

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

**FILED**  
**DATE: February 17, 2022**  
**5:00 O'Clock P.M.**  
**DONNA MCQUALITY, CLERK**  
**BY: R.Burns**  
Deputy

DIVISION: PTA  
HON. DEBRA R. PHELAN  
CASE NO. P1300CR201600476

DONNA MCQUALITY, CLERK  
By: R.Burns, Deputy Clerk  
DATE: February 17, 2022

**TITLE:**

**COUNSEL:**

STATE OF ARIZONA,  
  
(Plaintiff)  
  
vs.

Ethan Wolfinger / Casi Harris  
Yavapai County Attorney's Office (e)  
(For Plaintiff)

ANTHONY JAMES RICHARDS,  
  
(Defendant)

Tyrone Mitchell  
Tyrone Mitchell, PC (e)  
(For Defendant)

**TIME SET FOR:**  
JURY TRIAL DAY 3

**NATURE OF PROCEEDINGS**

**COURT REPORTER**  
LAURA ASHBROOK - AM  
MINA HUNT - PM

**START TIME: 9:01 a.m.**

**APPEARANCES:** Ethan Wolfinger, Counsel for State  
Casi Harris, Counsel for State  
Det. John McDormett, Case Agent  
Anthony Richards, Defendant  
Tyrone Mitchell, Counsel for Defendant

*Laura Ashbrook is the Court Reporter.*

The Court reconvenes outside the presence of the Jury Panel.

Discussion ensues regarding the schedule for the day.

At 9:04 a.m., the Court stands at recess.

~\*~\*~\* **RECESS** \*~\*~\*~

At 9:08 a.m., the Court reconvenes with Counsel, Defendant and Jury Panel present.

Diana Jensen is administered the oath and presents testimony.

The Court and Counsel conduct a sidebar on the record.

The Court admonishes the Jury Panel and they are instructed to return to the Jury Assembly Room in 10 minutes. The Jury Panel is excused and exits the Courtroom.

At 10:04 a.m., the Court stands at recess.

~\*~\*~\* **RECESS** \*~\*~\*~\*

At 10:16 a.m., the Court reconvenes with Counsel, Defendant and Jury Panel present.

Diana Jensen resumes with testimony.

Counsel for State publishes Exhibit 177 to the witness.

The Jury Panel presents questions to the Court for the witness.

The Court and Counsel conduct a sidebar on the record.

The Court directs juror questions to the witness.

Counsel for State presents follow up to the Jury Panel questions.

Counsel for Defendant presents follow up to the Jury Panel questions.

The witness is excused and steps down.

The Court admonishes the Jury Panel and they are instructed to return to the Jury Assembly Room in 10 minutes. The Jury Panel is excused and exits the Courtroom.

At 11:10 a.m., the Court stands at recess.

~\*~\*~\* **RECESS** \*~\*~\*~\*

At 11:22 a.m., the Court reconvenes with Counsel, Defendant and Jury Panel present.

Craig Comstock is administered the oath and presents testimony.

The Court admonishes the Jury Panel and they are instructed to return to the Jury Assembly Room in 10 minutes. The Jury Panel is excused and exits the Courtroom.

The Court addresses the witness regarding statements made while on the witness stand.

The Court addresses the parties regarding a juror viewing a gesticulation or body movements made by the witness while testifying.

The witness is excused for further discussion with the parties.

At 11:33 a.m., the Court stands at recess.

~\*~\*~\* **RECESS** \*~\*~\*~\*

At 11:45 a.m., the Court reconvenes with Counsel and Defendant present, outside the presence of the Jury Panel.

The Court addresses the parties regarding the gesticulation or body movements made by the witness, Craig Comstock.

Counsel for Defendant presents an Oral Motion for a Mistrial and presents argument.

Counsel for State presents argument.

The Court will address the jurors regarding the viewing of a gesticulation or body movements by the witness, Craig Comstock.

Counsel for Defendant is not prepared to address whether or not the witness shall continue to testify.

The Court addresses Juror #1 individually, outside the presence of other Jurors, regarding a gesticulation or body movements made by the witness, Craig Comstock.

Counsel for Defendant addresses Juror #1 regarding a gesticulation or body movements made by the witness, Craig Comstock.

The Court addresses Juror #6 and Juror #11 individually, outside the presence of other Jurors, regarding a gesticulation or body movements made by the witness, Craig Comstock.

The Court directs the parties to return to the Courtroom at 1:25 p.m.

