

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-031021-001 DT

03/21/2011

HON. SALLY SCHNEIDER DUNCAN

CLERK OF THE COURT
L. Porter
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI
VICTORIA ELISABETH WASHINGTON
MARK I HARRISON
LAWRENCE A HAMMOND
JAMES LEO LOGAN

CAPITAL CASE MANAGER
VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

8:46 a.m.

State's Attorney:	Juan Martinez
Defendant's Attorney:	Kirk Nurmi and Victoria Washington
Defendant's Attorney:	Mark Harrison and Larry Hammond (Limited Appearance)
Defendant:	Present
Court Reporter:	Scott Kindle

This is the time set for Capital Case Management Conference/Oral Argument on Motion to Withdraw.

LET THE RECORD REFLECT attorney Nurmi objects to the Court appointing Mark Harrison and Larry Hammond on behalf of the Defendant for the limited purpose of the Motion to Withdraw.

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Mark Harrison and Larry Hammond address the Court.

IT IS ORDERED denying Attorney Nurmi's Motion to Withdraw.

IT IS FURTHER ORDERED Attorney Peterson from the Public Defender's Office is not acceptable as second chair, as attorney Peterson has a firm trial date already set for July.

IT IS ORDERED setting a Status Conference for **April 4, 2011 at 8:30 a.m.** in this Division.

Additionally, pending before this Court is the State's Motion to Continue Trial.

Argument is presented.

IT IS ORDERED denying the State's motion.

IT IS FURTHER ORDERED affirming Trial set for **August 2, 2011 at 8:30 a.m.** in this Division.

The State requests a stay,

IT IS ORDERED denying the State's motion.

Attorney Nurmi requests a stay,

IT IS ORDERED denying the motion.

LAST DAY: 09/02/2011

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participation in eFiling through AZTurboCourt.

9:13 a.m. Matter concludes.

LATER: The Court has considered the following facts in denying the State's Motion to Continue Trial:

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The firm trial date of August 2, 2011 was set following a hearing on June 18, 2010. Defense counsel sought the continuance from the trial setting of August 16, 2010 because they were in trial in State v. Ficklin, CR2004-023628-001. They requested a March 2011 trial date, but due to his trial schedule, prosecutor Martinez requested an August 2011 trial setting.

Mr. Martinez requests the continuance because he states he is scheduled to begin trial in State v. Miller, CR2006-112056-001, on August 1, 2011. That case was set for trial on July 12, 2010, but because Mr. Martinez was in trial in another capital case, trial was reset to August 30, 2010. At a subsequent hearing on August 13, 2010, trial was reset to August 1, 2011 due to a change in defense counsel. Therefore, Mr. Martinez has known since at least August 13, 2010 that this case and the Miller case were scheduled for trial at the same time.

The Court considers one year (August 2010 to August 2011) more than sufficient time for another prosecutor to prepare for trial in either this case or the Miller case. Indeed, as noted on the record at many of the management conferences during the past seven months, the Court repeatedly advised Mr. Martinez to seek the assistance of other MCAO attorneys when he noted the trial conflicts.

The Court notes Mr. Martinez's assertion that he "has had significant contact throughout these proceedings with the next of kin in this case and they object to another Deputy County Attorney being substituted to prosecute the matter" and prefer the trial be continued. The Court understands the victims' concern, but finds that it could have been alleviated had a substitution been made seven months ago when this conflict first arose.

Finally, although the State asserts in its motion that the Public Defender's Office has no objection to the continuance, the defendant's attorneys filed a response objecting to the continuance and avowing their readiness for trial on August 2, 2011.

For all of these reasons, the Court finds that the State has failed to show that extraordinary circumstance exist justifying a continuance of the trial and the interests of justice weigh heavily in favor of denying its request.