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VIRLYNN TINNELL
SUPERIOR COURT CLERK

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MOHAVE**

9 **STATE OF ARIZONA,**

10 Plaintiff,

11 vs.

12 **JUSTIN JAMES RECTOR**

13 Defendant.

NO: CR 2014 - 01193

DEFENDANT'S MOTION FOR COURT
TO PLACE ON THE RECORD ITS
REASONING/ RATIONALE FOR
REJECTION OF DEFENSE
OBJECTIONS AT TRIAL

(ASSIGNED TO THE HON. LEE JANTZEN)

14 Defendant Justin James Rector, by and through undersigned counsel, moves
15 this court to memorialize, on the record, its reasons and rationales for overruling any
16 defense objections during the trial in this matter. An accurate record is necessary for all
17 parties in the event potential appellate or post-conviction review becomes necessary. .
18 This is requested for the reasons and authority contained in the Memorandum of Point
19 and Authorities attached hereto and incorporated herein.
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24 **RESPECTFULLY SUBMITTED This 14th day of October, 2015.**

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27 **GERALD T. GAVIN**
Co-Counsel for Mr. Rector

RON GILLES for:
Co-Counsel for Mr. Rector



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MEMORANDUM OF POINTS AND AUTHORITES

As mentioned previously, given this is a capital case, a complete and accurate record is essential for all parties in this case. There exists the real potential that many future lawyers and judges will review what takes place at this trial level; to avoid guessing, or inaccuracy about what is taking place for Mr. Rector, it is necessary those courts understand the basis for legal rulings that will impact the outcome of this life and death endeavor. The defendant will very likely make objections at trial; the court will obviously sustain or overrule those objections. *The legal reasoning behind the court's decision must be made part of the record.* To do otherwise leads reviewing authority to speculate about reasoning, and may lead to erroneous results about the legal basis for addressing objections. The trial record should be as complete as possible; allowing gaps is opening the door to ineffective assistance of counsel claims, and thwarts the underlying justice all parties rely on. Without a complete record, [the] Defendant could not exercise his right to appeal in any meaningful way. Evitts v. Lacey, 469 U.S. 387, 401 (1985). The Defendant, in an attempt to later save his life, cannot have his appeal fairly and fully adjudicated on a partial record. *See also Douglas v. California*, 372 U.S. 353 (1963). Trial counsel must ensure that the record of every stage of proceedings is complete. 2003 American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases 10.7(B)(2). As the United States Supreme Court's jurisprudence has made evident, death is different; for that reason, more due process is due, not less. *See Lockett v. Ohio*, 438 U.S. 586, 605 (1978); Woodson v. North Carolina, 428 U.S. 280, 305 (1976) (plurality opinion). This is all the more so when a petitioner's life interest, protected by the "life, liberty, and property" language in the Due Process Clause, is at stake in the proceeding. Ohio

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1 Adult Parole Authority v. Woodard, 523 U.S. 272, 288 (1998) (O'Connor, Souter,
2 Ginsberg and Breyer, J.J. concurring) *Id.* at 291 (Stevens, J. dissenting)(recognizing a
3 distinct, continuing life interest protected by the Due Process Clause in capital cases).
4 All measures must be taken to prevent arbitrary, cruel and unusual results in a capital
5 trial. See Lockett, 438 U.S. at 604, Woodson, 428 U.S. at 304-305.

6 Justin Rector cannot be constitutionally burdened with the duty to object, but
7 denied the opportunity to explain the basis therefore and to receive a detailed ruling
8 from this Court. Defendant is entitled to Federal and State Constitutional rights to
9 effective assistance of counsel, due process of law, equal protection of the law,
10 confrontation of the State's evidence, and freedom from cruel and unusual punishment.
11 United States Constitution Article I, §§ V, VI, VIII, and XIV; and analogous Article II, §§
12 4, 10, 15, and 24 of the Constitution of Arizona.
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1 ORIGINAL of the foregoing filed
2 this 14th day of October, 2015 with:

3 Clerk of Court
4 401 E Spring Street
5 Kingman Arizona 86401

6
7 COPY of the forgoing
8 Delivered this 14th day
9 Of October, 2015, to:

10 Honorable Lee Jantzen
11 Judge of the Superior Court
12 Mohave County Courthouse
13 2nd floor
14 Kingman Arizona 86401

15 Greg McPhillips
16 Assigned Deputy County Attorney
17 PO Box 7000
18 Kingman Arizona 86401

19 Ron Gilleo
20 Mohave County Legal Defender
21 Co-Counsel for Justin James Rector
22 313 Pine Street
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25 Client Justin James Rector
26 Mohave County Jail

27 File

28 BY: 