IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

FILED
DATE: August 11, 2010
5:25 O'Clock P.M.
JEANNE HICKS, CLERK
BY: Lilly Miller
Deputy

DIVISION: 6
HON. WARREN R. DARROW
CASE NO. P1300CR20081339

JEANNE HICKS, CLERK
By: Lilly Miller, Deputy Clerk
DATE: August 11, 2010

TITLE:

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

COUNSEL:

Yavapai County Attorney
Joseph Butner / Jeffrey Paupore
(For Plaintiff)

John Sears
and
Larry Hammond / Anne Chapman
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, AZ 85012
(For Defendant)

HEARING ON:
SEALED HEARING

NATURE OF PROCEEDINGS

COURT REPORTER
Mina Hunt

START TIME: 8:33 a.m.
APPEARANCES: Joseph Butner, Co-Counsel for the State
Jeffrey Paupore, Co-Counsel for the State
Steven DeMocker, Defendant (in custody)
John Sears, Co-Counsel for Defendant
Larry Hammond, Co-Counsel for Defendant
Anne Chapman, Co-Counsel for Defendant

At 8:33 a.m., Court reconvenes with Counsel Butner, Counsel Paupore, Captain David Rhodes, State's Investigator, Counsel Hammond, Counsel Sears, Counsel Chapman, Rich Robertson, Defense Investigator, and the Defendant present. The jury is not present. The Court advises that this is a sealed hearing.

Court issues the following rulings:

- Regarding the jury issue, the Court **finds** that the procedure followed by this Court was proper for addressing whether a juror can be fair and impartial. The trial will proceed with the current panel of 16 jurors.
- The motion to strike testimony and evidence relating to bike tire impressions, referring to Detective Winslow's testimony and the related evidence, is **DENIED** at this time; however, this issue may be revisited after the testimony of experts, the evidence may be stricken at a later time, and it may be appropriate to give a limiting instruction to the jury.
- The motion to dismiss is **DENIED**.
- With regard to the Hartford Insurance evidence, the Court discusses the pleadings filed and argument presented. The Court clarifies that this trial is not about wrongdoing by the defense attorneys and the Court will not permit any evidence regarding allegations of the defense attorneys collaborating or somehow being manipulated in a criminal endeavor.

Counsel Butner and Counsel Hammond discuss the issue of the [redacted] The Court discusses Ms. Apple's opinion.

~ ~ ~ ~ ~ ~ Recess 8:46 a.m. ~ ~ ~ ~ ~ ~

At 8:59 a.m., Court reconvenes with all Parties and Counsel previously announced, with the exception of the Defendant. Counsel Napper and the Charlotte and Katherine DeMocker are now present.

Counsel Hammond advises the Court that the defense team will go forward on the terms outlined by the Court. Counsel Hammond will do research on the issue of the [redacted] and advise the Court further of their position by Friday afternoon. In the meantime, Counsel Hammond asks that the State not call witnesses who might be asked to testify regarding the life insurance information.

At 9:00 a.m., the Defendant enters the Courtroom.

The Court confirms that the State will resume with the testimony of Det. Willingham this morning. Counsel Butner indicates that he will not touch upon the life insurance information during testimony this week.

Counsel Hammond advises that he is not waiving any concerns raised in the pleadings. Counsel Hammond discusses the Court's ruling with respect to juror [redacted] and asks that the Court call in juror [redacted] to be questioned on *voir dire*. Counsel Butner asks that the Court speak with all of the jurors regarding interactions with juror [redacted].

~ ~ ~ ~ ~ ~ Recess 9:06 a.m. ~ ~ ~ ~ ~ ~

At 4:48 p.m., Court reconvenes with Counsel Butner, Counsel Paupore, Captain David Rhodes, State's Investigator, Counsel Hammond, Counsel Sears, Counsel Chapman, Rich Robertson, Defense Investigator, and the Defendant present. The jury is not present.

Counsel Hammond addresses the Court regarding the issue of the [redacted], and asks that the County Attorney contact [redacted]. Counsel Butner objects to that request and discusses his conversations with the [redacted] Counsel Butner believes that a deferral should be requested [redacted] Counsel Butner will discuss that issue with Sheila Polk. Counsel Hammond sets forth his position further. Counsel Butner asks that he be given an opportunity to consult with Sheila Polk and report back tomorrow morning.

The Court does not feel that it has the authority to instruct a Party to [redacted]

Counsel Butner addresses the Court regarding why the County Attorney's Office feels that it is necessary to [redacted] at this time. Further discussion ensues regarding the Court's previous ruling on this issue, the State's prior statements that indicate they did not wish to remove Defense counsel from this case, the nature of the conflict that [redacted] under what conditions the defense attorneys believe they can go forward in this case, and whether or not the Defendant should be independently advised regarding waiving his 6th Amendment rights.

Court and Counsel discuss the current witness, Det. Jarrell, and whether or not he was involved in the anonymous email and if he will testify about it.

The Court advises that it plans to continue with the trial tomorrow morning. The Court invites either side to file pleadings with respect to the issues discussed today. The Court asks that Counsel Butner make inquiry regarding whether or not [redacted]. The Court again discusses its concerns regarding holding *ex-parte* discussions with respect to the issue of [redacted]

The Court directs Counsel to return tomorrow morning at 8:30 a.m.

END TIME: **5:25 p.m.**

cc: Division 6
County Attorney
John Sears
Osborn Maledon, P.A.
Victim Services
Dean Trebesch (Contract Administrator, PD)
Christopher DuPont, Trautman DuPont PLC, 1726 North Seventh St., Phoenix, AZ 85006, Counsel for Victims Charlotte and Katherine DeMocker
John Napper – Counsel for Renee Girard, witness