

March 26<sup>th</sup> 2019

To: Office of The Clerk of The Supreme Court of The  
United States / Located at 1 First Street NE  
Washington D.C. 20543

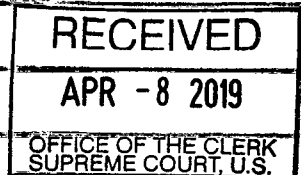
From: Josiah English III / Pro Se Applicant / Pretrial  
Detainee in the Maricopa County Jail located at  
3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

Regarding: An Interlocutory Appeal from the State of  
Arizona (Petition for Special Action)

Arizona Supreme Court  
Case# CR-19-0063-PR

Arizona Court of Appeals - Division One  
Case# 1CA-JA 19-0013

Maricopa County Superior Court  
Case# CR2017-105183-001 (Capital Case)



Greetings Clerk of The Court,  
I am respectfully requesting that you please file my  
original document enclosed, entitled:  
"Application For Emergency Stay of Proceedings". It is  
37 pages, with a 4 page List of Exhibits, and 167 pages of ①

Please  
see  
Exhibits  
V and W  
attached  
to my  
Application.

exhibits. In an act of tyranny and retaliation for writing a grievance on him, Sergeant House (here in the Lower Buckeye Jail) has told me that I can not get any more photocopies of my legal documents.

Under these oppressive pretrial conditions, I am unable to provide an additional copy of this Application for the Court. With the utmost of respect, I ask that my Application is still allowed to be processed.

Since I was unable to get photocopies, I have enclosed just the first page of my Application that I re-wrote by hand (an exact replica). I am respectfully requesting that you please file stamp that page and then mail it back to me in the self-addressed envelope that I have provided with a U.S. Stamp on it. This will provide me with confirmation of the filing.

Also, can you please file this letter as part of the record in this case once a case number is issued.

Via U.S. mail I have notified all of the Respondents listed on page 36 of my Application about this filing. Thank you.

Requested With The Utmost of Respect and Sincerety,  
Pro Se Applicant,  
Jarrah English III

~~III~~

Josiah English III (ProSe)  
Pretrial Detainee # T337357 in the Maricopa

County Jail located at: 3250 W. Lower Buckeye Rd.

Phoenix, Arizona 85009

37 pages,  
4 page  
Exhibit  
List, and  
167 pages  
of  
exhibits

Case Number

**IN THE**  
Supreme Court of The United States

Josiah English III (Applicant)

vs.

Hon. Christopher A. Cooney (Respondents)

Hon. Sam J. Myers

Hon. Richard L. Nothwehr

Hon. Wendy S. Morton

State of Arizona

Arizona Supreme Court

Case # CR-19-0063-PR

Arizona Court of Appeals - Division One

Case # 1 CA-JA 19-0013

Maricopa County Superior Court

Case # CR2017-105183-001

Capital Case

Application For Emergency Stay of Proceedings

To The Honorable Justices of The Supreme Court of

①

The United States,

Comes Now, Pro Se Applicant, Josiah English III, who respectfully requests a stay of proceedings from this Court.

With the utmost of respect and sincerity, Applicant, Josiah English III is asking this court to grant a stay of a pretrial hearing - scheduled to commence in my criminal case on April 5<sup>th</sup> 2019 <sup>at 1:30 P.M.</sup> in Maricopa County Case Number CR2017-105183-001, Hon. Commissioner Wendy S. Morton presiding, in which I face irreparable harm.

I ask that this court please forgive me if this application is not in the proper format. I recently asked Inmate Legal Services (herein the Lower Buckeye Jail) for an Application for a Stay of Proceedings in The U.S. Supreme Court, and then ILS responded, "ILS does not provide".

I hope that I am able to meet the requirements that this Court has established for the issuance of a Stay of Proceedings, in *California v. Riegler*, 449 U.S. 1319 (1981) and *Rostker v. Goldberg*, 448 U.S. 1306 (1980).

**Facts**

This Application for a Stay of Proceedings is stemming from an Interlocutory Appeal (A Petition for Special Action), that I filed Pro Se in the Arizona Court of Appeals - Division One on January 8<sup>th</sup> 2019. I filed the Interlocutory Appeal because my own two defense Attorneys and the Maricopa County Judiciary is doing everything within their power to perpetually deprive me of my right



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to self-representation, protected under the 6<sup>th</sup> and 14<sup>th</sup> Amendments to The Constitution of The United States.

On January 15<sup>th</sup> 2019, The Arizona Court of Appeals - Division One exercised its discretion to decline to accept jurisdiction of my Petition for Special Action, in Case # 1 CA-SA 19-0013.

On February 25<sup>th</sup> 2019 I filed a Petition for Review along with a Request for Stay of Proceedings with The Arizona Supreme Court, in Case # CR-19-0063-PR

On February 27<sup>th</sup> 2019 the Maricopa County Attorney's Office filed a Response to my Request for Stay of Proceedings.

On March 1<sup>st</sup> 2019 The Arizona Supreme Court filed its order denying my request for a Stay of Proceedings, stating:

"IT IS ORDERED denying the request for stay. If Petitioner files a compliant petition for review, that petition will be considered in due course."

(a copy of that two page order is attached to this Application)  
as Exhibit A1

On March 14<sup>th</sup> 2019 I filed my Amended Petition for Review in The Arizona Supreme Court (My petition for Review was nineteen pages and the limit is twelve and a half pages).

As of Friday March 22<sup>nd</sup> 2019, The Arizona Supreme Court still has not ruled on my Amended Petition for Review. We have a pretrial evidentiary hearing scheduled to commence on April 5<sup>th</sup> 2019. At that hearing I face irreparable harm ③

because my defense Attorneys Marci Kratter and Jocquese Blackwell intend to call a doctor (Doctor Bhushan Agharkar - a Medical Doctor licensed to practice in the State of Georgia - License # 051286), who has acted as an extension of my defense, to violate the Attorney-Client Privilege by testifying about what he and I have spoken about in a privileged capacity here in the Maricopa County Jail when he came to visit me in the jail in April and June of 2018.

Attorneys Kratter and Blackwell have already violated the Attorney-Client Privilege by giving Doctor Agharkar's handwritten notes that he took during the two occasions that he and I met, to the prosecutors from the Maricopa County Attorney's office. Attorneys Kratter and Blackwell gave copies of Doctor Agharkar's notes to Maricopa County prosecutors Ellen Dahl, Chris Sammons, and Juli Warzynski sometime on or before the December 18th 2018 Rule 11 discovery deadline. In his notes Doctor Agharkar wrote down how he and I talked about the criminal allegations made against me in this case, my children, medical matters, and other topics. Doctor Agharkar told me that he was there to speak to me about Mitigation, if my case goes to trial, and if the case went to a Mitigation phase, and if he was called to testify by the Defense.

Attorneys Marci Kratter and Jocquese Blackwell both told me that my communications with Doctor Agharkar were privileged before I ever even spoke to him, and then Doctor Agharkar himself assured me that our conversations are privileged. Attorneys Kratter and Blackwell want (4)

Doctor Agharkar to diagnose me with a fake mental illness (that I do not have) in front of Commissioner Morton, to carry on this sham suggestion that perhaps I am a "grey area" defendant that is so mentally ill that I am competent to stand trial, but I am not competent to represent myself in this criminal case. This suggestion is groundless and unsupported by any evidence. Attorneys Kratter and Blackwell are violating the Attorney-Client Privilege in their relentless efforts to obstruct my right to self-representation in this case. I have never had a mental illness, and Doctor Agharkar is the only doctor that I have met with in my life with whom I have had an in depth conversation about human psychology. Any suggestion that I have a mental illness never had any foundation, and simply is not true.

Attorneys Kratter and Blackwell and Doctor Agharkar have flagrantly betray the trust that I once had in them. I am shocked that an Attorney would even consider violating the Attorney-Client Privilege like this in any case, but especially in a Capital case. Commissioner Wendy Morton has allowed this unethical conduct to continue without interruption.

If a Stay of Proceedings is not granted, I face irreparable harm by Doctor Agharkar testifying in court in a pretrial hearing at which he will divulge the contents of our conversations that took place in a privileged capacity. Doctor Agharkar is also subject to cross examination by the state. This would violate my Attorney-Client Privilege protected (5)

under the 15<sup>th</sup> and 6<sup>th</sup> Amendments to The U.S. Constitution. This also continues to violate my right to self-representation protected under the 6<sup>th</sup> <sup>and 14<sup>th</sup></sup> Amendments to The U.S. Constitution (I have been locked in Rule 11 proceedings for one year now).

Initially I refused to meet with Doctor Agharkar but they all kept vigorously talking me into it. Now I see why.

I only spoke to Doctor Agharkar because Attorneys Kratter and Blackwell, my Mitigation Specialist Maria De La Rosa, and Doctor Agharkar all told me that my communications with Doctor Agharkar are privileged. Then they all turned around and betray my trust by releasing his notes about me to the prosecution and calling him to testify about what we spoke about in a court of law in a pretrial hearing, in a capital case in which I have the presumption of innocence and heightened Due Process protections, and in which I have not yet been to trial. I never imagined that it would be this difficult just to represent myself in my criminal case.

Probable Jurisdiction

It is possible that The Arizona Supreme Court may not deliver a ruling on my Amended Petition for Review before the April 5<sup>th</sup> 2019 evidentiary hearing in my criminal case, and they could just deny my Petition. This is why I am respectfully requesting this court to take "probable jurisdiction" over this case and grant this stay of proceedings. If The Arizona Supreme Court denies my Petition for Review, or decides to review my Petition for Special Action and then rules against me, I can file a Petition for Writ of Certiorari in this Court within thirty days of that decision.

History of The Case

On January 31<sup>st</sup> 2017 I was arrested without a warrant by Phoenix Detective Tyler J. Kipper and charged with murder in the first degree and two counts of endangerment.

These are crimes that I did NOT commit.

I told Detective Kipper eight times that I did not wish to speak to him without a lawyer present, but he still kept questioning me.

↳ on video and audio

On February 9<sup>th</sup> 2017, Detective Tyler J. Kipper, Maricopa County Prosecutor Robert Beardsley III, and Maricopa County Prosecutor Marischa Gilla, flat out deceived a Grand Jury to indict me for the three counts listed above.

please see my Amended Petition for Review filed in The Arizona Supreme Court for details.

Filed on 3-14-2019

On February 28<sup>th</sup> 2017 I filed my "Motion to Proceed Pro Per/Prose", in Maricopa County case # CR2017-105183-001. (A copy is attached) ↳ as Exhibit A

On March 13<sup>th</sup> 2017 we had a hearing at which Commissioner Richard L. Nothwehr asked me a series of questions and then he denied my Motion to Proceed Pro Per, and he told me in open court "you want to know what's going on with your case, that is not a good enough reason to represent yourself". His two page Minute Entry filed on March 17<sup>th</sup> 2017 states "The Court has received and reviewed Defendant's Motion to Proceed Pro Per/Prose." "Discussion is held." "IT IS ORDERED denying the motion without prejudice". (The first page of that Minute Entry is attached to this Application, <sup>↳ as Exhibit B</sup> the AZ Supreme Court has page two).

From a list of fourteen aggravated circumstances under ARS 13-751

On July 11<sup>th</sup> 2017 I filed my "Second Motion to Proceed Pro Per", and then a few days after that the Maricopa County Attorney's Office filed their Notice of Intent to seek the death penalty in my case. I held my Second Motion to Proceed Pro Per in abeyance because I wanted to see what the Attorneys on (7)

my case were going to do. My first two Attorneys withdrew on their own volition in September 2017 and then two Attorneys from the Maricopa County Public Defender's Office were appointed to represent me. (a copy of my second motion to Proceed Proper is attached as Exhibit C)

In November of 2017, after being appointed to my case for approximately six weeks, my two Attorneys and the entire Maricopa County Public Defender's Office were disqualified from representing me, due to some unknown "conflict of interest". My first chair Attorney told me that Presiding Criminal Court Judge, Hon. Sam J. Myers said that I am not allowed to know why. I told her that it is very strange that my two Attorneys and the entire office are disqualified from representing me, but as the defendant in the case I am not allowed to know why. My current first chair Attorney (Marci Kratter), was then appointed to my case.

First chair Attorney Anna Unterberger and Second chair Attorney Angela Walker are awesome Attorneys.

On February 12<sup>th</sup> 2018 Attorney Jocquese Blackwell was appointed as Second Chair Attorney in my case.

On February 13<sup>th</sup> 2018 I filed "Josiah English III" Assertion of His Right To A Speedy Trial" because my Attorney failed to do it. In November 2017 Attorney Marci Kratter not only refused to assert my right to a speedy trial after I asked her to, she very forcefully tried to convince me that I did not have a constitutional right to a speedy trial. I told her that what she was telling me was not true, pursuant to the 6<sup>th</sup> Amendment and Barker v. Wingo, 407 U.S. 514 (1972). Attorney Kratter got angry and still vigorously insisted that I (P)

Have no constitutional right to a speedy trial. On April 24<sup>th</sup> 2017 I submitted "Josiah English III's Declaration Regarding Speedy Trial" to Inmate Legal Services here in the Lower Buckeye Jail. ILS responded with "Mr. English, ILS cannot file your document as you are represented by counsel." (I was booked into the Maricopa County Jail on February 1<sup>st</sup> 2017). A copy of that ILS form and my initial "Declaration Regarding Speedy Trial" from April 24<sup>th</sup> 2017 is attached to my first assertion of my right to a speedy trial, which is attached to this Application as Exhibit D. (my trial date had been previously set for June 10<sup>th</sup> 2019)

Also on February 13<sup>th</sup> 2018 I filed "Josiah English III's Request for Ruling on His Second Motion to Proceed Pro Per". (a copy of that filing is attached to this Application as Exhibit E)

On March 29<sup>th</sup> 2018 we had a status conference in front of Hon. Judge Christopher Coury. It started at 9:00 A.M. Before the hearing started I told my First Chair Attorney Marci Kratter that I wanted to represent myself and ask the Judge to make a ruling on my Second Motion to Proceed Pro Per that day. Attorney Kratter tried to talk me out of it, but I insisted because after being in the County Jail on an unconstitutionally excessive one million dollar cash only bond for one year and two months, the two previous Private Investigators on my case had not done any defense investigation in my case, and Attorney Kratter had been on my case for four and a half months and still had not done any defense investigation in my case. At that point my defense investigation had already sustained substantial injury. I was previously a Criminal Defense Investigator in Texas for over four years, and I did ⑨



investigative work for The Texas Innocence Project and The NAACP. Therefore, I fully understand that a prompt and thorough defense investigation is paramount to a good defense.

My Attorneys Marci Kratter and Jocquese Blackwell, along with Prosecutor Ellen Dahl and Judge Christopher Coury all went back into Judge Coury's chambers (off the record and without me present). This is reflected in the Minute Entry that was filed on April 4<sup>th</sup> 2018, which states "An informal conference was held in chambers outside the presence of the defendant and without the Court Reporter." A copy of that Minute Entry is attached to this Application as Exhibit F. After a few minutes they all came back into the courtroom and Judge Coury announced that we would finish the hearing at 10:30 A.M. My Attorney Marci Kratter later told me that during that in chambers meeting, Judge Coury told them that he wanted to send me to Rule 11 Court to have my competency evaluated. This was before Judge Coury ever even spoke to me at all about representing myself. Also at that point, I had never even met with a psychologist, a mental health doctor, or any mental health experts ever in my life.

At 10:30 A.M. on March 29<sup>th</sup> 2018 I told Judge Coury that I wanted to represent myself in this criminal case. My Attorneys Marci Kratter and Jocquese Blackwell were very resentful of my wish to represent myself in this criminal case. I told Judge Coury that I did not have any mental health issues and that I have never had a psychological evaluation. Judge Coury (10)

ignored me and still ordered me to be evaluated by the doctors in the Rule 11 Court. Following are some quotes from the FTR (For The Record), audio-recording of that March 29th 2018 hearing:

These quotes are not all in succession

Judge Coury: "... benefit of evaluations"

Josiah English III: "What kind of evaluations?"

Judge Coury: "As a Judge I need to determine under The Supreme Court's law and precedent, that you are competent to represent yourself." "I'm referring to like a meal instead of what's for dinner."

Josiah English III: "I was wondering if there was going to be some in depth, ya know, psychological evaluations?"

Judge Coury: "I don't want to do it wrong, I want to do it right."

Josiah English III: "Yes your Honor, and I don't want to delay my trial."

Judge Coury: "You've got great lawyers", "I don't view this as being directed at them necessarily, you just want to represent yourself."

Josiah English III: "Yes Your Honor."

Judge Coury: "I was going to do that at the next hearing during the Faretta."

Marci Kratter: "If this court allows him to represent himself, I will be moving to withdraw."

Female Prosecutor from the Maricopa County Attorney's Office (Not Ellen Dahl): "They might think it is not a rational choice."

Judge Coury: "When you represent yourself, you have advisory counsel, you are completely in charge of your case."

Marci Kratter: "We are not Mr. English's Secretary, we will not ①"

be doing the research and sending pleadings and explaining how he needs to do things." "If he represents himself and he has procedural questions about how to file something, that's something we can assist with, but we are not secretaries or paralegals."

Josiah English III: "I unequivocally contend that I am competent to represent myself in this matter." "I don't want to be stuck with an advisory counsel who is not willing to assist me."

Judge Coury: "I want the doctor to opine as to whether or not the Defendant has a rational understanding of this process such that he is capable of representing himself effectively." "Um, I also want to find out if the Defendant suffers from any severe mental illness, or other mental illness that may effect his ability to either waive his rights, or alternatively to represent himself." "Then we'll do a Faretta hearing once that is determined"

Josiah English III: "I'd like to proceed pro per and move forward with my Defense investigation." "I've never had a psychological evaluation, I've never been told that I have any mental health conditions or anything of that nature, so I just want to make sure that this Doctor is being fair with me, and I don't want to have my, to be mischaracterized..."

