

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-008062-001 DT
CR2010-008065-001 DT
CR2010-008073-001 DT

02/10/2011

COMMISSIONER LISA M. ROBERTS

CLERK OF THE COURT
C. McCain
Deputy

STATE OF ARIZONA

REBEKAH K PRICHARD

v.

KEVIN MICHAEL GERSTER (001)

DAVID M CANTOR

JUDGE VERDIN
MASTER CALENDAR UNIT
VICTIM SERVICES DIV-CA-CCC

INITIAL PRETRIAL CONFERENCE

8:42 a.m.

Courtroom CCB1002

State's Attorney: Steven Meyerand for Rebekah Prichard
Defendant's Attorney: Christine Whalin
Defendant: Present

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The Court has conducted an initial pretrial conference (IPTC) this date.

Based upon the avowals made to the Court by the parties, the Court finds/orders as follows:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-008062-001 DT
CR2010-008065-001 DT
CR2010-008073-001 DT

02/10/2011

The Court finds that the State did comply with Rule 15.1(a) as previously ordered by the Court.

The State has complied with all discovery.

The Defense has complied with all discovery under Rule 15.2(b).

IT IS FURTHER ORDERED that the State and the Defendant shall comply with Rule 15.1(e) and Rule 15.2(e) within 25 days of the IPTC.

Any request to extend the deadline set this date must be done pursuant to Rule 15.6(d). Failure to request an extension may result in the preclusion of the evidence.

IT IS ORDERED directing counsel to set up and participate in a settlement conference prior to the plea cut off date or the comprehensive pretrial conference, whichever is the earliest date.

IT IS FURTHER ORDERED that pursuant to Rule 17.4(a) that counsel with authority to settle the case shall participate in a good faith discussion with the settlement court regarding a non-jury or no-trial resolution which conforms to the interests of justice.

IT IS FURTHER ORDERED that counsel for Defendant shall conduct a conflicts check for all witnesses listed by the State, and if necessary counsel for Defendant shall file a Motion to Withdraw.

IT IS ORDERED setting a Comprehensive Pretrial Conference for 03/11/2011 at 8:15 a.m. before this division.

COMPREHENSIVE PRETRIAL CONFERENCE:

IT IS ORDERED that the attorneys for both the State and Defense be prepared to provide the court with the following information at the Comprehensive Pretrial Conference (CPTC):

A. The status of plea negotiations. This includes whether or not the State has tendered an offer; if so, when it expires; the results of the settlement conference; and whether or not a Donald advisement is required.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-008062-001 DT
CR2010-008065-001 DT
CR2010-008073-001 DT

02/10/2011

B. The status of disclosure by both the State and Defense. This includes what discovery has been disclosed and what discovery still needs to be disclosed. If any discovery is left undisclosed, it is required that all parties comply with Rule 15.6 and provide appropriate affidavits.

C. The number of days required for trial.

D. The number of witnesses to be used at trial, including any out of town witnesses. And the number of expert witnesses to be used at trial.

E. The status of interviews. This includes how many interviews have been conducted and how many are left to complete. This includes whether or not any depositions are going to be required. If depositions are required, it is ordered that the party file a motion requesting same no later than two days before the CPTC date.

F. Whether or not an interpreter is going to be required for either a witness or the defendant or both.

G. The number of jurors required for trial along with the recommended number of alternates.

H. Whether or not the State is requesting an aggravating factors trial to the jury.

I. Any special jury instructions.

J. Whether or not either party is requesting a lesser-included offense.

K. Whether or not there are any anticipated substantive motions to be filed by either party.

L. Whether or not there are any motions in limine anticipated.

MOTIONS IN LIMINE:

Any motions in limine shall be filed thirty (30) days before Final Trial Management Conference (FTMC) and such motions must meet the test of State v. Superior Court, 108 Ariz. 396, 397, 499 P.2d 152 (1972): "The primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." See also, Ariz. Rules of

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-008062-001 DT
CR2010-008065-001 DT
CR2010-008073-001 DT

02/10/2011

Evidence, Rule 103(c). A written response to a motion in limine may be filed no later than ten (10) days thereafter. The Court will rule on the motions in limine without oral argument. If the Court wishes to hear argument, the argument will be heard at the morning of FTMC.

PRETRIAL MOTIONS:

All pretrial motions must be filed in writing twenty (20) days before the FTMC. All motions must comply with Rule 35.1 including setting forth a sufficient factual basis for the motion. Failure to file a sufficient motion may result in the motion being denied without evidentiary hearing. See: Rule 16.1[c] Rule 16.2[b]; State v. Anaya 170 Ariz. 436, 443 (1992); State v. Wilson 164 Ariz. 406, 407 (1990) and State v. Alvarado 121 Ariz. 485 (1979).

For master calendar cases, a copy of all pretrial motions shall be submitted to this division for proper routing. For all other cases, a copy of all pretrial motions shall be submitted to the assigned trial judge.

IT IS ORDERED setting the Final Trial Management Conference (FTMC) for 05/18/2011 at 8:45 a.m. before Judge Verdin.

IT IS ORDERED setting the Firm Trial Date for 05/25/2011 at 8:00 a.m. before the Master Calendar Assignment Judge located in Courtroom 703 in the Central Court Building.

Last Day: 06/21/2011 (0 DAYS EXCLUDED)

A DEFENDANT'S FAILURE TO APPEAR AT THE COMPREHENSIVE PRETRIAL CONFERENCE, THE FINAL TRIAL MANAGEMENT CONFERENCE OR THE TRIAL MAY RESULT IN A BENCH WARRANT BEING ISSUED FOR HIS OR HER ARREST AND THE CPTC AND TRIAL BEING CONDUCTED IN THE DEFENDANT'S ABSENCE.

THE TRIAL DATE SHALL NOT BE CONTINUED UNLESS A WRITTEN MOTION TO CONTINUE IS FILED WITH THE MASTER CALENDAR ASSIGNMENT JUDGE AT LEAST 5 DAYS BEFORE THE TRIAL. A CONTINUANCE WILL NOT BE GRANTED UNLESS THE MOTION SHOWS THAT EXTRAORDINARY CIRCUMSTANCES EXIST. (Rule 8.5, Rules of Criminal Procedure and guidelines thereto.)

Defendants seeking reconsideration rulings of the Court on a Motion to Modify Release conditions or a Motion for Rule 11, said motion shall be done by a Motion for Reconsideration. All Motions for Reconsideration, however denominated, shall be submitted without oral

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2010-008062-001 DT
CR2010-008065-001 DT
CR2010-008073-001 DT

02/10/2011

argument or without response or reply. No Motion for Reconsideration shall be granted without the Court granting an opportunity for a Response.

IT IS FURTHER ORDERED affirming prior release orders.

8:44 a.m. Matter concludes.

NOTICE: IF AN INTERPRETER IS NEEDED FOR A VICTIM OR A WITNESS FOR ANY HEARING, IT IS THE RESPONSIBILITY OF COUNSEL TO NOTIFY THE COURT BEFORE WHICH THE HEARING IS SCHEDULED 48 HOURS IN ADVANCE OF THE HEARING. (TEN BUSINESS DAYS FOR ANY LANGUAGE OTHER THAN SPANISH).