prejudice.

The state filed a motion to continue the matter, citing the illness of one of the doctors that examined the child. The court ignored it and refused to even hear from that doctor; the Court permitted no statements of counsel, and when counsel for the child attempted to clarify the trial court's statements, even that was met with sarcasm. The sway held by the unknown probation officer with whom to the trial court discusses its most weighty decisions is too great to permit this judge to remain on this case. Likewise, to find the community unfit for the child not only indicts the child and the community unjustly, but also the process by which that determination is made.

The child would ask that the motion for change of judge be granted on the strength of the record and the comments made by the trial judge on October 22, 2009.

Respectfully submitted, November 13, 2009, by:



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