Judge Coury: "That may bump your last day."

Josiah English III: "Could that result in a violation of my right to a speedy trial?"

Judge Coury: "I will be ordering that you go through the testing if that's what you want to do to represent yourself." "Do you still want to do that and understand that this may delay the trial?"

Josiah English III: "If the Court requires that."

Judge Coury: "And I will require that because that's what the law of the land says, we have to make sure that you are capable of representing yourself." "You've got a great legal team."

I respectfully contend that Judge Coury's inquiry as to whether or not I am "competent to represent myself" is not relevant to the question of my competence to waive my right to counsel "knowingly, intelligently, and voluntarily," pursuant to Rule 6.1(c) of the Arizona Rules of Criminal Procedure. In support of my argument I am citing U.S. v. Arlt, 41 F.3d 516 (1994) (U.S. 9th Circuit Court of Appeals) at A

"Indeed, the Supreme Court's decision in Godinez explicitly forbids any attempt to measure a defendant's competency to waive the right to counsel by evaluating his ability to represent himself." "The Court notes that "the competence that is required of a defendant seeking to waive his right to counsel is the competence to waive the right, not the competence to represent himself."  
Godinez, 509 U.S. at ----, 113 S.Ct.

"It adds that "technical legal knowledge' is 'not relevant' to the determination whether [a defendant] is competent to waive his right to counsel." Id. (quoting Faretta v. California, 422 U.S. 806, 835, 95 S.Ct. 2525, 2541, 45 L.Ed. 2d 562 (1975)); see also Peters v. Gunn, 33 F.3d 1190, 1192 (9th Cir. 1994).

At 3. "If a defendant seeks to represent himself and the court fails to explain the consequences of such a decision to him, (13)

the government is not entitled to an affirmance of the conviction it subsequently obtains. To the contrary, the defendant is entitled to a reversal and an opportunity to make an informed and knowing choice."

Also, U.S. v. Mohawk, 20 F.3d 1480 (1994) At II

"The Sixth Amendment confers upon a criminal defendant the right to represent himself or herself at trial. Faretta v. California, 422 U.S. 806, 807, 95 S.Ct. 2525, 2527, 45 L.Ed.2d 562 (1975).

"For a defendant's decision to represent himself or herself to be knowing and intelligent, it must be established that the defendant was "aware of the nature of the charges against him, the possible penalties, and the dangers and disadvantages of self-representation."

United States v. Balough, 820 F.2d 1485, 1487 (9th Cir. 1987)

(citation omitted). In particular, we require proof that the defendant understood his or her "constitutional right to have [a] lawyer perform certain core functions," and that he or she "appreciated" the possible consequences of mishandling these core functions and the lawyer's superior ability to handle them."

United States v. Kimmel, 672 F.2d 720, 721 (9th Cir. 1982)

"We have said that "[t]he preferred procedure to ensure that a waiver is knowingly and intelligently made is for the district court to discuss [the decision] with the defendant in open court." Balough, 820 F.2d at 1488; Hendricks v. Zenon, 993 F.2d 664, 670 (9th Cir. 1993)

"Ordinarily, we simply would review the answers given (14)

by a defendant in his or her colloquy with the court to evaluate whether the decision to waive counsel was "knowing and intelligent."

I contend that I never gave Judge Cory any legitimate reason, or "reasonable grounds" to call my competency to waive my right to counsel into question, neither in open court at the hearing on March 29th 2018, or in "Josiah English III's" Request for Ruling on His Second Motion to Proceed Pro Per "that I filed in my criminal case on February 13th 2018 (attached as EXHIBIT E).

I contend that I should not have been ordered to be evaluated by doctors in Rule 11 court, and that Judge Cory should have first given me the Fareta Colloquy before making such a decision. I also contend that it appears that Judge Cory never even planned to make his own assessment of my courtroom demeanor because when he went into his chambers that morning of the March 29th

2018 hearing around 9:00 A.M. with my Attorneys Marci Kratter and Jocquese Blackwell, and Maricopa County Prosecutor Ellen Dahl, he told them that he wanted to send me to Rule 11 court before he ever even spoke one word to me about my decision to represent myself in this criminal case. I allege that this is an abuse of discretion that has robbed me of my right to manage my own defense for one year now. (Fareta v. California, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975))

Arizona case law dictates that the trial court Judge should have "substantial evidence of incompetence" before calling a Defendant's competence to waive his right to counsel into question. Rule 11.1 (g) (2) of the Arizona Rules of Criminal Procedure defines

without  
me  
present  
and off  
the record

I have never had a "mental illness, defect, or disability"

incompetence as:

"Incompetence" means a defendant is unable to understand the nature and objective of the proceedings or to assist in his or her defense because of a mental illness, defect, or disability."

I respectfully contend that this definition does not apply to me and I never gave Judge Coury any reason to believe that it did. Please see State v. Cornell, 179 Ariz. 314 (1994) at C. 1 <sup>A competency hearing was not required</sup>

"The test for whether a competency hearing is mandated is not.... Rather, it is whether, on the basis of the facts and circumstances known to the trial judge, there was or should have been a good faith doubt about the defendant's "ability to understand the nature and consequences of the waiver, or to participate intelligently in the proceedings and to make a reasoned choice among the alternatives presented." Harding, 834 F.2d at 856; see also Cuffle v. Goldsmith, 906 F.2d 385, 392 (9th Cir. 1990); State v. Martin, 102 Ariz. 142, 146, 426 P.2d 639, 643 (1967).

"If the record raises such a doubt, then due process required the court to initiate a hearing on the defendant's competence to waive counsel. This duty continues throughout the trial if any evidence of defendant's incompetence to waive the right to counsel and proceed in propria persona arises. State v. Mott, 162 Ariz. 452, 459-60, 784 P.2d 278, 285-86 (Ct. App. 1990). Thus, the question in the present case is whether the evidence raised some doubt about Defendant's competence to waive counsel at the waiver hearing or at any subsequent stage of the trial. Such a doubt arises "when there is 'substantial evidence' of incompetence." Harding, 834 F.2d at 856; see also (16)

Evans v. Raines, 534 F. Supp. 791, 795 (D. Ariz. 1982). "Evidence of incompetence may include, but is not limited to, the existence of a history of irrational behavior, medical opinion, and the defendant's demeanor at trial." Evans, 534 F. Supp. at 795.

"Our review of the record shows that Defendant's behavior during the hearing and at trial gave no reason to suspect that he was mentally incompetent to understand his rights. On the contrary, Defendant listened to the judge's questions at the waiver hearing and answered them intelligently. Moreover, throughout the pretrial and trial period, Defendant prepared dozens of lucid handwritten motions and conducted himself in a rational manner, demonstrating that he understood the available alternatives and was able to make reasoned choices among them. Doubts about a defendant's competence may be removed by his conduct at trial." State v. Conde, 174 Ariz. 30, 33, 846 P.2d 843, 846 (Ct. App. 1992)

"In fact, on more than one occasion Defendant asserted his Faretta rights in spite of the judge's remonstrations, and plainly explained the legal basis for his position. Defendant's conduct throughout the trial thus left no doubt that he could and did understand his rights."

A copy of that eleven page motion filed on April 10<sup>th</sup> 2018 is attached as Exhibit H.

On April 20<sup>th</sup> 2018 Judge Coury filed his Ruling denying Defendant's Motion to Vacate the Rule 11 order (filed by my Attorney Marci Kratter). I commented on that seven page Ruling because Judge Coury wrote numerous things about me that simply were (17)



not true, and his Ruling defamed my name so badly (a copy of that seven page Ruling is attached to his Application as Exhibit 6). I was subsequently ordered to be evaluated by two doctors. If two doctors found me to be "competent" then my case should have been sent back to the trial court so the Judge can give me the Faretta Colloquy, then allow me to represent myself in this case.

On June 26th 2018 I filed "Defendant's Fifth Assertion of His Right To A Speedy Trial" (a copy of that ten page document is attached as Exhibit I).

On July 18th 2018 Hon. Judge Sam J. Myers (Presiding Criminal Court Judge) filed his order vacating my June 10th 2019 trial date, almost eleven months before my trial was scheduled to begin (a copy of that one page order is attached as Exhibit J).

From May 2018 to October 2018, three doctors, Celia Drake, Leslie Dana-Kirby, and Jacqueline Worsley, all attempted to meet with me here in the Lower Buckeye Jail. I declined to meet with all of them <sup>on</sup> grounds that I am upholding my right to remain silent until I chose to testify at trial. Doctor Drake stated in her report that she can not believe an opinion as to my competence to represent myself because I did not meet with her. Doctor Leslie Dana-Kirby and Doctor Jacqueline Worsley both reviewed some of my court pleadings and other case documents, and both determined that I am "competent to stand trial" (even though no one in this (18)

case has ever alleged that I am not competent to stand trial). The first page of Doctor Kirby's report, dated May 31<sup>st</sup> 2018 is attached as Exhibit K, and the first page of Doctor Worsley's report, dated October 3<sup>rd</sup> 2018 is attached as Exhibit L, both stating that I am "Competent to Stand Trial". Also, please see the Minute Entry from the Rule 11 court filed on July 24<sup>th</sup> 2018 attached as Exhibit M.

On October 9<sup>th</sup> 2018 we had a hearing in the Rule 11 court in front of Hon. Judge Pro Tem Wendy S. Morton. (the five page Minute Entry for that hearing is attached as Exhibit N). <sup>filed on 10-12-2018</sup> Judge Morton acknowledged that she received both reports from Doctors Kirby and Worsley (which both state that I am "Competent to Stand Trial"). At that point my case should have been sent back to the trial court. Instead, my own Attorney Marci Kratter orally requested an additional competency hearing to determine if I am "competent" (the ARS statute says that a request for a competency hearing has to be in writing). Attorney Kratter never articulated any legitimate reason why she was requesting an additional competency hearing.

I told Judge Morton in open court that Attorney Kratter's request was frivolous and that it had no merit, and that I am "vehemently opposed" to this request. I told Judge Morton that I did not want a competency hearing and that I wanted my case to be sent back to the trial court so that I can represent myself in this case. Judge Morton ignored me and granted Attorney Kratter's request. Page 4 of Judge Morton's Minute Entry states "The Defendant (19)

addresses the Court. LET THE RECORD REFLECT the defendant is opposed to the Rule 11 Evidentiary Hearing."

see that two page Notice attached as Exhibit O. → On December 19th 2018 Attorney Marci Kratter filed her "Notice of Witnesses", which includes Doctor Bhushan Agharkar. Doctor Agharkar is the only doctor that I met with in this case. At first I declined to meet with him, but Attorneys Marci Kratter and Jocquese Blackwell begged me to meet with him and they both assured me that my communications with Doctor Agharkar are privileged. Even Doctor Agharkar assured me that our communications were privileged. He also told me that he had nothing to do with the Rule 11 evaluations and that he could not be called to testify in that matter.

please see documents attached to "Defendant's Motion to Withdraw Counsel and Request for a Foretta Hearing", attached as Exhibit O. → I met with Doctor Agharkar in a privileged capacity in this Lower Buckeye Jail in April and in June 2018. Now Attorneys Kratter and Blackwell and Doctor Agharkar are all claiming that my communications with Doctor Agharkar were not privileged. I am shocked that this is even happening. No Attorney should ever betray their client's trust like this, especially in a capital case.

What is even more disturbing is that the Judges involved in this case have allowed this travesty of justice to continue. Judges Wendy S. Morton, Sam Myers, and (20)

Jay Adelman are all fully aware of this gross injustice, but they all have failed to act. I deem these Judges to be the most complicit actors in the deprivation of my constitutional rights, because they have failed to remedy these unjust acts in which they had knowledge were taking place, and the power to prevent.

At a Rule 11 hearing on December 11<sup>th</sup> 2018 I told Judge Morton that Doctor Bhushan Agharkar is not my witness, I do not want this hearing and this is Marci Kratter's hearing, and I requested that Doctor Agharkar be precluded from being called as a witness at the competency hearing because his testimony would violate my Attorney-Client Privilege. Judge Morton asked Attorney Marci Kratter if she had a response to my request, and Attorney Kratter said "no". Then without articulation, Judge Morton denied my request to preclude Doctor Agharkar as a witness. This is reflected in her Minute Entry from that hearing, but I do not have a copy of it to attach to this Application. Also at that hearing I requested that Attorneys Marci Kratter and Jocquese Blackwell be withdrawn as my Attorneys of record in this case. Judge Morton denied my request and did not even mention it in her Minute Entry.

→ please see page 4 of Judge Morton's five-page Minute Entry attached as Exhibit R, filed on 12-14-2018.

On January 10<sup>th</sup> 2019 I filed a civil suit in the Maricopa County Superior Court against my Attorneys Marci Kratter and Jocquese Blackwell alleging Legal Malpractice (Please ②)

see the first page of the Civil cover sheet and the first page of my civil complaint attached as Exhibit P). I have been communicating with Attorneys Marci Kratter and Joquese Blackwell in a Plaintiff - Defendant capacity while they have continued to represent me in this criminal case. Attorneys Kratter and Blackwell have ignored the Legal Malpractice law suit and insist on staying on as the Attorneys of record in my criminal case.

Also see a copy of the docket history for my criminal case attached as Exhibit T (five pages)

On February 4<sup>th</sup> 2019 I filed "Defendant's Motion to Withdraw Counsel and Request for a Faretta Hearing" (a copy is attached as Exhibit Q). In the motion I explained to the Court that there is a "complete breakdown in communication" and "irreconcilable conflict" between me and Attorneys Marci Kratter and Joquese Blackwell. I also attached documents to the motion reflecting that I have filed a law suit against Attorneys Kratter and Blackwell alleging Legal Malpractice. It has now been forty seven days and trial Judge Jay Adelman and Presiding Criminal Court Judge Sam Myers have completely ignored my "Motion to Withdraw Counsel and Request for a Faretta Hearing". Neither of them has set a hearing date to address my motion or has responded to my motion in any manner. The Maricopa County Superior Court Judiciary is blatantly forcing these Attorneys on me. Please see United States v. Moreland, 604 F.3d 1058, 1066 (9<sup>th</sup> Cir. 2010) (A Court cannot force Counsel on an unwilling defendant).

There have been some continuances, and we are currently (22)

Scheduled for a status conference in the Rule 11 court in front of Judge Wendy S. Morton on April 2<sup>nd</sup> 2019 at 9:00 A.M, and an evidentiary hearing on April 5<sup>th</sup> 2019, when my defense Attorneys intend to call Doctor Bhushan Agharkar as a witness to violate the Attorney-Client Privilege and divulge the contents of our privileged communications. He is subject to cross examination by the state's Attorneys, and his testimony could possibly be used during the Case in Chief in my criminal case.

please see  
Attorney  
Marci  
Kratzer's  
request  
to the  
court  
that she  
filed in  
my  
juvenile  
cases  
on  
January  
31<sup>st</sup>  
2019,  
attached  
as  
Exhibit  
5. She  
did not  
notice me  
as a  
recipient  
and never  
served me  
with a copy.  
I got a  
copy from  
my Advisor  
Counsel a  
month later.

Attorney Marci Kratter has also been subpoenaing my phone calls from the jail every month, and obtaining videos from my hearings in the Juvenile court (where I represent myself regarding the interests of my two children Melani English and Victor English), and has been forwarding them to Doctor Agharkar and the other three Doctors (whom I declined to meet with) for review, to see if my phone calls and the videos will persuade them to label me as a "grey area" defendant (one who is competent to stand trial, but not competent to represent himself due to a severe mental illness). Attorney Kratter's plan here is completely frivolous and it has made a mockery of these Rule 11 proceedings.

Attorney Kratter is also calling Doctors Celia Drake, Leslie Dana-Kirby, and Jacqueline Worsley (the same doctors that I declined to meet with) to review my phone calls and videos. Attorneys Kratter and Blackwell also want Doctor Agharkar to diagnose me with a fake mental illness (that I do not have) at the evidentiary hearing, to prevent me from representing myself in this case. I am fully convinced that this is

a full blown Maricopa County conspiracy to make sure that Josiah English III does not get to represent himself in this criminal case by any means necessary. The blatant deprivation of my right to self-representation in this case is shocking, and so un-American to me.

Following are some quotes about me from Doctor Leslie Dana-Kirby's May 31<sup>st</sup> 2018 report (report is not attached):

(pg. 5) "Mr. English was alert. He politely refused to participate in the assessment. He was appropriately dressed in standard jail attire. He appeared neatly groomed with close shaved head and face. His cell was observed to be clean and tidy, although it was stacked with neat piles of paperwork throughout the cell, which the defendant appeared to be organizing and/or reviewing. Speech was of normal rate and volume. He spoke fluent English. He presented as coherent, organized, and goal-directed."

"As a result of the above-noted findings, Mr. English appears to be competent to stand trial at this time. Even though this examiner was unable to assess his ability to understand the legal proceedings and his ability to assist his attorney, there is no credible evidence to suggest that he has a mental illness, defect, or disability that would warrant a finding of incompetency to stand trial."

Following are some quotes about me from Doctor Jacqueline Worsley's October 3<sup>rd</sup> 2018 report (report is not attached):

(pages 3 and 4) "Copious records were provided for review, primarily related to the defendant's previous and current legal situations. No behavioral health records, if any exist, were available."

"In my opinion, the defendant is competent to proceed. Although he refused to participate in this evaluation, there is insufficient evidence suggesting he has a psychiatric disorder preventing him from being able to assist in his defense."

In support of my position, I am citing Godinez v. Moran, 509 U.S. 389 (1993), in which this Court stated:

at 389

"Held: The competency standard for pleading guilty or waiving the right to counsel is the same as the competency standard for standing trial..."

at 390

"A higher standard is not necessary in order to ensure that a defendant is competent to represent himself, because the ability to do so has no bearing upon his competence to choose self-representation," Faretta v. California, 422 U.S. 806, 836, 95 S.Ct. 2525, 2541, 45 L.Ed. 2d 562.

at 400

"... a criminal defendant's ability to represent himself has no bearing upon his competence to choose self-representation."



