w/o

FILED
DATE: 4-27-11
501 O'Clock P .M.
JEANNE HICKS, CLERK
BY: Rhondi Hagen
Deputy

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF YAVAPAI**

| | |
|---|---|
| **DIVISION PRO TEM B** | **JEANNE HICKS, CLERK** |
| **HON. WARREN R. DARROW** | **BY: R. Hagen, Deputy Clerk** |
| **CASE NO. V1300CR201080049** | **DATE: April 27, 2011** |

| **TITLE:** | **COUNSEL:** |
|---|---|
| STATE OF ARIZONA,<br><br>(Plaintiff) | Yavapai County Attorney<br>By Sheila Polk<br>Bill Hughes<br>(Via OnBase)<br>(For Plaintiff) |
| v. | |
| JAMES ARTHUR RAY,<br><br>(Defendant) | Thomas K. Kelly<br>(Via Electronic Mail)<br>(For Defendant)<br>and<br>Luis Li/Brad Brian/Truc Do/Miriam Seifter<br>MUNGER TOLLES & OLSON LLP<br>(Via Electronic Mail)<br>(For Defendant *Pro Hac Vice*) |

| **HEARING ON:** | **NATURE OF PROCEEDINGS** | **COURT REPORTER** |
|---|---|---|
| **JURY TRIAL – DAY 34** | | **Mina Hunt** |

**START TIME:** 9:21 a.m.

APPEARANCES:
Sheila Polk, Counsel for State
Bill Hughes, Co-Counsel for State
Detective Ross Diskin, Case Agent
James Arthur Ray, Defendant
Tom Kelly, Counsel for Defendant
Luis Li, *Pro Hac Vice* Counsel For Defendant
Truc Do, *Pro Hac Vice* Counsel For Defendant

The Jury is present.

Sheila Polk and Detective Diskin are not present at this time.

The witness, Amayra Hamilton, previously sworn, resumes the witness stand and testifies.

Exhibits 910 and 911 are offered and admitted into evidence without objection.

The Jury and the witness are admonished and excused for a recess.

~~~Recess~~~

At 10:51 a.m. the trial resumes with all previously appearing parties and the Jury present. Ms. Polk and Detective Diskin are also present.
~~~

Exhibits 945, 946, 947 and 948 are offered and admitted without objection.

Exhibit 742 is offered. There being an objection by Counsel for State, IT IS ORDERED sustaining the objection and Exhibit 742 is not admitted.

The Court and Counsel conduct a sidebar discussion on the record.

The Jury and the witness are admonished and excused for the noon recess.

~~~Noon Recess~~~

At 1:16 p.m. the trial resumes with all previously appearing parties present. The Jury is not present.

The Court and Counsel discuss and finalize a limiting instruction for the Jury.

~~~Recess~~~

At 1:23 p.m. the trial resumes with all previously appearing parties and the Jury present.

The witness, Amayra Hamilton, resumes the witness stand and testifies further.

Exhibit 742 is offered and admitted into evidence without objection. After Exhibit 742 is played for the Jury, the Court gives a limiting instruction to the Jury.

The Court and Counsel conduct a sidebar discussion on the record.

The Jury and the witness are admonished, excused for a brief recess and leave the courtroom.

The Court and Counsel resume the discussion that initiated at sidebar. The Court states the time to raise a purported or possible prior consistent statement would be with the declarant and it has to be made at a time prior to any motivation to fabricate. The Court advises that Counsel for State may lead through.

~~~Recess~~~

At 2:16 p.m. the trial resumes with all previously appearing parties and the Jury present.

The witness, Amayra Hamilton, resumes the witness stand and testifies further.

The Court and Counsel conduct a sidebar discussion on the record.

The witness is asked and answers appropriate questions submitted by Jury. The witness is admonished and excused subject to possible recall.

Detective Ross Diskin is sworn and testifies.

Exhibit 929 is admitted into evidence pursuant to stipulation of Counsel.
~~~

The Jury and the witness are admonished and excused for a recess. The Jury exits the courtroom.

The Court and Counsel discuss the State's line of questioning of Detective Diskin.

Counsel for Defendant objects to Exhibits 923, 927, 928, 932, 933, 934 and to notes of Defendant marked as exhibits. Counsel for Defendant requests foundation on Exhibits 935 and 936 which foundation the State provides. Counsel for Defendant withdraws the objection as to Exhibits 935 and 936. Discussion ensues regarding *indicia* of occupancy. The Court directs the State to redact exhibits to eliminate certain information from identification exhibits. Further discussion ensues.

~~~Recess~~~

At 4:18 p.m. the trial resumes with all previously appearing parties and the Jury present.

The witness, Detective Ross Diskin, resumes the witness stand and testifies further.

Exhibits 317, 496, 919, 920, 921, 922, 923, 924, 925 and 926 are offered and admitted without objection.

Exhibits 497, 526, 332, 916, 915, 913, 532, 914, 917 and 918 are admitted into evidence pursuant to stipulation of Counsel.

The Court and Counsel conduct a sidebar discussion on the record.

The Jury and the witness are admonished and excused for the evening recess. The Jury leaves the courtroom.

The Court and Counsel review a note regarding Jury reaction.

The Court and Counsel will resume discussion regarding exhibits commencing at 8:30 a.m.

The Court stands adjourned for the day.

**END TIME: 5:01 p.m.**

**THEREAFTER, off the record,** the Court directs the Clerk to file the April 27, 2011 email containing the form and language of the limiting instruction given to the Jury this date and to apply the case number thereon.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)
Stone & Magnanini, Co-Counsel Brown Family (e)
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)
Steptoe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)
Division PTB (e)
Victim Services (e)
Court Administration
Customer Service Supervisor, Verde
~~~