

WLO

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

STATE OF ARIZONA,  Plaintiff,  vs.  MICHAEL LEE HAM,  Defendant.	Case No. P1300CR201901558  <b>ORDER/RULING RE:          STATE'S MOTION FOR          RECONSIDERATION OF          ORDER REMANDING THE          INDICTMENT BACK TO          STATE GRAND JURY FOR          NEW DETERMINATION OF          PROBABLE CAUSE</b>	<b>FILED</b>  DATE: <u>JUL 15 2020</u> <u>9:38</u> O'Clock <u>A.</u> M.  <b>DONNA McQUALITY, CLERK</b>  BY: <u>B. CHAMBERLAIN</u> <b>Deputy</b>
<b>HONORABLE TINA R. AINLEY</b>  <b>DIVISION 3</b>		BY: Dawn Paul, Judicial Assistant  DATE: July 14, 2020

The Court has read and considered the State's *Motion for Reconsideration of Order Remanding the Indictment back to State Grand Jury for a New Determination of Probable Cause under Rule 12.9 of the Arizona Rules of Criminal Procedure ("Motion)*, Defendant's *Response in Opposition*, and the *Reply*. The Court has considered the previous Motions, the oral argument of counsel and all exhibits.

In this case, the State did not oppose Defendant's request for remand to the Grand Jury of Counts 145, 146, 147 and 148 of the Indictment. As to the remaining counts, the Court found after oral argument that the fact that the primary Detective is on the Brady list should be disclosed to the grand jury and is a basis for remand.


After reviewing the *Motion, Response and Reply*, the Court finds that the fact that the detective is on the Brady list is an issue that relates to witness credibility and is not clearly exculpatory. In this case, the information relates to a 22-year-old incident and the investigator is not a primary witness. Instead, he obtained most information from other witnesses. The Court agrees with the State that this type of information is not exculpatory for purposes of the grand jury. *State v. Baumann*, 125 Ariz. 404, 610 P.2d 38 (1980). The issue is one more appropriate for argument at trial. *Id.*

**IT IS ORDERED** granting the State's *Motion*.

**IT IS FURTHER ORDERED** confirming remand for Counts 145, 146, 147 and 148 of the Indictment only.

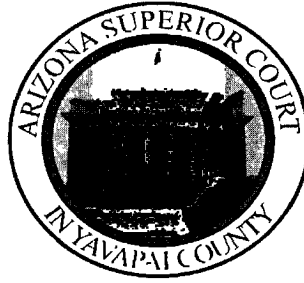
**IT IS FURTHER ORDERED** confirming Arraignment/Status Conference is set in Division 3 on Friday, August 7, 2020 at 9:30 a.m.

**IT IS SO ORDERED** this 14 day of July, 2020.

  
 \_\_\_\_\_  
 HON. TINA R. AINLEY  
 Judge of the Superior Court

- cc:
- \* Brett Harames, Esq., Assistant Attorney General, Attorney General's Office, 2005 N. Central Ave., Phoenix, (e) AZ. 85004-1592, Counsel for State
  - \* J. Andrew Jolley, Esq., *Precott Law Group, P.L.C.*, 116 N. Summit Ave., Prescott, AZ. 86301, (e) Counsel for Defendant
  - \* Edward F. Novak, Esq./Melissa Ho, Esq./Andrew Fox, Esq., *Polinelli, P.C.*, City Scape, One E. Washington St., Ste. 1200, Phoenix, AZ. 85004, Counsel for Defendant (e)

YAVAPAI COUNTY  
SUPERIOR COURT



HEALTH & SAFETY  
SCREENING  
GUIDELINES

Effective June 1, 2020 the Yavapai County Superior Court will be practicing health and safety measures for those persons coming into the courthouses. Please note the following procedures that court staff will be following until further notice.

- All persons coming into the Superior Court facilities will be required to wear a mask at all times unless directed otherwise.
  - ◊ **Please bring your own mask.** If you do not bring a mask, one will be provided for you.
  - ◊ If you refuse to wear a mask, you will be denied entry into the courthouse.
- You will be asked the following three questions prior to entering through the magnetometer:
  - ◊ *Have you had or have you been exposed to someone who has tested positive for the COVID-19 virus?*
  - ◊ *Do you have a cough?*
  - ◊ *Are you experiencing shortness of breath or difficulty breathing?*

*\* If you answer "yes" to any of these questions, you will be denied entry into the courthouse until cessation of symptoms, diagnosis other than COVID-19 explains a symptom, or negative COVID-19 test results no longer indicate COVID-19 infection under the CDC guidelines.*
- Court Security and/or other court staff will be checking your temperature upon entry.
  - ◊ Your temperature will be scanned by an infrared digital thermometer. It will be placed approximately two to five centimeters away from your forehead.
  - ◊ If your temperature reads 100.4° F or higher, you will be denied entry into the courthouse and directed to contact the Division or department in which you had business by telephone or alternate means *Upon request, you may re-test once after 15 minutes*
  - ◊ Court Security Officers will be equipped with masks and gloves while conducting temperature checks.
  - ◊ Screening equipment will be frequently sanitized for everyone's protection.

**Some activities can raise your body temperature. Heavy exercise and/or caffeine intake can raise your body temperature. Ensure these activities are limited prior to coming to the courthouse.**

**We understand that having a reading at 100.4, does not mean a person is sick with COVID 19.**

**Some medical conditions can affect temperatures. If you are willing, please discuss with us if you feel a separate condition exists that may cause an elevated reading.**