Requirements For A Stay of Proceedings Under  
Rostker v. Goldberg, 448 U.S. 1306 (1980) (U.S. Supreme Ct.)  
and California v. Riegler, 449 U.S. 1319 (1981) (U.S. Supreme Ct.)

①

It must be established that there is a "reasonable probability" that four Justices will consider the issue sufficiently meritorious to grant certiorari or to note probable jurisdiction.

I respectfully contend that the issues involved are sufficiently meritorious to grant certiorari or to note probable jurisdiction by four Justices, because the issues are of nationwide importance and are predicated upon rights protected under The United States Constitution.

Specifically, the well established liberty interest that a defendant in a criminal proceeding has, in exercising his or her right to self-representation, that is protected under the 6<sup>th</sup> Amendment to The U.S. Constitution, and case law published by this Court, such as *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975), and its progeny.

The issues also implicate the heightened Due Process protections that one is afforded in a capital case, under the 14<sup>th</sup> Amendment to The U.S. Constitution.

The issues also implicate the abuse of state competency hearing statutes that are being manipulated by state officials to (26)

deprive criminal defendants of their Federally protected constitutional rights.

Without intervention from this court, these Federally protected rights will continue to be eroded by state officials.

②

The applicant must persuade the Circuit Justice that there is a fair prospect that a majority of the Court will conclude that the decision below was erroneous.

The Arizona Supreme Court denied my request for a stay of proceedings (Exhibit A 2 attached) but has not yet ruled on my Amended Petition for Review. I hope that I have sufficiently demonstrated that ① It was erroneous for Hon. Commissioner Richard L. Nothwehr to arbitrarily deny my first Motion to Proceed Pro Per/Pro Se at a hearing on March 13<sup>th</sup> 2017 (Exhibit B attached), and ② That there was no legitimate cause or reasonable grounds for Hon. Judge Christopher Courcy to completely skip over my Faretta Hearing and summarily decide to send me to the Rule 11 Court to have my competency evaluated by two doctors. Also, had Hon. Commissioner Richard L. Nothwehr not arbitrarily denied my first Motion to Proceed Pro Per/Pro Se, and allowed me to exercise my right to self-representation within the first six weeks of my incarceration in this County Jail, I would have been able to manage my own defense (Faretta) and conduct my own prompt and thorough defense investigation, and ②7

file my own motions with the Court. Instead, two years and two months, and seven Attorneys later, very little Defense investigation has been done in my case, numerous important witnesses have never been interviewed by the Defense, witnesses whose memories are diminishing, who may have moved from their previous location or moved out of state, who may have changed their phone numbers or are by now simply unable to be located. (And I would not have been sent to the Rule 11 Court)

By arbitrarily and perpetually depriving me of my right to self-representation, and forcing Attorneys on me that I do not want, the Maricopa County Judiciary has robbed me of my right to conduct a prompt and thorough Defense investigation, they have destroyed my right to a speedy trial, they have allowed my own Defense Attorneys to blatantly divulge my privileged Defense communications before I have even been afforded a trial on the merits, they have egregiously defamed my character with frivolous competency proceedings, they have allowed my Defense Attorneys to publish my private medical records to other people, and all of this has amounted to the complete obliteration of my heightened Due Process protections that I am afforded in this case.

I respectfully contend that there is a fair prospect that a majority of this Court will conclude that the decisions of the State trial court were erroneous.

(3)

There must be a demonstration that irreparable harm is likely to result from the denial of a stay.

I respectfully contend that irreparable harm is likely to result from the denial of a stay in this case. At the Rule 11 evidentiary hearing scheduled for April 5<sup>th</sup> 2019 at 1:30 p.m., my two defense Attorneys Marci Kratter and Jocquese Blackwell will be calling a Medical Doctor (Doctor Bhashan Agharkar) to divulge the contents of previous conversations that he and I had when I met with Doctor Agharkar in a privileged capacity (as an extension of the Defense) in April and June of 2018 in the Maricopa County Jail. By having Doctor Agharkar testify at this pretrial hearing, Attorneys Kratter and Blackwell are subjecting my Defense to infiltration by the state and by the public because the hearing on April 5<sup>th</sup> 2019 will be audio and video recorded, it is open to civilians from the public who will be in attendance, or Journalists from the media who could be in attendance.

Doctor Agharkar could say whatever he chooses to as he is being questioned by my Defense Attorneys and by Prosecutors from the Maricopa County Attorney's Office. Then Doctor Agharkar's testimony could be used in my case-in-chief at trial in this case. My June 10<sup>th</sup> 2019 trial date was vacated by Judge Sam Myers pending resolution of these Rule 11 proceedings, so I will not be scheduled to go to trial until around the fall of 2020, or early 2021 <sup>→ (at that point I will have been in the County Jail for four years awaiting trial.)</sup>

This blatant betrayal by my own two Defense Attorneys

(29)

violates my right to have privileged communications with my Attorneys and the people that they introduce me to, and arrange for me to meet with as extensions of the Defense (just like Attorneys Kratter and Blackwell did with Doctor Agharkar) protected under the 1<sup>st</sup> and 6<sup>th</sup> Amendments to The U.S. Constitution.

Attorneys Kratter and Blackwell want Doctor Agharkar to manufacture a false mental illness diagnosis about me in their relentless efforts to obstruct my right to self-representation protected under the 6<sup>th</sup> Amendment to The U.S. Constitution.

That way, Attorneys Kratter and Blackwell can make the fraudulent allegation with the court that I am so mentally ill that I should be categorized as a "grey area Defendant" (one who is competent to stand trial, but not competent to represent himself).

This will aid in their efforts to perpetually obstruct my right to self-representation in this case.

The trial Court will then continue to force Attorneys Kratter and Blackwell to remain as my Attorneys of record.

This too is another manipulation of these competency proceedings that could result in irreparable injury. Since October 4<sup>th</sup> 2017 I have represented myself in the Maricopa County Juvenile Court regarding the interests of my two children. Arizona Department of Child Safety is attempting to terminate the Parent-Child relationship that I have with my six year old daughter Melani English and my five year old son Victor English. In April of 2018, Juvenile Court Judge Alison Buchus sent my two U.S. Citizen children Melani and Victor to stay in Mexico with their Aunt on their mother's side of the family. Arizona DCS and the Juvenile Court Judges have completely ignored the (30)

DCS wants to make sure that Melani or Victor never see or speak to their daddy or their two

serious dangers; that Melani and Victor face as U.S. Citizens in Mexico, the fact that Melani and Victor have two biological sisters on their Father's side of the family, and DCS has lied to, tricked, stalled and intimidated all of my family members here in The United States who have tried to get physical possession of Melani and Victor.

biological sisters or any of their other family members on their Dad's side of the family here in The United States ever again.

Arizona DCS (the State) is making the same false homicide allegation against me as grounds to terminate the Parent-Child relationship, that is being made against me in the Criminal Court. Phoenix Police Detectives and Prosecutors from the Maricopa County Attorney's Office have been "sitting in" at my Juvenile Court hearings to see what they can "use" for the criminal charges that have been levied against me in the criminal court. So on April

please see attached as Exhibit U

16<sup>th</sup> 2018, Maricopa County Prosecutor Ellen M. Dahl filed "State's Supplemental Notice of Disclosure" naming two Maricopa County Prosecutors who have been "sitting in" at my Juvenile hearings as rebuttal witnesses, who could testify during my case-in-chief at trial in my criminal case. I contend that this is unconstitutional (Please see Afro-Lecon, Inc. v. U.S., 820 F.2d 1198 (1987) (U.S. Court of Appeals - Federal Circuit) stating:

"We agree with the court's assessment in Dresser that parallel proceedings may result in the abuse of discovery." "It has long been the practice to "freeze" Civil proceedings when a criminal prosecution involving the same facts is warming up or under way." "This court is not approbatory of the prosecution's utilization of the ploy of having a criminal investigator "sit in" on and participate in a non-criminal (31)

conference or interview when criminal prosecution was, as here,  
eminently predictable and without advising the "target"  
of the investigator's role and purpose.

I am fighting very vigorously in the Juvenile Court to stay  
the Juvenile proceedings until the final resolution of my  
ongoing criminal proceedings.

If Doctor Agharkar fabricates a phony mental illness about me  
during his testimony at the evidentiary hearing on April 5<sup>th</sup> 2019,  
it could not only obstruct my right to self-representation in my  
criminal case, it could negatively affect my rights as a parent and  
self-representation in my ongoing Juvenile Court case, where I  
have been fighting very vigorously to preserve the parent-child  
relationship that I have with my two children Melani and Victor,  
whom I love very dearly.

### The Balance of Equities

I respectfully contend that the "balance of equities" militates in favor  
of granting my request for a stay of the Rule 11 proceedings in  
my criminal case. I am the one who has been held under  
oppressive pretrial incarceration here in the Maricopa County Jail  
for two years and two months now. I argue that the State faces  
no prejudice in this matter. I am fighting very vigorously to  
enjoy my right to self-representation in which I am afforded  
under the shelter of the 6<sup>th</sup> Amendment. State government  
(the Maricopa County Judiciary) has allowed the deprivation

The trial  
in my  
Juvenile  
Case in  
Maricopa  
County  
Case Numbers  
JS18922  
and  
JD33768  
is scheduled  
to commence  
on April  
16<sup>th</sup> 2019.

of my right to self-representation to continue. Therefore, State government forced me to even be in a position to have to reach out to The Honorable Supreme Court of The United States for intervention in this matter.

Without a doubt, the Maricopa County Judiciary is blatantly abusing the Arizona Rule 11 statutes to keep defendants under pretrial incarceration in the County Jail, in jail longer (because Rule 11 time is excluded), to destroy a Defendant's right to a Speedy Trial (like they did to me), and to obstruct a Defendant's Federally protected right to self-representation (just like they have done to me). I can name at least eight other pretrial detainees just from this Lower Buckeye Jail who were ordered to undergo mental health evaluations in the Rule 11 Court, the very moment that they requested to represent themselves in their criminal cases.

### Younger Abstention Doctrine

I respectfully contend that the Younger Abstention Doctrine should not be invoked by this Court in this matter. I am not asking this Court to enjoin the state's prosecution of the criminal accusations that have been levied against me in this case. I am merely asking this Court to stay the Rule 11 Court proceedings until the disposition of my interlocutory appeal, in which I am awaiting a decision from The Arizona Supreme Court, or possibly this Court, if this Court were to grant a Writ of Certiorari. I merely wish to enjoy my right to self-representation, and my liberty (33)



interest in having my Attorney - Client communications respected (and not unlawfully divulged), in which I am afforded under the 6<sup>th</sup> Amendment.

I also contend that Younger Abstention is inappropriate in this matter because I am facing irreparable harm both "great and immediate" (as I articulated on pages 29 through 32). Please see Anevalo v. Hennessy, 882 F.3d 763 (2018) (U.S. 9<sup>th</sup> Circuit Court of Appeals) at II A

"Younger abstention remains an extraordinary and narrow exception to the general rule [.]"

"However, even if Younger abstention is appropriate, federal courts do not invoke it if there is a "showing of bad faith, harassment, or some other extraordinary circumstance that would make abstention inappropriate." Bar Ass'n, 457 U.S. 423, 435, 102 S.Ct. 2515, 73 L.Ed.2d 116 (1982)

at IIC

"It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'"

I also contend that the Rule 11 proceedings were initiated and have been allowed to continue in "bad faith" by the Maricopa County Judges in my criminal case.

### Request for Relief

For these reasons, I most respectfully ask this Honorable Supreme Court of The United States to take "probable Jurisdiction" over this case and grant Pro Se Applicant Josiah English III's request for a stay of the Rule 11 evidentiary hearing scheduled to commence on April 5<sup>th</sup> 2019 at 1:30 P.M. in Judge Pro Tem Wendy S. Morton's court in (34)

Maricopa County Case# CR2017-105183-001, and any further Rule 11 proceedings regarding Defendant Josiah English III, until the final disposition of my interlocutory appeal currently pending in Arizona Supreme Court Case# CR-19-0063-PR.

Requested With The Utmost of Respect and Sincerety,  
Pro Se Applicant,  
Josiah English III  
~~\_\_\_\_\_~~

Executed on this 25<sup>th</sup> day of March 2019  
in Maricopa County Arizona.

Certificate of Notification.

In an act of tyranny and retaliation for writing a grievance against him, Sergeant House (in this Lower Buckeye Jail) has told me that I can not get any more copies of my documents (even though there are three fully functioning copy machines on this floor). Please see two of Sergeant House's responses attached. <sup>as Exhibit v</sup> Inmate Legal Services has also told me that they are not going to make any copies of my documents for me (I represent myself in six different courts of law). I have to get copies from outside sources, which is very difficult to do and is a process that takes several days or weeks at a time. The Maricopa County Sheriff's office's cruel denial of photocopies has crippled my court cases.

The Sergeant told me that I must re-write everything by hand if I want copies. (I write with a pencil)

please see two ILS responses attached as Exhibit W

Under these oppressive pretrial conditions I am unable to attach an additional copy of this Application for the Court or to send to the other parties. However I do promise to send all parties written notification of this filing.

I hereby certify that I have sent (via U.S. mail) Applicant's "Application For Emergency Stay of Proceedings" to the Clerk of this Court for filing on March 26<sup>th</sup> 2017, and on that same day I sent (via U.S. mail) written notification of this filing to the following people:

- ① Honorable Arizona Supreme Court
- ② Diane Meloche and Ellen Dahl (Maricopa County Attorney's office)
- ③ Hon. Christopher A. Cury
- ④ Hon. Sam J. Myers
- ⑤ Hon. Richard L. Nothwehr
- ⑥ Hon. Wendy J. Morton

Respectfully Submitted,  
Josiah English III  
*J. III*

List of Exhibits → A 1 through X

**EX A 1** / order denying Request for Stay of Proceedings from The Arizona Supreme Court / Filed on 3-1-2019 / 2 pages

**EX A** / Defendant Josiah English III<sup>'s</sup> first Motion to Proceed Pro Per/Prose filed in the criminal case on 2-28-2017 / 1 page

**EX B** / Hon. Commissioner Richard L. Nothwehr's Minute Entry filed in the criminal case on 3-17-2017 / denying Defendant's Motion to Proceed Pro Per/Prose / 1 page / AZ Supreme Court has pages 1 and 2

**EX C** / "Josiah English III<sup>'s</sup> Second Motion to Proceed Pro Per" / filed in the criminal case on 7-11-2017 / 2 pages

**EX D** / "Josiah English III<sup>'s</sup> Assertion of His Right To A Speedy Trial" / filed in the criminal case on 2-13-2018 / 5 pages

**EX D 1** / Hon. Judge Christopher Coury's Minute Entry filed in the criminal case on 4-10-2018 / Acknowledging Defendant Josiah English III<sup>'s</sup> Assertion of his right to a Speedy Trial / 1 page

**EX E** / "Josiah English III<sup>'s</sup> Request for Ruling on His Second Motion to Proceed Pro Per" / filed in the criminal case on 2-13-2018 / 10 pages

**EX F** / Hon. Judge Christopher Coury's Minute Entry filed on 4-4-2018 / sending the criminal case to Rule 11 court / 3 pages (37)

List of Exh. 6.1-5

EX G / Hon. Judge Christopher Coory's Ruling, filed on 4-20-2018 in the criminal case / 7 pages

EX H / Defendant's Motion to vacate Rule 11 order / filed by Attorney Marci Kratter on 4-12-2018 in the criminal case / 11 pages

EX I / Defendant's Fifth Assertion of His Right To A Speedy Trial / filed in the criminal case on 6-26-2018 / 10 pages

EX J / Hon. Judge Dan J. Myers order vacating Defendant Josiah English III's trial date almost eleven months before trial / 2 pages

EX K / Doctor Leslie Dang-Kinby Report / dated 5-31-2018 / 2 page

EX L / Doctor Jacqueline Worley's Report / dated 10-3-2018 / 2 page

EX M / Hon. Judge Pro Tem Wendy S. Morton's Minute Entry dated 7-24-2018 / Rule 11 court / 2 pages

EX N / Hon. Judge Pro Tem Wendy S. Morton's Minute Entry dated 10-12-2018 / Rule 11 court / 5 pages

EX O / Attorney Marci Kratter's Notice of Witnesses filed in the criminal case on 12-19-2018 naming Doctor Bhushan Agarkar as one of her witnesses for the Rule 11 evidentiary hearing / 2 pages (two sided)

## List of Exhibits

**EXP** / Civil lawsuit documents against Attorney Marci Kratter and Attorney Jocquese Blackwell alleging Legal Malpractice / filed in Maricopa County Superior Court Case # CV2019-000906 on 1-10-2019 / 3 pages

**EX Q** / "Defendant's Motion to Withdraw Counsel and Request for a Faretta Hearing" filed in the criminal case on 2-4-2019 / 25 pages plus attachments (the trial court judge still has never responded)

**EX R** / Hon. Judge Pro Tem Wendy S. Morton's Minute Entry filed on 12-14-2018 / Rule 11 court / 5 pages (two sided)

**EX S** / Attorney Marci Kratter's "Request to the Court" filed in Juvenile cases JS18922 (Termination of Parent Child Relationship) and JD33768 (Dependency) on 1-31-2019 / Maricopa County Juvenile Court / 4 pages

**EX T** / Docket History for my criminal case / Maricopa County case # CR 2017-105183-001 / 5 pages (two sided)

**EX U** / "State's Supplemental Notice of Disclosure" filed in my criminal case on 4-16-2018 by Maricopa County Prosecutor Ellen M. Dahl / 2 pages

**EX V** / Two responses from Sergeant House (in the Lower Buckeye Jail), denying photocopies of Josiah English's documents / Dated 1-28-2018 and 2-20-2018 / 4 pages

## List of Exhibits

**EX W** / Two Inmate Legal Services request forms denying Josiah English III photocopies of his documents, dated 2-14-2019 / Regarding Juvenile case numbers JS18922 and JD33768 and Maricopa County Superior Court case # 2018-001720, Josiah English III v. Deean Gillespie Strub, et al., Civil Suit for Defamation of Character / 2 pages

**EX** / "Defendant's Objection Regarding Special Action" filed in the Criminal case by Defendant Josiah English III on 8-13-2018 / 6 pages

EX A 1

EX A 1





**IT IS ORDERED** denying the request for stay. If Petitioner files a compliant petition for review, that petition will be considered in due course.