The Court directs the State to admonish the witness regarding gesticulation and body movements during testimony.

At 12:04 p.m., the Court stands at recess.

~\*~\*~\*~\* **RECESS** \*~\*~\*~\*~\*

At 1:30 p.m., the Court reconvenes with Counsel and Defendant present, outside the presence of the Jury Panel.

***Mina Hunt is the Court Reporter.***

The Court addresses Juror #2, Juror #3, Juror #4, Juror #5, Juror #7, Juror #8, Juror #9, Juror #10, Juror #12, Juror #13 and Juror #14 individually, outside the presence of other Jurors regarding a gesticulation or body movements made by the witness, Craig Comstock.

The Court notes that only Juror #1 observed any behavior by the witness.

Counsel for Defendant renews the Oral Motion for a Mistrial and presents argument.

Counsel for State presents argument.

The Court notes the instance only involves Juror #1 and the behavior by the witness should not affect the Jury Panel in any way.

The Court ***denies*** the Motion for a Mistrial.

The Court notes the next sanction to be considered would be precluding the witness from testifying.

Counsel for Defendant requests to preclude the witness from testifying and presents argument.

Counsel for State presents argument.

Counsel for Defendant presents rebuttal argument.

The Court notes the preclusion of a witness would be the last resort and there would need to be a prejudice shown to the Defendant if the Court does not grant the request to preclude the witness from further testimony.

Counsel for Defendant requests discussion regarding excluding the Juror from the Panel.

The Court believes there is prejudice to the Defendant if the Court does not preclude the witness from testifying.

The Court's ruling is that the witness will not be permitted to testify in this trial.

Counsel make a record on the Court's ruling.

The Court elaborates it is necessary to preclude Mr. Comstock from further testimony, the prejudice to the Defendant, the Court feels if the Court does not preclude the witness, the witness has already demonstrated inability to conform his conduct to what is appropriate in the Court to testimony and based specifically on his conduct that created a mistrial before, it is prejudice to the Defendant to proceed.

Counsel for State presents further argument asking the Court to reconsider the Court's ruling re: precluding witness Craig Comstock.

At 2:07 p.m., the Jury Panel enters the Courtroom.

Lisa Tucker is administered the oath and presents testimony.

Counsel for State publishes Exhibits 236 and 274 to the witness.

Counsel for State publishes Exhibits 279 and 280 to the witness and moves for the admission of Exhibits 279 and 280. There being no objection, Exhibits 279 and 280 are admitted.

Counsel for State publishes Exhibit 109 to the witness and moves for the admission of Exhibit 109. There being no objection, Exhibit 109 is admitted.

Counsel for State publishes Exhibits 236, 274 and 275 to the witness and moves for the admission of Exhibit 236. There being no objection, Exhibit 236 is admitted.

Having been previously admitted, Counsel for Defendant publishes Exhibit 109 to the witness.

The Jury Panel presents questions to the Court for the witness.

The Court and Counsel conduct a sidebar on the record.

The Court directs juror questions to the witness.

Counsel for Defendant presents follow up to the Jury Panel questions.

The witness is excused and steps down.

The Court admonishes the Jury Panel and they are instructed to return to the Jury Assembly Room in 10 minutes. The Jury Panel is excused and exits the Courtroom.

At 2:55 p.m., the Court stands at recess.

~\*~\*~\* **RECESS** \*~\*~\*~

At 3:11 p.m., the Court reconvenes with Counsel, Defendant and Jury Panel present.

Sharon Boyle is administered the oath and presents testimony.

Counsel for State publishes Exhibits 241, 104 to the witness.

Counsel for State moves for the admission of Exhibits 248 and 241. There being no objection, Exhibits 248 and 241 are admitted.

Counsel for State publishes Exhibit 248 to the witness and Jury Panel.

The Jury Panel presents questions to the Court for the witness.

The Court and Counsel conduct a sidebar on the record.

The Court directs juror questions to the witness.

The witness is excused and steps down.

Discussion ensues regarding the schedule for the remainder of the day.

The Court admonishes the Jury Panel and they are instructed to return to the Jury Assembly Room at 8:55 a.m., on February 18, 2022. The Jury Panel is excused and exits the Courtroom.

The Court directs Counsel and Defendant to be present in the Courtroom on February 18, 2022 at 8:30 a.m. to discuss the witness, Mr. Comstock.

**END TIME: 4:40 p.m.**

c: Honorable Debra R. Phelan, Division PTA (e)  
PVS (e)  
SOD (e)