DATED this 1<sup>st</sup> day of March, 2019.

/s/

---

ANN A. SCOTT TIMMER

Duty Justice

TO:

Josiah Adam English III, T337357, Maricopa County Jail,  
Lower Buckeye

Joseph T Maziarz

Diane Meloche

Ellen M Dahl

Hon. Christopher A Coury

Hon. Sam J Myers

Hon. Richard L Nothwehr

Hon. Wendy S Morton

Amy M Wood

bp

EXA

EXA

Name: Josiah Adam English III  
Booking #: T337357  
Facility Address: 3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

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

State of Arizona  
vs.

Josiah Adam English III  
Defendant

Case No. CR2017105183001

Motion to Proceed ProPer/ProSe

2/28/17 FILED  
1143am  
MICHAEL K. JEANES, Clerk  
By ~~Blaine~~  
D. Courtemanche, Deputy

To the Honorable Judge of this Court,  
Comes Now, Josiah Adam English III, the Defendant in the  
above styled and numbered case. I am currently being held  
under pre-trial detention in the Maricopa County, Arizona  
Jail.  
I respectfully request that Lindsay Abramson and the Maricopa  
County Public Defender's Office be withdrawn as my attorneys  
of record and that I be allowed to proceed pro per in this  
case until such time that I can gather enough money to  
hire a private attorney of my choice.

Respectfully Submitted,  
Josiah English III  
Defendant

Certificate of Service: I certify that a copy of the above was forwarded to  
Inmate Legal Services on this thirtieth day of February 2017 to be filed,  
Served upon this Court, to the Maricopa County Attorney's Office and to  
the office of the Maricopa County Public Defender.

158

785

Ex B

Ex B

X4

Michael K. Jeanes, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
03/17/2017 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

03/13/2017

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT  
A. Dvornsky/K. L. Johnson  
Deputy

STATE OF ARIZONA

ROBERT O BEARDSLEY III

v.

JOSIAH ADAM ENGLISH III (001)

VICTORIA ELISABETH WASHINGTON  
KELLIE SANFORD

MINUTE ENTRY

9:06 a.m.

Courtroom CCB 1001

State's Attorney:	Robert Beardsley III
Defendant's Attorney:	Victoria Washington
Defendant:	Present

A record of the proceedings is made digitally in lieu of a court reporter.

This is the time set for a Status Conference.

The Court has received and reviewed Defendant's Motion to Proceed Pro Per/Pro Se.

Discussion is held.

IT IS ORDERED denying the motion without prejudice.

EXC

EXC

X9

MICHAEL W. BRESCHARD  
BY S. Keiron  
FILED

17 JUL 11 AM 3:19

Name: Josiah English III

Booking # T337357

Facility Address: 3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

In The Superior Court of the State of Arizona  
In and for the County of Maricopa

State of Arizona

Case# CR 2017105183001

vs.

Josiah Adam English III  
(Defendant)

Josiah English III's Second Motion to Proceed Pro Per

To The Honorable Judge of this Court, -  
Comes Now, Josiah English III, the Defendant in the above  
styled and numbered case. I am currently being held under  
pre-trial detention in the Maricopa County, Arizona Jail.

I am respectfully requesting that Attorneys Victoria E.  
Washington and Keillie M. Sanford be withdrawn from this case  
as my attorneys of record. Pursuant to Rule 6.1(c) of the  
Arizona Rules of Criminal Procedure I wish to exercise my right  
to proceed pro pe with Advisory Counsel in this case.

Rule 6.1(c) Waiver of Rights to Counsel "A defendant may waive  
his or her rights to counsel under (a) and (b), in writing, after the  
court has ascertained that he or she knowingly, intelligently and

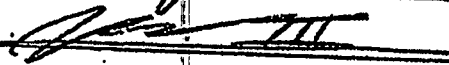


Case # CR 2017105183001

Voluntarily desires to forego them. When a defendant waives his or her rights to counsel, the court may appoint an attorney to advise him or her during any stage of the proceedings. Such advisory counsel shall be given notice of all matters of which the defendant is notified.

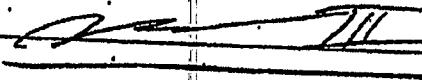
Respectfully Submitted

Josiah English III



Executed on this 6<sup>th</sup> day of July 2017

Certificate of Service: I certify that this Second Motion to Proceed Pro Per was forwarded to Inmate Legal Services on this 6<sup>th</sup> day of July 2017 to be filed with the Clerk of this Court, served upon the Maricopa County Attorney's Office, Attorney Kellie M. Sanford at 120 W. Osborn, Suite A Phoenix, AZ 85013 and to Attorney Victoria Washington at 2601 N. 3<sup>rd</sup> St. Suite 204 Phoenix, AZ 85004.



EXD

EXD

X25

FEB 13 2018 11:00am  
MICHAEL K. JEANES, Clerk  
By [Signature] Deputy

Name: Josiah English III  
Booking# T337357  
Facility Address: 3250 W. Lower Buckeye Rd.  
Phoenix, AZ  
85009

In The Superior Court of The State of Arizona  
In And For The County of Maricopa

State of Arizona vs. Case# CR2017-105183001

Josiah Adam English III, Defendant vs. Honorable Judge Christopher Coury Presiding

Josiah English III's Assertion of His Right To A Speedy Trial

To The Honorable Judge of this Court,  
Comes Now, Josiah English III, the Defendant in the  
above styled and numbered case. I am currently being  
held under pre-trial detention in the Maricopa  
County, Arizona Jail.

I hereby invoke my right to a speedy trial in this case.  
I have no intention of waiving my right, nor do I give my  
consent for anyone else to waive my right to a speedy trial  
in this case. We are currently scheduled for trial to  
commence on June 10th 2018 at 9:30 A.M. I wish to be ①

tried before a Jury on that date, or no later than the last day which is currently listed as July 14<sup>th</sup>, 2018 in this case.

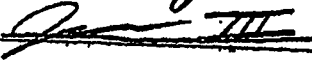
I was booked into the Maricopa County Jail in this case on February 1<sup>st</sup> 2017. On April 24<sup>th</sup> 2017 I attempted to invoke my right to a speedy trial in this case, however Inmate Legal Services here in the jail refused to file my declaration stating "Mr. English, ILS cannot file your document as you are represented by counsel." I have attached a copy of my Inmate Request Form reflecting this information. I have also attached a copy of "Josiah English III's Declaration Regarding Speedy Trial" that I attempted to have filed in this case on April 24<sup>th</sup> 2017.

I invoke my right to a speedy trial in this case pursuant to the following legal authorities: Rules 8.2 a (3) and (4) of the Arizona Rules of Criminal Procedure, section 24 of Article II of The Arizona Constitution "Declaration of Rights", the 6<sup>th</sup> and 14<sup>th</sup> Amendments to The Constitution of The United States "Bill of Rights", Barker v. Wingo, 407 U.S. 514 (1972) Supreme Court of The United States "A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process," and Snyder v. Donato, 211 Ariz. 117, 118, P. 3d 632, Arizona Court of Appeals, Division one, 2005 "The statutory right to a speedy trial has its foundation in several rules of criminal procedure, all of which work together to protect defendants' constitutional rights to

Speedy trials..."

Respectfully Submitted,  
Defendant,

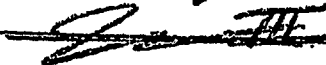
Josiah English III



Executed on this 3<sup>rd</sup> day of February 2018

Certificate of Service: I certify that "Josiah English III's Assertion of His Right To A Speedy Trial" was mailed to the Clerk of the Maricopa County Superior Court for filing on February 3<sup>rd</sup> 2018 via U.S. mail, and that a copy of the above listed document was mailed to this Court at 201 W. Jefferson St. Phoenix, AZ 85003, and to the Maricopa County Attorney's office at 301 W. Jefferson St. Phoenix, AZ 85003, and to Attorney for Defendant - Marci Kratter, at 335 East Palm Lane Phoenix, AZ 85004, via U.S. mail, on February 3<sup>rd</sup> 2018.

Josiah English III



③

216

E

Check One:  1. Library  2. Religious  3. Legal  4. Programs  5. Other

Maricopa County Sheriff's Office  
Paul Penzone, Sheriff

T 24A21

**Inmate Request Form**  
**Formulario de Solicitud para presos**

Name (Nombre): <u>Josiah English III</u>	Jail (Carcel): <u>Lower Buckeye</u>
Booking No. (Numero Fichado): <u>T337357</u>	House (Casa): <u>T24</u>
Date of Birth (Fecha De Nacimiento): <u>[REDACTED]</u>	Cell (Celda): <u>A21</u>

1. **Inmate Library Request (Biblioteca)**  English  Español

Inmates are provided a variety pack of reading materials. Each jail receives a delivery once per month.  
NO INMATE REQUEST IS REQUIRED.  
Para presos que han sido identificados por leer y hablar unicamente en español, el material de lectura en español está disponible.  
 MARQUE POR FAVOR LA CAJA SI USTED SOLO LEE Y HABLA ESPAÑOL.

2. **Inmate Religious Request (Solicitud Religiosa)**

Religion:  Catholic (Catolico)  Protestant (Protestante)  Muslim (Musulman)  Other religion (Otra religion) \_\_\_\_\_

Request (Solicitud):  Bible (Biblia)  Bible Study (Estudio biblico)  Religious Diet (Dietas religiosas)  Religious Counseling (Consejo religioso)

APR 23 2017  
APR 23 2017

3. **Inmate Legal Requests (Solicitud Legales)**

Inmate Legal Requests must be submitted on the Inmate Legal Request form.  
(Solicitudes Legales para Presos deberan presentarse en el formulario de Solicitud Legal para Presos.)

4. **Inmate Programs (Programas)**

Self-help (Esfuerzo propio)  GED  Juvenile Education (Educacion juvenil)  
 Adult Special Education (Educacion especial de Adulto)  
 Alpha Program (Programa Alpha) (Substance Abuse Treatment - for Sentenced Inmates ONLY)

5. **Other Inmate Information Request (Otra Informacion)**

Court date (Fecha de corte)  Release date (Fecha de liberar)  Property release (Liberar del propiedad)  
 Legal call (Llamada legal)  Other Declaration Regarding Speedy Trial

Please explain your request or question. Print clearly. (Por favor de explicar su solicitud o pregunta. Escribir claramente.) Greetings, I have attached my Declaration Regarding Speedy Trial. I am respectfully requesting that you please forward it to Inmate Legal Services for filing, service, and for a copy to be returned back to me. Thanks so much, Respectfully, Josiah English III.

Inmate Signature: <u>[Signature]</u>	Receiving Officer
	Date: <u>4-24-17</u> Time: <u>1512</u>
	Signature: <u>R3337</u>

Response (if needed): Mr. English, ILS cannot file your document as you are represented by counsel. Please refer your request to your attorney. ILS does not forward tank orders to attorneys, please provide ILS with a cover letter on a separate sheet of paper (not a tank order) addressed only to your attorney and resubmit to ILS with a new tank order.

Name: Josiah Adam English III

Booking # T337357

Faculty Address: 3250 W. Lower Buckeye Rd.  
Phoenix, AZ  
85009

In The Superior Court of The State of Arizona  
In and For The County of Maricopa

State of Arizona

vs.

Case Number: CR2017105183001

Josiah Adam English III  
(Defendant)

Josiah English III's Declaration Regarding Speedy Trial

To the Honorable Judge of this Court,  
Comes Now, Josiah English III, the Defendant in the above styled and numbered  
Case. I am currently being held under pre-trial detention in the Maricopa  
County, Arizona Jail.

At this time I declare that I do not wish to waive, nor do I give my  
Consent for anyone else to waive my right to a Speedy Trial in this case,  
pursuant to Rules 8.2 a(1), a(3), or a(4) of the Arizona Rules of Criminal  
Procedure, Section 24 of Article II of The Arizona Constitution  
"Declaration of Rights", and the 6th Amendment to The Constitution of  
The United States "Bill of Rights".

Respectfully Submitted,  
Josiah English III  
Josiah English III

Executed on this 24th day of  
April 2017.

certificate of service: I certify that a copy of this Declaration was forwarded  
to Inmate Legal Services on this 24th day of April 2017 to be filed with the  
clerk of the court, served upon this court, the Maricopa County Attorney's Office, Attorney  
Victoria Washington at 2601 N. 3rd St. Suite 204 Phoenix, AZ 85004, and Attorney Kellie M.  
Sanford at 120 W. 0560rn, Suite A Phoenix, AZ 85013.

212

EX D1

EX D1



Michael K. Jeanes, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
04/10/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

04/02/2018

HONORABLE CHRISTOPHER COURY

CLERK OF THE COURT  
Y. Zych  
Deputy

STATE OF ARIZONA

ELLEN DAHL

v.

JOSIAH ADAM ENGLISH III (001)

JOSIAH ADAM ENGLISH III  
T337357  
MCSO INMATE MAIL -- 00000  
MARCI A KRATTER

INMATE LEGAL SERVICES

MINUTE ENTRY

The Court has received and reviewed Defendant's *pro per* Assertion of his Right to a Speedy Trial filed 03/28/2018.

THE COURT NOTES Defendant's assertion of his right to a speedy trial.

The Court takes no action.

Ex E

EXE

X24

FEB 13 2018 FILED

11:09am

MICHAEL K. JEANES, Clerk

By D Casales  
Deputy

Name: Josiah English III

Booking # T337357

Facility Address: 3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

In The Superior Court of The State of Arizona  
In And For The County of Maricopa

State of Arizona

Case # CR2017-105183001

vs.

Josiah Adam English III  
Defendant

Honorable Judge  
Christopher Coury Presiding

Josiah English III's Request for Ruling on His Second  
Motion to Proceed Pro Per

To The Honorable Judge of this Court,  
Comes Now, Josiah English III, the Defendant in the  
above styled and numbered case. I am currently being  
held under pre-trial detention in the Maricopa  
County, Arizona Jail.

I was indicted in this case on February 9th 2017. On  
February 28th 2017 I filed my first motion to proceed  
as the pro per Defendant in this case. We had a hearing to  
address my motion in front of Commissioner Richard Nothwehr  
on March 13th 2017. Commissioner Nothwehr denied my  
motion without prejudice and stated in open court that I

The Minute  
Entry was  
filed on  
3-17-2017



2/13/18

could not refile my motion to proceed pro per until after April 16<sup>th</sup> 2017, which was the day that the Maricopa County Attorney's Office was to decide if they were going to pursue this case as a Capital case or not. My Attorney Victoria Washington was present with me in the court room on that day, March 13<sup>th</sup> 2017.

Our next hearing was on April 3<sup>rd</sup> 2017 and the Minute Entry for that hearing was filed on April 13<sup>th</sup> 2017. The April 3<sup>rd</sup> 2017 hearing was also in front of Commissioner Nothwehr. My Attorneys Victoria Washington and Kellie Sanford were both present at that hearing on April 3<sup>rd</sup> 2017. At the hearing I saw my Attorney Victoria Washington talking to prosecutors Robert Beardsley III and Marischa Gilla from the Maricopa County Attorney's Office. A few seconds later Attorney Victoria Washington walked up to me and asked me if I still wanted to proceed as pro per. I told her "not today" because Commissioner Nothwehr had already told me to wait until after April 16<sup>th</sup> 2017 to refile my motion to proceed pro per.

My Attorney Victoria Washington then told Commissioner Nothwehr in open court that I am "waiving" my motion to proceed pro per. I felt that it was inappropriate for Attorney Washington to do that because she was in the court room with me a little over two weeks earlier on March 13<sup>th</sup> 2017 when Commissioner Nothwehr stated in open court that I could not refile my motion to proceed pro per until

after April 16<sup>th</sup> 2017. As a result, Commissioner Nothwehr stated in his Minute Entry that was filed on April 13<sup>th</sup> 2017, "Discussion is held regarding Defendant's Motion to be Pro Per filed 02/28/2017." "The Defendant formally withdraws his Motion." However, I could not have formally withdrawn the motion because Commissioner Nothwehr had already denied the motion on March 13<sup>th</sup> 2017. In the Minute Entry from the March 13<sup>th</sup> 2017 hearing, Commissioner Nothwehr stated "The Court has received and reviewed Defendant's Motion to Proceed Pro Per/Prose." "Discussion is held." "IT IS ORDERED denying the motion without prejudice."

Copy is attached to this Request.

On July 11<sup>th</sup> 2017, I filed "Josiah English III's Second Motion to Proceed Pro Per" in this case. In open court at a hearing on August 23<sup>rd</sup> 2017, at which my Attorneys Victoria Washington and Kelly Sanford were present, The Honorable Judge Christopher Coury allowed me to hold my second Motion to Proceed Pro Per in abeyance. This is reflected in Judge Coury's Minute Entry that was filed on August 28<sup>th</sup> 2017.

At a hearing on September 14<sup>th</sup> 2017 in front of Presiding Criminal Court Judge-The Honorable Sam J. Myers, my Attorneys Victoria Washington and Kelly Sanford were withdrawn as my Attorneys of record and the Office of Public Defense Services was ordered to appoint new Counsel to represent me. At that hearing, in open court, Judge Myers told me

that I could still represent myself in this case "whenever you want to."

Therefore, I am respectfully requesting that this Court please grant my Second Motion to Proceed Profer with Advisory Counsel, that I filed in this case on January 11<sup>th</sup> 2017, pursuant to Rule 6.1(c) of the Arizona Code of Criminal Procedure.

I have had five attorneys in this case and two Private Investigators, and I currently do not even have a Private Investigator. My initial appearance in this case was February 15<sup>th</sup> 2017. In over a year later, the two Private Investigators that were previously appointed to my case did not do any investigative work towards my case in chief. I just lost a whole year of critical time that could have been put towards my Defense Investigation.

I am currently scheduled for trial in this case to commence on June 10<sup>th</sup> 2019. I have no intention of waiving my Speedy Trial time right under Rule 8.2 of the Arizona Code of Criminal Procedure. I also have no desire to see any more time squandered, with regard to my Defense Investigation in this case. I have no desire to sit here as a pre-Trial Detainee in this Maricopa County Jail for four, five, six, or seven years waiting to be taken to trial by the state, while the Sheriff of Maricopa County so barbarically starves his inmates by feeding us only two meals per day with a ten hour gap with no food in

the daytime, and a fourteen hour gap with no food over night. The food that the Sheriff does feed us is the exact same thing <sup>every single day of the year</sup> for breakfast every morning, some bread, some peanut butter, a packet of jelly, a packet of cookies, an apple which much of the time is rotten to the core, and a half pint of milk.

For "dinner" we get the same thing with little or no variety six nights a week, which is the main dish that the inmates call "slop", which is supposedly "soy meat" (whatever that is), mixed with beans, cold mashed potatoes (which sometimes come in clumps), broccoli stems (not the actual broccoli), a packet of cookies and a roll. One night per week we get beans and white rice that often is so hard that I refuse to eat it because the rice is not cooked all the way. We are never served anything to drink with our "dinner". This food is horrible, we are being starved, starvation is physical torture and emotional anguish.

This deprivation of food amounts to punishment, and no Pre-Trial Detainee should ever be punished under the Fourteenth Amendment of The United States Constitution. (Please see Bell v. Wolfish, 441 U.S. 520, 535, 99 S.Ct. 1861 (1979).) As a Pre-Trial Detainee, <sup>I am</sup> still clothed with the presumption of Innocence, <sup>and</sup> I should not be subjected to starvation and fed food that a dog probably would not even want to eat. I have often asked myself how the Sheriff of this County could be so cruel to his inmates and not feel (5) (201)

bad about it? I have spoken to many other inmates here in the Maricopa County Jail who have been to all of the other county jails in Arizona and <sup>men</sup> <sup>others</sup> all across the United States and they all told me that Maricopa County is the only county that they have seen that feeds the inmates only two times per day and serves food this horrible. They told me that <sup>at</sup> all of the other county jails that they have been to in other counties in Arizona and across the United States, the Sheriff feeds the inmates a minimum of three meals per day and that the food is actually pretty good and way better than this "slop" that the inmates are fed in Maricopa County Arizona.

All of the inmates here in the Maricopa County Jail who have been to prison in Arizona have all told me that Arizona Department of Corrections feeds them at a minimum of three times per day and that the food is pretty good and way better than this inedible food that the inmates are fed here in the Maricopa County Jail. They told me in the Arizona prison system they get a variety of foods like spaghetti, Salisbury steak, green beans, chicken, sandwiches, pancakes and a different variety of foods for breakfast.

I have personally spoken to many inmates here in the Maricopa County Jail (grown men who have been brought to tears) who have told me that they just can't take the starvation and the horrible "slop" any more and that they are ready to sign a guilty plea so that they can hurry up and get to the Arizona prison system where they know they will



eat at least three meals a day, a larger quantity of food, food of better quality, and a different variety of food.

Essentially, by starving the inmates in his jail by feeding us only two times per day with ten and fourteen hour gaps in between meals, horrible "slap" and other food that is cold, <sup>rotten</sup> or not even cooked all the way, the Sheriff of Maricopa County Arizona is coercing <sup>many</sup> guilty pleas for the Maricopa County Attorney's Office. Over this last year I have seen many inmates give up on their cases and plead guilty just so they can go to prison and eat better. (here in the Lower Buckeye Jail). Even an innocent person will plead guilty to a crime that they did not commit, just to put an end to the physical torture of starvation.

Also, here in the Lower Buckeye Jail, us inmates are let out of our cells only one hour per day to use the phone, take a shower, use the broom or other cleaning supplies to clean our cells, watch TV, or socialize with other inmates if we choose to. We are let out in a concrete-caged recreation yard for one hour Monday through Friday. On average, the inmates here in the Lower Buckeye Jail are locked in our cells for thirty-two to thirty-six hours every other day. Once again, us pre-Trial detainees have the presumption of Innocence and we have not even been to trial to address the criminal accusations, but yet we are being seriously deprived of our freedom of movement protected under the Fourteenth Amendment to The United States Constitution.

This serious deprivation of our freedom of movement is also tantamount to punishment. A Pre-Trial Detainee can not be punished because we have not even <sup>been convicted or</sup> been to trial to address the criminal accusations that have been levied against us by the State of Arizona. This egregiously oppressive pre-trial confinement is also prohibited by the Fourteenth Amendment to The United States Constitution. I personally know for a fact that the Maricopa County Attorneys Office is getting many, many guilty pleas because the pre-Trial Detainees in the Maricopa County Jail simply can not stand any more of the physical torture and the emotional anguish (the starvation <sup>the horrible food</sup> and the aggressive pre-trial confinement), so they simply give up on their cases and plead guilty. These oppressive government tactics seriously violate a Pre-Trial Detainees Due Process rights protected under the Fourteenth Amendment to The United States Constitution.

I actually went to the voting polls and I voted for our current Sheriff of Maricopa County, Paul Penzone, in November of 2016. I must say that I am thoroughly disappointed to have witnessed and experienced for over a year how cruel Sheriff Penzone has treated his Pre-Trial Detainees by depriving us of our most essential necessities, such as food and our freedom of movement. I hope that soon, someone in a position of authority will put an end to this most barbaric torture of the inmates being held under pre-trial detention in Maricopa County Arizona. What legitimate purpose is served by the Sheriff starving his inmates and feeding them horrible food that a dog probably would not even want to eat?


Here in the Lower Buckeye Jail we have many, many inmates who have been here under pre-trial detention waiting to go to trial for four, five, six, and even up to seven years. These inmates have been strong enough to endure the physical and emotional torture in which I have articulated in this document. I have no desire to be in the county jail for that long enduring these horrific crimes against humanity. The attorneys who are appointed to represent these Pre-Trial Detainees are acquiescing to continuance after continuance, year after year, while the Pre-Trial Detainee is forced to suffer the physical torture of starvation because he or she is fed only two times per day, and the oppressive pre-trial confinement because the Pre-Trial Detainee is allowed out in the day room for only one hour per day.

**Request for Relief** For these reasons, I respectfully request this Court to grant my Second Motion to Proceed Profer. In the State of Texas and here in Arizona I was a licensed Private Investigator for collectively over five years. I was a Criminal Defense Investigator for four years in Houston, Texas and I have done investigative work for the Texas Innocence Project. I know from my investigative experience that a prompt gathering of evidence and witness statements is essential to a good Defense. The two Private Investigators previously appointed to my case, Tammy Hardy and William Meginnis did not do either of these things. As a result, a whole year of valuable time has been squandered, which could have instead been attributed towards my Defense investigation. (9)

As a result my Defense investigation has been significantly hampered. I respectfully ask that this court please allow me to proceed proper so that I can get started with my Defense investigation. Waiting four, five, six, or seven years to go to trial would result in significant prejudice to my Defense. As of today's date, February 3rd 2018, I have a year and four months to prepare for the June 10th 2018 trial date. I would like to have my Defense investigation completed and be ready for trial on June 10th 2018. If this Court grants my request, I respectfully ask that this Court allow me to contact the Maricopa County Office of Public Defense so that I can select a Private Investigator to work on my case. To my knowledge, my previous Attorneys Anna Unterberger and Angela Walker filed three motions on my behalf on October 5th, 11th, and 12th 2017 which are currently scheduled for oral argument. My next Court date is February 13th 2018. I concur with the Defense requests made in those motions and I respectfully request that this Court please postpone the oral arguments to a later date so that I may have enough time to adequately prepare for those arguments. Executed this 3rd day of February 2018. in Maricopa County.

Respectfully Requested,  
Josiah English III (Defendant)



Certificate of Service: I certify that "Josiah English III's Request for Ruling on His Second Motion to Proceed Proper" was mailed to the Clerk of this Court for filing via U.S. mail on February 3rd 2018, and that a copy was mailed to this Court to the Maricopa County Attorney's Office, and to Attorney for Defendant - Marci Kratter, via U.S. mail on February 3rd 2018.  (10)

EX F

EX F

X26

Michael K. Jeanes, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
04/04/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

03/29/2018

HONORABLE CHRISTOPHER COURY

CLERK OF THE COURT  
Y. Zych  
Deputy

STATE OF ARIZONA

ELLEN DAHL  
COLLEEN CLASE

v.

JOSIAH ADAM ENGLISH III (001)

MARCI A KRATTER  
JOCQUESE L BLACKWELL

CAPITAL CASE MANAGER  
CITS - CCC SPANISH  
CORRECTIONAL HEALTH SERVICES  
COURT FORENSIC SERVICES UNIT

STATUS CONFERENCE/ TRIAL DATE AFFIRMED

9:02 a.m.

Courtroom 803 CCB

State's Attorney:	Ellen Dahl
Defendant's Attorney:	Marci Kratter and Jocquese Blackwell
Defendant:	Present
Minor Victims' Attorney:	Colleen Clase

Court Reporter, Mike Babicky, is present.

A record of the proceedings is also made digitally.

This is the time set for Status Conference.

An informal conference was held in chambers outside the presence of the Defendant and without the Court Reporter.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

03/29/2018

Discussion is held.

9:03 a.m. The Court stands at recess to reconvene at 10:30 a.m. this date.

10:37 a.m.

State's Attorney:	Ellen Dahl
Defendant's Attorney:	Marci Kratter and Jocquese Blackwell
Defendant:	Present
Interpreter:	Katerina Borghi
Minor Victims' Attorney:	Colleen Clase

Court Reporter, Mike Babicky, is present.

A record of the proceedings is also made digitally.

LET THE RECORD REFLECT Spanish interpreter is present for the Next of Kin who is present via telephonic conference.

Discussion is held regarding update of the case.

Defendant addresses the Court.

Discussion is held regarding Defendant's *pro per* Motion to Proceed Pro Per/ Pro Se filed 02/28/2017, Defendant's *pro per* second Motion to Proceed Pro Per filed 07/11/2017 AND Defendant's *pro per* Request for Ruling on His Second Motion to Proceed Pro Per filed 02/13/2018.

LET THE RECORD REFLECT Defendant requests the *pro per* Motion no longer be held in abeyance.

Discussion is held regarding Rule 11 and competency evaluations for the Defendant to proceed *pro per*.

LET THE RECORD REFLECT minor victim's invoke speedy trial rights and object to any continuance of the trial.

The Court advises the Defendant that he will be held to the same standard as an attorney regarding the presentation of the case. This standard includes knowledge of courtroom procedure, applicable state law, Arizona Rules of Evidence, and Arizona Rules of Criminal

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

03/29/2018

Procedure. The Scope of the evaluation to be conducted will be addressed in a minute entry to follow.

At the minimum, the Court would like the doctor to opine whether the Defendant has a rational understanding of this process such that he is capable of representing himself effectively and whether Defendant suffers from any severe mental illness or other mental illness that may affect his ability to waive his rights or alternatively to represent himself.

**IT IS ORDERED** directing counsel to file a Motion with the name of the doctors and additional questions to be addressed by the doctor regarding competency to represent himself by **no later than noon on 04/03/2018.**

**LET THE RECORD REFLECT** the Court will issue an order regarding the scope of the evaluation to be conducted once received.

Discussion is held regarding speedy trial rights.

**LET THE RECORD REFLECT** neither the victims nor the Defendant wishes the Trial date to be extended from the current date.

**LET THE RECORD FURTHER REFLECT** there is a discussion that time will be tolled as a result of the evaluations to be conducted and the decision of whether the trial date is moved will be a decision that abides a later date.

All time pursuant to Rule 8.4, Rules of Criminal Procedure, may be excluded by the Judge at the time the Defendant's competency is determined.

**IT IS ORDERED** affirming the Final Trial Management Conference on 05/10/2019 at 8:30 a.m. before this division.

**IT IS FURTHER ORDERED** affirming the Trial date on 06/10/2019 at 8:00 a.m. before the Master Calendar Assignment Judge located in Courtroom 5B in the South Court Tower.

**IT IS ORDERED** no time be excluded.

**LAST DAY REMAINS:** 07/14/2019.

**IT IS ORDERED** affirming prior release conditions.

11:08 a.m. Matter concludes.



EXG

EXG

X28

Chris DeRose, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
04/20/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

04/18/2018

HONORABLE CHRISTOPHER COURY

CLERK OF THE COURT  
Y. Zych  
Deputy

STATE OF ARIZONA

ELLEN DAHL  
CHRISTOPHER TODD SAMMONS  
CHERYL ANN WARZYNSKI  
COLLEEN CLASE

v.

JOSIAH ADAM ENGLISH III (001)

MARCI A KRATTER  
JOCQUESE L BLACKWELL  
  
CAPITAL CASE MANAGER  
CITS - CCC SPANISH

RULING

The Court has reviewed and considered Defendant's Request to Vacate Order for Rule 11 Evaluations and Objection to Evaluations Done Pursuant to Rule 11.9 or in the alternative, Motion to Limit Scope of Evaluations and Motion to Preclude State's Use of Evidence Obtained Through Rule 11 Evaluations, filed April 10, 2018, the State's Memorandum of Law RE: Competency to Proceed Pro Per, filed March 30, 2018, the State's Response to Defendant's Request to Vacate Rule 11 Order, Limit Scope of Evaluations and Preclude State's Use of Evidence Obtained Through Evaluations, filed April 17, 2018, the authorities and arguments cited therein, as well as the arguments advanced at the hearing held on April 17, 2018.

The current posture of the case is best summarized as follows: Defendant has been represented thus far by two teams of attorneys – one from the Maricopa County Public Defender's Office, and another team appointed by Public Defense Services. Defendant now is represented by a third team of attorneys. Defendant desires to represent himself. The Court previously ordered that Defendant participate in Rule 11 evaluations to confirm that Defendant not only is competent to represent himself, but also that Defendant has the capacity to conduct his own defense.

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There was no legitimate cause for this. Judge Coury should have given me a "Faretta Colloquy" pursuant to Faretta v. California, 422 U.S. 806 (1975) U.S. Supreme Court, to determine if I was making the decision to represent myself in this case "knowingly, intelligently, and voluntarily" (Rule 6.1(c) of the Arizona Rules of Criminal Procedure). The colloquy would have taken no more than a few minutes. Instead Judge Coury chose to send me to Rule 11 which has caused me to stay in jail an extra nine months and has destroyed my right to a speedy trial and just...  
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Pursuant to Rule 11.9, *Arizona Rules of Criminal Procedure*, Defendant has objected to a Rule 11 competency evaluation under A.R.S. § 13-754(A), and Rules 11.2 and 11.3, *Arizona Rules of Criminal Procedure*. This, however, is not the end of the inquiry. Notwithstanding Defendant's objection, the Court has an obligation to ensure that a defendant is competent to stand trial. As a general matter, a defendant may not be tried, convicted, or sentenced while that defendant is incompetent. A.R.S. § 13-4502; Ariz. R. Crim. P. 11.1. The Arizona Supreme Court has instructed as follows:

*any evidence to support Judge Christopher Coury's erroneous theories here.*

Due process requires that the state "observe procedures adequate to protect a defendant's right not to be tried or convicted while incompetent." *Drope v. Missouri*, 420 U.S. 162, 172, 95 S.Ct. 896, 904, 43 L.Ed.2d 103 (1975). The inquiry is whether defendant "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding, and whether he has a rational as well as a factual understanding of the proceedings against him." *Dusky v. United States*, 362 U.S. 402, 403, 80 S.Ct. 788, 789, 4 L.Ed.2d 824 (1960).

*no direct evidence*

*no "reasonable grounds" exist*

*State v. Amaya-Ruiz*, 166 Ariz. 152, 161-62, 800 P.2d 1260, 1269-70 (1990). These are just some of the reasons why "[a] trial judge is under a continuing duty to inquire into a defendant's competency, and to order a rule 11 examination *sua sponte* if reasonable grounds exist." *Id.*, 166 Ariz. 152, 162, 800 P.2d 1260, 1270 (1990) (citing *Drope v. Missouri*, 420 U.S. 162, 181-82 (1975) and *Bishop v. Superior Court*, 150 Ariz. 404, 407, 724 P.2d 23, 26 (1986)). This Court can *sua sponte* raise the competency issue if "on the basis of the facts and circumstances known to the trial judge, there was or should have been a good faith doubt about the defendant's ability... to participate intelligently in the proceedings." *State v. Cornell*, 179 Ariz. 314, 322-23 (1994)).

Additionally, a defendant who is competent still can be required to be represented by counsel at trial based on his lack of mental capacity to conduct his own trial defense. *Indiana v. Edwards*, 554 U.S. 164, 128 S. Ct. 2379, 2385-86 (2008). A court may consider the defendant's capacity to conduct his own defense when determining whether to grant *pro per* status:

[T]he Constitution permits judges to take realistic account of the particular defendant's mental capacities by asking whether a defendant who seeks to conduct his own defense at trial is mentally competent to do so. That is to say, the Constitution permits States to insist upon representation by counsel for those competent

*THIS RULING HAS SERIOUSLY DEFAMED MY NAME* (234)

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I told Judge Coury in open court on MARCH 29<sup>th</sup> 2018 and April 17<sup>th</sup> 2018 that I have never had any "mental health issues" and that I have never met with a psychologist or a mental health expert in my life. enough to stand trial under Dusky' but who still suffer from severe mental illness to the point where they are not competent to conduct trial proceedings by themselves. Judge Coury ignored me. *not true and no evidence*

*Id. at 2387-88. In Edwards, the Court did not articulate a "specific standard for determining when a defendant must proceed with counsel, instead leaving it to the trial judge, who "will often prove best able to make more fine-tuned mental capacity decisions, tailored to the individualized circumstances of a particular defendant." Id. at 2387.*

*mental competency assertions that he made against me are baseless, and they have no merit.*

Finally, Arizona has implemented procedures to assure the competency of criminal defendants. See Rule 11, Arizona Rules of Criminal Procedure. An accused has the right to a mental examination and hearing where reasonable grounds for an examination exist. See Rule 11.3. Reasonable grounds exist when "there is sufficient evidence to indicate that the defendant is not able to understand the nature of the proceeding against him and to assist in his defense."

*When was there any evidence of this?*  
State v. Borbon, 146 Ariz. 392, 395, 706 P.2d 718, 721 (1985). The trial court has broad discretion in determining whether reasonable grounds exist to order a competency hearing and its decision will not be reversed absent a manifest abuse of discretion. See State v. Salazar, 128 Ariz. 461, 462, 626 P.2d 1093, 1094 (1981). Examinations into competency focus "on an extremely narrow issue: whether whatever is afflicting the defendant has so affected his present capacity that he is unable to appreciate the nature of the proceedings or to assist his counsel in conducting his defense." State v. Steelman, 120 Ariz. 301, 315, 585 P.2d 1213, 1227 (1978). "A manifest abuse of discretion."

*Any such allegation about me is completely absurd.*  
Whether a defendant is capable of understanding the proceedings and of assisting counsel is dependent upon evidence of the defendant's irrational behavior, his demeanor in court, and any prior medical opinions on his competence. Drobe v. Missouri, 420 U.S. 162, 180 (1975). *There is no evidence of any of this.*

**THE COURT FINDS** that reasonable grounds exist to order competency testing for Defendant. Although the record in its entirety supports this conclusion, certain specific reasons support this conclusion: *Attorneys Anna Unterberger and Angela Walker from the Maricopa County public defender's office were assigned to my case on 9-14-2017. On 11-6-2017 the entire Maricopa County Public Defender's office was disqualified from representing me. Attorney Anna Unterberger told me that Judge Myers said that I am not allowed to know why.*  
1. A capital case is a uniquely complex case with three discrete phases. Defendant has had two teams of extremely skilled attorneys previously assigned to represent him. Both teams have been replaced. At the hearing on April 17, 2018, Defendant asserted that the attorneys from the Maricopa County Public Defender's office were not withdrawn at his request. *Grossly misrepresented.*  
The record calls into question Defendant's recollection.

*Anna Unterberger and Angela Walker are awesome attorneys and I never requested that they be removed as my attorneys of record. I believe that they were removed from my case because they were providing me with zealous representation.*  
On February 28, 2017, Defendant filed a request to represent himself stating, "I respectfully request that Lindsay Abramsen and the Maricopa County Public Defender's Office be withdrawn as my attorneys of record and that I be allowed

<sup>1</sup> Dusky v. United States, 362 U.S. 402 (1960).  
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to proceed pro per in this case until such time that I can gather enough money to hire a private attorney of my choice.”<sup>2</sup>

As if I do not have the right to file a Motion to Substitute Counsel.

• Shortly thereafter, following a court appearance with Ms. Washington and Ms. Sanford before Commissioner Nothwehr on March 22, 2017, Defendant filed a Motion to Substitute Counsel in which he wrote: “Pursuant to a conflict of interest, I respectfully request that Kellie M. Sanford be withdrawn as my attorney of record, and that the Court please appoint a different attorney to fill in her position.” Simultaneously, the State was considering whether to seek the death penalty. Minute Entry (Extension of Time Granted) dated March 23, 2017.

I never formally withdrew my motion to proceed pro per.

Attorney Victoria Washington did this but I did not ask her to.

• Defendant formally withdrew<sup>3</sup> his motion to proceed *pro per*. Minute Entry dated April 3, 2017. The State continued evaluating whether to seek the death penalty. ME (Extension of Time) dated June 5, 2017.

• Defendant then filed a request that “Attorneys Victoria E. Washington and Kellie M. Sanford be withdrawn from this case...[and expressed his] wish to exercise my right to proceed pre pe [sic] with advisory counsel...” Second Motion to Proceed Pro Per filed July 11, 2017. ← I have the right to represent myself in this case under the 6th Amendment to The U.S. Constitution but Judge Coury has egregiously trampled on my constitutional rights.

• The State filed its Notice of Intent to Seek the Death Penalty on 7/14/2017. The Presiding Criminal Judge qualified Ms. Washington and Ms. Sanford as capital counsel in Defendant’s case, and advised that this Court would address the *pro per* motion. Minute Entries dated July 31, 2017 and August 7, 2017. At the subsequent hearing, Defendant’s *pro per* motion was held in abeyance at his request. Minute Entry, dated August 23, 2017.

<sup>2</sup> Notwithstanding Defendant’s reference to “Lindsay Abramson,” attorney Victoria Elisabeth Washington is endorsed on the Minute Entry (Not Guilty Plea Arraignment) dated February 16, 2017. ← I was not even aware that attorney Lindsay Abramson had been removed as my attorney and then I met attorneys Victoria Washington and Kellie Sanford for the first time at my <sup>3</sup> Arraignment on February 16th 2017.

Defendant notes that he “could not have formally withdrawn the motion because [the commissioner] had already denied the motion on March 13<sup>th</sup> 2017.” Request for Ruling filed February 13, 2018 at 3; Minute Entry dated March 13, 2017 (“IT IS ORDERED denying the motion without prejudice.”).

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- The Court then affirmed the appointment of Marci Kratter as lead counsel to represent Defendant. Minute Entries, dated November 6, 2017 and November 21, 2017. Jocquese L. Blackwell appeared and was approved as second chair. Notice of Appearance dated February 12, 2018; Minute Entry dated March 7, 2018.<sup>4</sup>

Judge Coury  
Keeps acting like I  
have no right to  
represent myself.  
His resentment 2.

Despite the appointment of this third team of excellent attorneys, Defendant seeks to remove this team and has re-urged his Second Motion to Proceed Pro Per. Request for Ruling filed February 13, 2018.

Despite being represented by counsel, Defendant has been unable or unwilling to adhere to Court rules. He has not received permission for hybrid representation. Despite this, he has filed documents with the Court unrelated to counsel. These include:

of my desire to represent myself is very clear. Also please see: United States v. Moreland, 604 F.3d 1058, 1066 (9th Cir. 2010) (A court cannot force counsel on an unwilling defendant)

- Objection to Change of Venue and Jury Demand, filed August 1, 2017.
- Objection to Change of Venue and Jury Demand, filed August 15, 2017.
- Letter to the Clerk of the Court regarding filing (1) Assertion of Right and (2) Request for Ruling, filed February 13, 2018 ← see attached
- Assertion of His Right to a Speedy Trial, filed February 13, 2018 ← see attached
- Letter to the Clerk of the Court Regarding Assertion of Right to Speedy Trial, filed March 29, 2018 ← see attached

↙ This was filed by me, the defendant (see attached)

↘ This was filed by the Maricopa County Attorney's office.

At least one of these filings is curious. On August 1, 2017, Defendant filed a document titled "Objection to Change of Venue." This document was curious insofar as there was no pending request to change venue. Likewise, as recently as March 29, 2018, Defendant filed a document titled "Josiah English III's Letter to the Clerk Regarding Assertion of Speedy Right to a Speedy Trial." Defendant filed this even though he had previously asserted his right to speedy trial in court. All of these filings have been made even though Defendant was represented by counsel. When this issue was raised on April 17, 2018 in court, Defendant did not indicate that he was unaware that his filings did not conform to applicable rules. Rather, he simply acknowledged that he made his filings because that is his way of communicating with the Court.

For good cause (please see attached)

I adequately explained why I filed the letter

Judge Coury never told me it was against the rules.

3. Defendant is unequivocal that he wants to represent himself; the Court has no doubt about the strength of Defendant's resolve to do so. The Court likewise has no doubt about

↙ Then Judge Coury should have let me represent myself on March 29th 2018

<sup>4</sup> Before Ms. Kratter was appointed, Defendant's case was re-assigned to the Maricopa County Public Defender's Office, which withdrew due to ethical conflicts. The Court has given absolutely no weight or consideration to this second appointment and withdrawal of the Public Defender's Office when considering the present matter.

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- 27, 2018. If the parties cannot agree, the doctors shall be selected by the Court in compliance with the Rules.
5. To the extent not expressly granted, Defendant's Motion is denied.



EXH

EXH

X27

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

STATE OF ARIZONA,

Plaintiff,

v.

JOSIAH A. ENGLISH, III

Defendant.

No. CR2017-105183-001 DT

DEFENDANT'S REQUEST TO VACATE ORDER FOR  
RULE 11 EVALUATIONS AND OBJECTION TO  
EVALUATIONS DONE PURSUANT TO RULE 11.9,  
OR IN THE ALTERNATIVE, MOTION TO LIMIT  
SCOPE OF EVALUATIONS AND MOTION TO  
PRECLUDE STATE'S USE OF EVIDENCE  
OBTAINED THROUGH RULE 11 EVALUATIONS

Oral Argument Requested

(HON. CHRISTOPHER COURY)

The Defendant, Josiah A. English III, by and through his counsel undersigned requests that the Court vacate its directive that he participates in two mental health evaluations made pursuant to Rules 11.2 and 11.3 of the Arizona Rules of Criminal Procedure as a condition predicate to considering Mr. English's motion to proceed *Pro Se*. Mr. English objects to undergoing mental health evaluations made pursuant to Rule 11.9 of the Arizona Rules of Criminal Procedure and Arizona Revised Statutes (hereinafter

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referred to as A.R.S) §§13-753 and 13-754.

The Court's order is flawed in two ways. First, the order fails to articulate a basis for the evaluations as required by Rule 11.2, 11.3 and A.R.S. §§13-4503 and 13-4505. Secondly, the order denies Mr. English the ability to fully exercise his constitutional rights by requiring that Mr. English forgo the protections afforded to him by the Fifth Amendment of the United States Constitution in order to exercise his Sixth Amendment right to waive representation by counsel.

This motion is based on Article 2, Sections 4, 10 and 24 of the Arizona Constitution as well as the Fifth, Sixth and Fourteenth Amendments of the United States Constitution, and the attached Memorandum of Points and Authorities.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of April, 2018.

By/s/Marci A. Kratter  
Counsel for Josiah English III

#### MEMORANDUM OF POINTS AND AUTHORITIES

##### I. LAW

Arizona defendants have both federal and state constitutional rights to represent themselves in a criminal prosecution. The Sixth and Fourteenth Amendments to the United States Constitution also provide a defendant in a criminal proceeding with the right to counsel, as well as the obverse right to self-representation. *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525 (1975). Under *Faretta* "[a] death-eligible defendant may represent himself at sentencing. Numerous Arizona capital defendants have exercised their constitutional right to self-representation at a capital sentencing. See *State v. Gunches*, 240 Ariz. 198, 377 P. 3d 993 (2016); *State v. Dixon*, 226 Ariz. 545, 250 P.3d 1174 (2011); *State v. Bearup*, 221 Ariz. 163, 211 P.3d. 684 (2009).

And while *Faretta*, a 1975 case limited the exercise of the right to self-representation, more recent cases have interpreted that right more broadly. The right to self-representation is not limited to just the penalty phase of a capital trial.

In *Gunches II*, Gunches asserted that the trial court erred by allowing the defendant to represent himself in the penalty phase which he characterized as a proceeding other than a criminal prosecution. The Court found that argument to be unpersuasive, reasoning that there is only one trial, divided into guilt and sentencing phases. *Gunches* at 377 P.3d 997.

As with any right, the right to self-representation is subject to limitations. Before the trial court grants a defendant's motion for self-representation, the court must insure that a defendant seeking to represent himself must understand (1) the nature of the charges against him, (2) the dangers and disadvantages of self-representation, and (3) the possible punishment upon conviction. *See State v. Cornell*, 179 Ariz. 314, 323-24, 878 P.2d 1352, 1361-62 (1994).

Both the Arizona constitution and the federal constitution also provide that no person shall be compelled to give evidence against himself. The Fifth Amendment privilege is fulfilled only when a criminal defendant is guaranteed the right "to remain silent unless he chooses to speak in the unfettered exercise of his own will and to suffer no penalty for such silence." *Malloy v. Hogan*, 378 U.S. 1, 8, 84 S.Ct. 1489, 1493-1494 (1964).

In the instant case, the Court's directive requiring Mr. English to participate in Rule 11 evaluations to assess his competence without any evidence to suggest that he is incompetent or that reasonable grounds exist to question his competence is premature. The Court's order has also placed Mr. English in a position that would require him to waive the protections afforded to him by both state and federal constitution in order to exercise a right afforded to him under the same constitutions.

## II. ARGUMENT

### A. Mental Competency and Rule 11 Issues:

The Court has failed to establish that reasonable grounds exist to order that Mr. English undergo competency evaluations pursuant to Rule 11.2 and 11.3, as well as A.R.S. §§13-4503 and 4507.

The two cases that set forth the Constitution's "mental competence" standard, *Dusky v. United States*, 362 U.S. 402 (1960) (*per curiam*), and *Drope v. Missouri*, 420 U.S. 162 (1975), specify that the Constitution does not permit trial of an individual who lacks "mental competency." *Dusky* defines the competency standard as including both (1) "whether" the defendant has "a rational as well as factual understanding of the proceedings against him" and (2) whether the defendant "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding." *Dusky*, 362 U.S. at 402. *Drope* repeats that standard, stating that it "has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to a trial." *Drope*, 420 U.S. at 171. Arizona courts have promulgated Rule 11 to comply with those constitutional mandates. *State v. Amaya-Ruiz*, 166 Ariz. 152, 161-62, 800 P.2d 1260, 1269-70 (1990). See also A.R.S. § 13-4502 (A) ("A person shall not be tried, convicted, sentenced or punished for an offense if the court determines that the person is incompetent to stand trial.

The Arizona Supreme Court has held that Rule 11 is also the sole mechanism for appointing mental health experts to examine the defendant with respect to his competency. *State v. Ortiz*, 117 Ariz. 264, 266, 571 P.2d 1060, 1062 (App. 1977).

Rule 11.2(a) provides the Court with the authority to order a defendant to be examined for competency to stand trial. However, the Court must articulate specific facts in support of its request. The requirement that reasonable grounds exist to warrant a competency evaluation is echoed in Rule 11.3. To that end, Rule 11.3 provides, as follows:

Nomination and appointment of experts. The moving party may include in his or her motion a list of 3 qualified mental health experts; the other party may include such a list in a response to the motion. **If the court finds that reasonable grounds for a competency examination exist**, the court shall appoint two or more mental health experts from its approved list to examine the defendant, report to the court in writing within 10 days after examination of the defendant and, if necessary, testify with regard to the defendant's competence. (Emphasis added).

Rule 11 and the statutes which govern competency proceedings provide that the Court must find that reasonable grounds exist to warrant a competency evaluation in order to ascertain whether a defendant has sufficient present ability to consult with his lawyers with a reasonable degree of understanding- and whether he has a rationale and factual understanding of the proceedings. Rule 11 was not designed to be used prophylactically to evaluate whether a defendant has the capacity to waive counsel or not.

In situations such as this, the Arizona Supreme Court has suggested that trial courts faced with a capital defendant seeking to waive the presentation of mitigation, follow the approach taken by retired Judge Roland Steinle in *State v. Hausner*:

The trial court should engage the defendant in a colloquy to ensure that the defendant understands the penalty phase process, the right to mitigation, and the consequence of waiving that right. Defense counsel should confirm on the record that he or she has discussed with the defendant the nature of the mitigation that could be presented and the consequences of waiver. The court should confirm on the record that the defendant is waiving the presentation of mitigation, knowingly,

intelligently and voluntarily. If the circumstances present questions about the defendant's competence, the court should order the appropriate mental health evaluation before accepting the waiver. These procedures will help ensure that waivers are made on an informed and voluntary basis and, by avoiding subsequent questions on these issues, also facilitate the review of any related capital sentences. *State v. Hausner*, 280 P.3d 604, 630 (Ariz. 2012)

In the instant matter, the Court has not engaged Mr. English in a colloquy to ensure that he understands the course of a capital case, the different phases of the trial, the right to mitigation, the possible consequences of self-representation, as well as the difficulties inherent to self-representation, in order to establish whether reasonable grounds exist to give rise to a competency evaluation. The mere fact that Me. English seeks to represent himself does not constitute reasonable grounds. Reasonable grounds exist when "there is sufficient evidence to indicate that the defendant is not able to understand the nature of the proceedings against him and to assist counsel. *State v. Borbon*, 146 Ariz. 392, 395, 706 P.2d 718, 721 (Ariz. 1985). Dissatisfaction with counsel, does not, in itself, constitute reasonable grounds which entitle a defendant to a competency hearing. *State v. Johnson*, 147 Ariz. 395, 399, 710 P2d. 1050, 1054 (Ariz. 1985). Put plainly, we are not there yet.

**B. Mr. English Objects to Evaluations Conducted Pursuant to Rule 11.9**

Rule 11.9 provides that unless the defendant objects, in a capital case the court must order the defendant to undergo one or more mental health examinations as required by A.R.S. §§ 13-753 and 13-754. Mr. English objects to evaluations made pursuant to Rule 11.9 and A.R.S. §§ 13-753 and 13-754.

**C. Conflicting Constitutional Rights**

The Fifth Amendment to the United States Constitution protects an individual from being compelled to bear witness against himself. The Sixth Amendment, as stated above, provides that that same individual has the right to counsel and the right to waive counsel

in a criminal proceeding. In this matter, the Court has made Mr. English's ability to exercise his Sixth Amendment right contingent upon his waiver of his Fifth Amendment right, leaving him with a Hobson's choice. "It is intolerable that one constitutional right should have to surrendered in order to assert another." *Simmons v. United States*, 390 U.S. 377, 394, 88 S.Ct , 967(1968).

*Simmons* is a 1968 United States Supreme Court case involving a bank robbery, three co-defendants- Simmons, Garrett and Andrew, the execution of a warrantless search of a home, and a suitcase containing evidence of the crime. The suitcase, which belonged to Garrett, containing inculpatory evidence was found during the warrantless search of the home of Andrew's mother. Garrett moved to suppress the evidence found in the suitcase as having been seized in violation of his Fourth Amendment Rights, but in order to assert the claim he had to first establish standing. At the evidentiary hearing Garrett testified that the suitcase was his and that he owned the clothing contained inside. After hearing the evidence, the trial court denied the motion to suppress, and when the matter proceeded to trial, the court permitted the prosecution to introduce Garrett's testimony from the evidentiary hearing. Garrett was convicted and an appeal followed.

The United States Supreme Court recognized that Garrett had faced a dilemma; in order to assert his Fourth Amendment claim, he would have to establish standing to bring the claim through his own testimony. Garrett was compelled to testify in support of his motion to suppress. A defendant is compelled to testify when refraining from testifying would cause him to lose a benefit or a right. When a benefit afforded by the Bill of Rights can be lost by asserting another benefit, an undeniable tension is created. *Simmons* at 394.

In deciding the matter, the United States Supreme Court found that requiring a defendant to choose between rights was intolerable and it held that when a defendant testifies in support of a motion to suppress based on Fourth Amendment grounds, his testimony may not be thereafter admitted against him at trial on the issue of guilt. *Supra*.



The Fifth Amendment protection against self-incrimination applies to evidence obtained during court-ordered mental health examinations. The United States Supreme Court specifically addressed the compulsory nature of evidence obtained through court ordered psychiatric evaluations in *Estelle v. Smith*, 451 U.S. 454, 101 S. Ct. 1866 (1981). Smith had been indicted for murder, and the state of Texas was seeking the death penalty. The trial court ordered that he undergo a competency evaluation. At the conclusion of the evaluation the doctor found Smith competent. Smith was tried and convicted of the murder. During the penalty phase of the trial, the state called the doctor who conducted the competency evaluation to testify at testify to future dangerousness, and the court allowed the testimony over Smith's objection. Smith was sentenced to death and an appeal followed.

The Supreme Court found that the admission of the doctor's statement during the penalty phase of the trial violated Smith's Fifth Amendment rights. While not all statements made by a defendant are barred by the Fifth Amendment, "when faced while in custody with court-ordered psychiatric inquiry, respondent's statements... were not given freely and voluntarily without any compelling influence" and therefore were inadmissible. *Estelle* at 469. The Court also found that Smith's Sixth Amendment rights had been violated as well, because he was represented by counsel at the time the court ordered the evaluation and Smith was denied the assistance of his counsel in making the decision whether to submit to the examination. *Estelle* at 469-470.

Rule 11.7 and A.R.S §13-4508 govern the admissibility of evidence of obtained during Rule 11 competency proceedings and were created to give effect to the Fifth Amendment privilege against self-incrimination. *State v. Tallabas*, 155 Ariz. 321, 323, 746 P.2d 491, 493 (App. 1987). The rule and the statute provide that evidence obtained during a competency evaluation are inadmissible in a proceeding to determine guilt, unless the defendant presents evidence intended to rebut the presumption of sanity. The Arizona Supreme Court has held that a defendant waives his privilege against compelled self-incrimination

and any protections afforded to him under Rule 11.7 when he places his mental health at issue. *State v. Fitzgerald*, 232 Ariz. 208, 303 P.3d 519 (Ariz. 2013). To be sure, Mr. English has not done anything other than attempt to exercise his Sixth Amendment right, to place his mental health at issue. vague

Should the court insist that Mr. English participate in court-ordered evaluations, over his objection and despite the fact that the court has not articulated reasonable grounds for the evaluations, and that predicating the exercise of one constitutional right upon the waiver of another constitutional right is improper, Mr. English seeks an order precluding the state from using any evidence obtained during the evaluations at any point in the proceedings and during any phase of the trial.

#### D. Limiting the Scope of Court-Ordered Evaluations

The court-ordered evaluation by the expert selected by the state provides the state with an opportunity to obtain information about Mr. English that it would otherwise be unable to collect and therefore the Court must limit the scope of the evaluation,

According to Jennifer Gates, the Contract Administrator for the Superior Court of Maricopa County, the doctors appointed to evaluate Mr. English will be paid \$220- a very small sum to conduct a competency evaluation. Prior to evaluating Mr. English, the doctors will review the documents provided to them by the parties. In capital cases like this one, there are thousands of pages of documents. After reviewing the documents, the doctors will likely travel to the Lower Buckeye Jail to conduct an in-person evaluation of Mr. English. The paltry sum paid to the doctors barely covers the work they need to do to prepare for the evaluation and as such, it is very uncommon for Rule 11 doctors to administer tests like the MMPI-2, which is very time consuming and not the best tool for assessing competency to stand trial.

Mr. English objects to the court-ordered Rule 11 evaluation turning into a fishing expedition and an opportunity for the state to gain information that it typically would not have the ability to access, in essence, utilizing the doctor appointed at its behest to exceed

the scope of what is normally done in order to obtain additional information not generally gathered during a Rule 11 evaluation.

While it is unlikely that this will happen, it is certainly possible and because this is a capital case, it is imperative that the Court impose limitations. In order to prevent an abuse of the process, Mr. English specifically requests that the Court direct the evaluators not to conduct any testing without first providing the parties with notice and an opportunity to be heard.

### III. CONCLUSION

The Court cannot compel Mr. English to undergo mental health evaluations pursuant to Rule 11.2, 11.3 because the Court has not shown that reasonable grounds exist to warrant competence evaluations. Mr. English objects to undergoing mental health evaluations pursuant to Rule 11.9 and §§ 13-753 and 13-754.

Furthermore, the Court's order is unlawful because it seeks to compel Mr. English to abdicate one right afforded to him by both the state and federal constitutions in order to preserve another right enshrined in both constitutions.

Mr. English respectfully requests that this Court vacate the order dated March 29, 2018 and proceed with a *Faretta* hearing.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of April, 2018.

By/s/ Marci A. Kratter  
Marci A. Kratter  
Attorney for Mr. English

The foregoing motion efiled  
And copies of the forgoing  
Delivered/emailed/faxed this 10<sup>th</sup> day of  
April, 2018, to:

HON. CHRISTOPHER COURY  
MARICOPA COUNTY SUPERIOR COURT JUDGE  
175 WEST MADISON  
PHOENIX, AZ 85003

ELLEN DAHL  
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301 WEST JEFFERSON  
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Ten pages  
total

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JUN 26 2018



CHRIS DEROSE, CLERK  
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DEPUTY CLERK

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In The Superior Court of The State of Arizona  
In and for the County of Maricopa

State of Arizona	Case # CR2017-105183001
v.	
Josiah English III (Defendant)	Judge Christopher Coury Presiding

Defendant's Fifth Assertion of His Right  
To A Speedy Trial

To the Presiding Judge of this Court,  
Comes Now, Josiah English III, the Defendant in the  
above styled and numbered case. I am currently being  
held under pre-trial detention in the Maricopa County  
Arizona Jail.

In writing and orally in open court, I have invoked <sup>(255)</sup> my  
right to a speedy trial on four previous occasions in this case.  
I hereby invoke my right to a speedy trial for the fifth (1)

time in this case. I have no intention of waiving my right, nor do I give my consent for anyone else to waive my right to a speedy trial in this case.

We are currently scheduled for a Jury Trial to commence on June 10<sup>th</sup> 2019 at 9:30 A.M. in this case. I wish to go to trial no later than the last day, which is currently listed as July 14<sup>th</sup> 2019.

I invoke my right to a speedy trial in this case pursuant to the following legal authorities:

\* The 6<sup>th</sup> Amendment to The Constitution of The United States "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial..."

\* The 14<sup>th</sup> Amendment to The Constitution of The United States "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

\* Article 2, Section 3 of The Arizona Constitution (256)  
"The Constitution of the United States is the supreme law of (2)

the land to which all government, state and federal, is subject."

\* Article 2, Section 4 of The Arizona Constitution  
"No person shall be deprived of life, liberty, or property without due process of law."

\* Article 2, Section 13 of The Arizona Constitution  
"No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations."

\* Article 2, Section 24 of The Arizona Constitution  
"In criminal prosecutions, the accused shall have the right... to have a speedy public trial by an impartial jury..."

\* *Barker v. Wingo*, 407 U.S. 514 (1972) Supreme Court of The United States

at 516

"The Court's opinion in *Kloper v. North Carolina*, 386 U.S. 213, 87 S. Ct. 988, 18 L. Ed. 2d 1 (1967), established that the right to a speedy trial is 'fundamental' and is imposed by the Due Process Clause of the Fourteenth Amendment on the States."

(257)

at 522

"The amorphous quality of the right also leads to the

(3)



unsatisfactorily severe remedy of dismissal of the indictment when the right has been deprived."

"Such a remedy is more serious than an exclusionary rule or a reversal for a new trial, but it is the only possible remedy."

at 523

"It is also noteworthy that such a rigid view of the demand-waiver rule places defense counsel in an awkward position.

Unless he demands a trial early and often, he is in danger of frustrating his client's right."

at 527

"The first suggestion is that we hold that the Constitution requires a criminal defendant to be offered a trial within a specified time period." "Recognizing this, some legislatures have enacted laws, and some courts have adopted procedural rules which more narrowly define the right." "The United States Court of Appeals for the Second Circuit has promulgated rules for the district courts in that Circuit establishing that the government must be ready for trial within six months of the date of arrest, except in unusual circumstances, or the charge will be dismissed." "This type of rule is also recommended by the American Bar Association." (The frequency and force of the defendant's objections to continuances are taken into account)

"A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process."

at 528

"We reject, therefore, the rule that a defendant who fails to demand a speedy trial forever waives his right. This does not mean, however, that the defendant has no responsibility to assert his right." "We think the better rule is that (L)

the defendant's assertion of or failure to assert his right to a speedy trial is one of the factors to be considered in an inquiry into the deprivation of the right."

at 529

"But the rule we announce today, which comports with constitutional principles, places the primary burden on the courts and the prosecutors to assure that cases are brought to trial."

at 530

"A balancing test necessarily compels courts to approach speedy trial cases on an ad hoc basis. We can do little more than identify some of the factors which courts should assess in determining whether a particular defendant has been deprived of his right." "Though some might express them in different ways, we identify four such factors: length of delay, the reason for the delay, the defendant's assertion of his rights and prejudice to the defendant."

at 531

"A deliberate attempt to delay the trial in order to hamper the defense should be weighed heavily against the government." "We have already discussed the third factor, the defendant's responsibility to assert his right."

at 532

"The defendant's assertion of his speedy trial right <sup>is</sup> then, is entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right." ⑤

"We emphasize that failure to assert the right will make it difficult for a defendant to prove that he was denied a speedy trial."

at 532

"A fourth factor is prejudice to the defendant. Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired." "Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system." "If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past." "Loss of memory, however, is not always reflected in the record because what has been forgotten can rarely be shown."

"We have discussed previously the societal disadvantages of lengthy pretrial incarceration, but obviously the disadvantages for the accused who cannot obtain his release are even more serious." "The time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job;

(260)

(6)

it disrupts family life; and it enforces idleness."  
"Most jails offer little or no recreational or rehabilitative programs. The time spent in jail is simply dead time."

at 533

"Moreover, if a defendant is locked up, he is hindered in his ability to gather evidence, contact witnesses, or otherwise prepare his defense. Temporing these consequences on anyone who has not yet been convicted is serious." "It is especially unfortunate to impose them on those persons who are ultimately found to be innocent." "Finally, even if an accused is not incarcerated prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion, and often hostility."

"But, because we are dealing with a fundamental right of the accused, this process must be carried out with full recognition that the accused's interest in a speedy trial is specifically affirmed in the Constitution."

at 537

"Because the Court broadly arrays the factors <sup>(66)</sup> into constitutional judgments under the Speedy trial provision, it is appropriate to emphasize that one of the major purposes of the provision is to guard <sup>(7)</sup>

against inordinate delay between public charge and trial, which, wholly aside from possible prejudice to a defense on the merits, may 'seriously interfere with the defendant's liberty, whether he is free on bail or not, and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family and his friends.' United States v. Marion, 404 U.S. 307, 320, 92 S. Ct. 455, 463, 30 L. Ed. 2d 468 (1971)

\* Snyder v. Donato, 211 Ariz. 117, 118, P. 3d 632, 2005, Arizona Court of Appeals - Division One

"... The statutory right to a speedy trial has its foundation in several rules of criminal procedure, all of which work together to protect defendants' constitutional rights to speedy trials..." (ordinary court calendar congestion is not an acceptable reason for deviating from Rule 8 time limits)

\* Mate v. Tucker, 133 Ariz. 304 651 P. 2d 359, 1982, Supreme Court of Arizona

"... In dealing with allegation of denial of Sixth Amendment right to a speedy trial, Court must consider length of delay, whether defendant has demanded speedy trial, reason for delay, and prejudice to defendant."

"... But the State's violation of appellant's right to a speedy trial was not minor..." (Supreme Court of 262 8)

- \* *State v. Craig*, 214 Ariz. Adv. Rep. 11 (App. 1996)  
(Defendant's conviction was reversed due to a speedy trial violation under Rule 8.2 (b))
- \* *State v. Miller*, 234 Ariz. 31, 321 P.3d 454 (2013)  
(The most important factor in determining a speedy trial violation is prejudice to the defendant. To assess prejudice, the court considers the interests the speedy trial right protects: 1) preventing oppressive pretrial incarceration; 2) minimizing anxiety and concern of the accused; and, 3) limiting the possibility that the defense will be impaired.)
- \* *State v. Tucker*, 133 Ariz. 304, 651 P.2d 359 (1982)  
(Defendant's case reversed and charges were dismissed with prejudice for Rule 8.2 violation.)
- \* *United States v. Williams*, 557 F.3d 943, 949 (8th Cir. 2009) (Four assertions of speedy trial right weighed in favor of defendant.)

Arizona held that defendant's speedy trial rights were violated. Reversed and remanded with instructions.)

\* Rules 8.29(3) and (4) of the Arizona Rules of Criminal Procedure.

Respectfully Submitted,

Defendant,

Joshua English III.

Joshua English III

Executed on this 18<sup>th</sup> day of June 2018 in Maricopa County Arizona

**Certificate of Service**: I certify that "Defendant's Fifth Assertion of His Right To A Speedy Trial" was mailed to the clerk of the Maricopa County Superior Courts for filing on June 18<sup>th</sup> 2018 via U.S. mail, and that copies of the above listed document were also sent via U.S. mail the same day to the Maricopa County Attorney's office at 301 W. Jefferson St. Phoenix, AZ 85003, and to Attorneys for Defendant Marci Kratter, at 335 East Palm Lane Phoenix, AZ 85004, and Jocquez Blackwell at 3101 N. Central Ave. Suite 820 Phoenix, AZ 85012.

Joshua English III

(254) 9

EXJ

EXJ



Chris DeRose, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
07/18/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

07/16/2018

HON. SAM J. MYERS

CLERK OF THE COURT  
A. Gonzalez  
Deputy

STATE OF ARIZONA

ELLEN DAHL  
CHRISTOPHER TODD SAMMONS  
JULI S WARZYNSKI

v.

JOSIAH ADAM ENGLISH III (001)

MARCI A KRATTER  
JOCQUESE L BLACKWELL  
COLLEEN CLASE

CAPITAL CASE MANAGER  
COURT FORENSIC SERVICES UNIT  
JUDGE ADLEMAN

TRIAL DATE VACATED / CAPITAL CASE

This case is currently in the Rule 11 Court and a competency determination is underway. Accordingly,

IT IS ORDERED vacating the Capital Case Management Conference date of 7/27/2018; vacating the Final Trial Management Conference date of 5/10/2019; and vacating the TRIAL date of 6/10/2019.

IT IS FURTHER ORDERED affirming the Rule 11 Hearing-Initial scheduled for JULY 17, 2018 at 10:00 a.m. before the HON. WENDY MORTON.

CURRENT LAST DAY: Rule 8 time is tolled per Rule 11

*\* Judge Sam Myers vacated my trial date almost a full eleven months before my June 10th 2018 trial date.*

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EXK

EXK

# KIRBY PSYCHOLOGICAL SERVICES, PLLC

X35

Leslie Dana-Kirby, Ph.D.  
Licensed Clinical Psychologist

May 31, 2018

Judge Pro Tem Wendy S. Morton  
Superior Court of Arizona  
Forensic Services Unit  
South Court Tower  
175 W. Madison  
2<sup>nd</sup> Floor-2112B  
Phoenix, AZ 85003

**Re: Name: Josiah Adam English III**  
**Date of Birth: [REDACTED]**  
**Booking Number: T337357**  
**Case Numbers: CR2017-105183-001**

## RULE 11 COMPETENCY EVALUATION

Dear Judge Morton:

This is a final report opining on the competency of the above-named inmate pursuant to Arizona Rules of Criminal Procedure 11.3 and A.R.S. § 13-4509. This report shall reproduce in bold type the relevant provisions of A.R.S. § 13-4509. The response appears in regular type below each provision.

### Opinion as to Competency of Defendant

Defendant is:

X	Competent to Stand Trial
	Competency is Medication Dependent [Defendant is currently competent by virtue of ongoing treatment with psychotropic medication]
	Defendant is Not Competent but Restorable within statutory timeline
	Not Competent and Not Restorable within statutory timeline
	Defendant is may be DTS, DTO, GD or PAD. A.R.S. 36-501
	Court Ordered Evaluation/Civil Commitment Recommended

EXL

EXL

X36

**Jacqueline Worsley, Psy.D.**  
Jacqueline.Worsley@Maricopa.gov  
602-748-7692

The Honorable Wendy Morton  
Superior Court – Maricopa County  
South Court Tower (SCT)  
175 W. Madison St.  
Phoenix, AZ. 85003-2243

**October 3, 2018**

Re: **Josiah English**  
**Date of Birth:** [REDACTED]  
**In-Custody, MCSO Booking T337357**  
**CR2017-105183-001**

**RULE 11 COMPETENCY EVALUATION**

Dear Judge Morton:

This is a final report opining on the competency of the above-named inmate pursuant to A.R.S. §§ 13-4507 and 13-4509 and Rule 11.3 Ariz.R.Crim.Proc. This report shall reproduce in bold type the relevant provisions of A.R.S. § 13-4509. The response appears in regular type below each provision.

**Opinion as to Competency of Defendant**

Defendant is,

- Competent to Stand Trial**
- Competency is Medication Dependent [Defendant is currently competent by virtue of ongoing treatment with psychotropic medication]**
- Defendant is Not Competent but Restorable within statutory timeline**
- Not Competent and Not Restorable within statutory timeline**
- Defendant is/may be DTS, DTO, GD or PAD, A.R.S. 36-501**
- Court Ordered Evaluation/Civil Commitment Recommended**

**§ 13-4509. Expert's report**

**A. An expert who is appointed pursuant to § 13-4505 shall submit a written report of the examination to the court within ten working days after the examination is completed. The report shall include at least the following information:**

- 1. The name of each mental health expert who examines the defendant.**

Jacqueline Worsley, Psy. D.

EXM

EXM

Chris DeRose, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
07/24/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

07/17/2018

JUDGE PRO TEM WENDY S. MORTON

CLERK OF THE COURT  
L. Pena  
Deputy

STATE OF ARIZONA

ELLEN DAHL  
ERIC AIKEN

v.

JOSIAH ADAM ENGLISH III (001)  
DOB: [REDACTED]  
Booking No.: T337357

JOCQUESE BLACKWELL  
  
CELIA DRAKE  
CITS - CCC SPANISH  
COMM. MORTON  
CORRECTIONAL HEALTH SERVICES-  
FORENSIC SERVICES  
COURT FORENSIC SERVICES UNIT  
LESLIE DANA-KIRBY

CRIMINAL COMPETENCY HEARING CONTINUANCE

9:16 a.m.

Courtroom SCT 2B

State's Attorney: Juli Warzynski and Ellen Dahl  
Attorney for Minor Victims: Eric Aiken  
Defendant's Attorney: Jocquese Blackwell  
Defendant: Present  
Interpreter: Kathleen Penney for Victim/Next of Kin  
Landy Gutierrez, appearing by telephone

A record of the proceedings is made digitally in lieu of a court reporter.

Counsel for the State would like the record to reflect the Defendant continues to not follow the court order to comply with the evaluation process.

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SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

07/17/2018

Discussion is heard.

Counsel for the State request Dr. Dana-Kirby to attempt to visit the Defendant again to conduct an evaluation.

The Court will not ask Dr. Dana-Kirby to attempt to visit the Defendant again due to the Defendant's unwillingness to cooperate with the evaluation.

The Defendant addresses the Court.

LET THE RECORD REFLECT the Defendant wishes to maintain speedy trial and right to remain silent.

Upon the Court's own motion, and good cause appearing based on the following grounds:

To allow Dr. Drake time to conduct a records review,

IT IS ORDERED granting the Motion for Continuance.

IT IS FURTHER ORDERED continuing Criminal Competency Hearing from this date to 08/07/2018 at 9:00 a.m. in this division.

The Court having reviewed this matter determines it is necessary to know whether this Defendant is receiving any behavioral health services. Accordingly,

IT IS ORDERED that Mercy Care disclose whether this Defendant is enrolled in Mercy Care and provide additional information as requested herein.

The Court Liaison from Mercy Care informs the Court that the Defendant is not enrolled with Mercy Care. ↗

9:27 a.m. Matter concludes.

**LATER:**

IT IS FURTHER ORDERED continuing Criminal Competency Hearing from this date to 08/14/2018 at 9:00 a.m. in this division.



EXN

EXN

Discovery Due  
12-12-18  
Status Conf  
1-8-19  
e 9:00am

1:30 pm

Chris DeRose, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
10/12/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

10/09/2018

X37

JUDGE PRO TEM WENDY S. MORTON

CLERK OF THE COURT

L. Pena  
Deputy

STATE OF ARIZONA

JULI S WARZYNSKI  
CHRISTOPHER TODD SAMMONS

v.

JOSIAH ADAM ENGLISH III (001)

MARCI A KRATTER  
JOCQUESE L BLACKWELL

DOB: [REDACTED]  
Booking No.: T337357

CELIA DRAKE  
CITS - CCC SPANISH  
COMM. MORTON  
CORRECTIONAL HEALTH SERVICES  
CORRECTIONAL HEALTH SERVICES-  
FORENSIC SERVICES  
COURT FORENSIC SERVICES UNIT  
JACQUELINE WORSLEY  
LESLIE DANA-KIRBY

CRIMINAL COMPETENCY HEARING CONTINUANCE

9:10 a.m.

Courtroom SCT 2B

State's Attorney:  
Defendant's Attorney:  
Defendant:  
Next of Kin:  
Interpreter:

Chris Sammons and Juli Warzynski  
Marcie Kratter and Joquese Blackwell  
Present  
Landy Gutierrez, by telephone  
Martin Hernandez, on behalf of Next of Kin

Docket Code 176

Form R176B

Page 1

(267)

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

10/09/2018

IT IS FURTHER ORDERED that defense counsel shall disclose the names of any expert witnesses in a timely fashion to ensure compliance with Arizona Rule of Criminal Procedure 11.4(b).

IT IS FURTHER ORDERED that expert(s) shall provide defense counsel with copies of all records, testing materials, raw data and notes pertaining to their evaluation of the Defendant prior to the status conference, and defense counsel shall provide counsel for the State with the test data.<sup>1</sup>

Upon disclosure of the expert witness, the Court may upon request of defense counsel, issue an order specifying the materials must be disclosed subject to the following conditions:

- 1) Limiting the State's ability to disseminate or discuss the information contained within the disclosed materials;
- 2) Restricting discussion regarding the content of the materials;
- 3) Limiting the use of the materials to this defendant's Rule 11 proceeding;
- 4) Requiring the destruction of copies, and the return of all original materials, if any;
- 5) Sealing any materials used as exhibits, and;
- 6) Requiring the State and Defense counsel to file a notice with the Court avowing that the aforementioned orders have been complied with in a time to be specified.

The State of Arizona, the Defendant, and Correctional Health Services ("CHS"), stipulate to the entry of a protective order for disclosure of the Rule 11 raw testing data. The stipulated terms of the order are as follows:

- A. Upon receiving the requested Rule 11 testing materials, counsel for the Defendant shall execute a receipt for the testing materials and provide a copy of same to the CHS Forensic Services;
- B. Rule 11 testing materials are only to be used for this Defendant's Rule 11 case in the instant Rule 11 proceedings;
- C. Defense counsel, counsel for the State and members of Counsels' staff may only disseminate and/or copy the Rule 11 testing materials for their duly licensed mental health experts who will be testifying or otherwise assisting in the preparation or presentation of the Rule 11 case on behalf of either defense counsel or counsel for the State.

<sup>1</sup> Test data shall include, but not be limited to: CD/DVD's, a list of the test(s) administered, raw and scaled scores, client/patient responses to test questions or stimuli, and notes/recordings concerning client/patient statements and behavior during examination.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

10/09/2018

- D. Rule 11 testing materials shall not be copied nor disseminated to any other individual by either counsel, or counsels' staff, or either party's mental health expert without further order of the Court;
- E. Defense counsel, counsel for the State, and members of counsels' staff are forbidden from discussing the information in these testing materials with anyone other than opposing counsel or mental health expert witnesses under direct or cross examination.
- F. Defense counsel, counsel for the State, and members of Counsels' staff are forbidden from discussing the information in these testing materials with anyone outside of their respective offices; orally, in writing, or otherwise, except as set forth in the Court's order;
- G. After Rule 11 proceedings have been concluded, either Defense counsel or counsel for the State or may request that any testing materials utilized as exhibits in Rule 11 proceedings be sealed by the Court. Either party may file copies of the Rule 11 testing materials under seal with the Court, and the records shall be accepted for filing under seal.
- I. Defense counsel, counsel for the State, and members of Counsels' staff must limit the use of the testing materials to the Defendant's case only, which will include trial and appeal, if any;
- J. At the termination of all proceedings in this case, including trial and any appeal, Defense counsel, counsel for the State, and members of Counsels' staff and its experts must destroy both the original testing materials and all copies of the testing materials;
- K. Upon destruction of the testing materials, counsel for the State and counsel for the Defendant shall each file an affidavit with the Court avowing that the testing materials have been destroyed.
- L. Upon destruction of the testing materials, counsel for the State and counsel for the Defendant shall provide the CHS Forensic Services with a written confirmation that the testing materials have been destroyed.
- M. Any and all and references to Rule 11 testing materials include Restoration to Competency (RTC) testing materials.

NOTE: Exhibits submitted in binder(s) are to be *Bate* stamped and available for marking by the clerk prior to the hearing.

IT IS FURTHER ORDERED that Dr. Dana-Kirby and Dr. Worsley are requested to provide to defense counsel copies of all records pertaining to their evaluation of the Defendant no later than 5:00 p.m. on 10/23/218 (See Footnote 1).

The Defendant addresses the Court.

LET THE RECORD REFLECT the Defendant is opposed to the Rule 11 Evidentiary Hearing.

Docket Code 176

Form R176B

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SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

10/09/2018

The Court having reviewed this matter determines it is necessary to know whether this Defendant is receiving any behavioral health services. Accordingly,

IT IS ORDERED that Mercy Maricopa Integrated Care disclose whether this Defendant is enrolled in Mercy Maricopa Integrated Care and provide additional information as requested herein.

The Court Liaison from Mercy Maricopa Integrated Care informs the Court that the Defendant is not enrolled with Mercy Maricopa Integrated Care.

9:24 a.m. Matter concludes.

Ex 0

Ex 0

2sided

**MARCI A. KRATTER**

The Law Office of Marci A. Kratter  
335 East Palm Lane  
Phoenix, AZ 85004  
Telephone: (602) 528-0882  
Fax: (602)914-7332  
Marci\_kratter@yahoo.com  
State Bar No.018059  
Attorney for Defendant

**IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF MARICOPA**

_____ )	
STATE OF ARIZONA, )	
)	No. CR2017-105183-001 DT
Plaintiff, )	
)	NOTICE OF WITNESSES
)	
v. )	
JOSIAH ENGLISH, )	
)	
)	
Defendant. )	(HON. WENDY MORTON)
_____ )	

The Defendant, through Undersigned Counsel, gives notice of his intention to call the following witnesses at the contested competency hearing scheduled for January 11, 2019.

1. Dr. Jacqueline Worsley, Psy.D.\*  
Jacqueline.worsley@maricopa.gov  
602-748-7692
2. Dr. Leslie Dana Kirby, Ph.D.\*<sup>1</sup>
3. lesliedanakirby@hotmail.com
4. Dr. Celia Drake  
Arizona Behavioral Health Specialists, LLLC.  
7330 N. 16<sup>th</sup> Street, Suite A-120  
Phoenix, Arizona 85020  
Tel:602-997-6635

<sup>1</sup> Neither Dr. Worsley nor Dr. Dana Kirby provided a physical address and only Dr. Worsley included a phone number.

EXP

EXP



In the Superior Court of the State of Arizona  
in and for the County of Maricopa

Case Number CV 2019-000906

**CIVIL COVER SHEET- NEW FILING ONLY**  
(Please Type or Print)

Plaintiff's Attorney NA/Pro Se


Attorney Bar Number \_\_\_\_\_

Is Interpreter Needed?  Yes  No  
If yes, what language: \_\_\_\_\_

**COPY**

JAN 10 2019

CLERK OF THE SUPERIOR COURT  
A. MCLOONE  
DEPUTY CLERK



Plaintiff's Name(s): (List all) Josiah English III (#T337357) 3250 W. Lower Buckeye Rd. Phoenix AZ 85009  
Melani English (Minor child of Josiah English III)  
Victor English (Minor child of Josiah English III)  
 (List additional Plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All) Marci A. Kratter (Arizona State Bar # 018059) <sup>2</sup> Jacquese L. Blackwell  
(Arizona State Bar # 023588) <sup>3</sup> Joseph Ramiro-Shanahan (Arizona State Bar # 01861)  
 (List additional Defendants on page two and/or attach a separate sheet)

**NATURE OF ACTION**

(Place an "X" next to the one case category that most accurately describes your primary case.)

**100 TORT MOTOR VEHICLE:**

- 101 Non-Death/Personal Injury
- 102 Property Damage
- 103 Wrongful Death

**110 TORT NON-MOTOR VEHICLE:**

- 111 Negligence
- 112 Product Liability - Asbestos
- 112 Product Liability - Tobacco
- 112 Product Liability - Toxic/Other
- 113 Intentional Tort
- 114 Property Damage
- 115 Legal Malpractice
- 115 Malpractice - Other professional
- 117 Premises Liability
- 118 Slander/Libel/Defamation
- 116 Other (Specify) \_\_\_\_\_

**120 MEDICAL MALPRACTICE:**

- 121 Physician M.D.
- 122 Physician D.O.
- 123 Hospital
- 124 Other

**130-CONTRACTS:**

- 131 Account (Open or Stated)
- 132 Promissory Note
- 133 Foreclosure
- 138 Buyer-Plaintiff
- 139 Fraud
- 134 Other Contract (i.e. Breach of Contract)
- 135 Excess Proceeds-Sale
- Construction Defects (Residential/Commercial)
  - 136 Six to Nineteen Structures
  - 137 Twenty or More Structures

**150-199 OTHER CIVIL CASE TYPES:**

- 156 Eminent Domain/Condemnation
- 151 Eviction Actions (Forcible and Special Detainers)
- 152 Change of Name
- 153 Transcript of Judgment
- 154 Foreign Judgment
- 158 Quiet Title
- 160 Forfeiture
- 175 Election Challenge
- 179 NCC-Employer Sanction Action (A.R.S. §23-212)

see page 1-2 →

Person Filing: Josiah English III  
Booking Number: T337357 (Pretrial Detainee in)  
the Maricopa County Jail  
Address (if not protected): 3250 W. Lower Buckeye Road  
City, State, Zip Code: Phoenix, AZ 85009

Representing  Self, without a Lawyer or  Attorney for  Petitioner OR  Respondent

**SUPERIOR COURT OF ARIZONA  
IN MARICOPA COUNTY**

Josiah English III, et al. Case Number: CV2019-000906  
Name of Plaintiff

v. Title: CIVIL COMPLAINT for  
Legal Malpractice  
Marci A. Kratter, et al. (Jury Trial Requested)  
Name of Defendant (Defendants)

Plaintiff hereby submits this complaint against Defendant(s) and alleges the following:

**JURISDICTION and VENUE**

1: Maricopa County Superior Court has the legal authority to hear and decide this case because: (Check all boxes that are true.)

- The value of this case exceeds \$10,000 dollars.
- Replevin or other nonmonetary remedy will take place in Maricopa County.
- The Plaintiff resides in Maricopa County.
- The Defendant resides in Maricopa County.
- The Defendant does business in Maricopa County.
- The events, actions, or debts subject of this Complaint occurred in Maricopa County
- Other reason: \_\_\_\_\_ 275

Skip To MainContent

Civil Court Case Information - Case History

**Case Information**

Case Number: CV2019-000906      Judge: Smith, James  
File Date: 1/16/2019      Location: Downtown  
Case Type: Civil

**Party Information**

Party Name	Relationship	Sex	Attorney
Josiah English	Plaintiff	Male	Pro Per
Marci A Kratter	Defendant	Female	Pro Per

**Case Documents**

Filing Date	Description	Docket Date	Filing Party
1/16/2019	COM - Complaint	1/18/2019	Plaintiff(1)
1/16/2019	CCN - Cert Arbitration - Not Subject	1/18/2019	Plaintiff(1)
1/16/2019	CSH - Coversheet	1/18/2019	Plaintiff(1)
1/16/2019	NOT - Notice	1/18/2019	Plaintiff(1)
<b>NOTE: FILING OF A NEW CIVIL SUIT</b>			
1/16/2019	ADW - Application Deferral/Waiver	1/18/2019	Plaintiff(1)
1/16/2019	ASA - Affidavit in Support of Application for Deferral or Waiver of Service Process Costs	1/18/2019	Plaintiff(1)
1/16/2019	ODF - Order Deferring Court Fees	1/18/2019	
1/16/2019	OFF - Order D.O.C. Filing Fees Payment	1/18/2019	

**Case Calendar**

There are no calendar events on file

**Judgments**

There are no judgments on file

EX Q

EX Q

**COPY**

FEB 04 2019



CLERK OF THE SUPERIOR COURT  
J. ALONSO  
DEPUTY CLERK

25 pages  
Total  
plus  
Attachments

Name: Josiah English III

Pretrial Detainee # T337357 in the

Maricopa County Jail located at: 3250 W. Lower Buckeye Rd.

Phoenix, AZ

85009

In The Superior Court of The State of Arizona  
In and for the County of Maricopa

State of Arizona

Case # CR2017-105183001

v.

Josiah English III  
(Defendant)

Honorable Jay Adleman  
Judge Presiding

Defendant's Motion to Withdraw Counsel and  
Request for a Faretta Hearing

**\*Expedited Hearing Requested\***

Comes Now,

Defendant Josiah English III who files this Motion  
with the Court.

I am respectfully asking this Court to immediately  
Withdraw my attorneys of record, Marci A. Kratter (Arizona  
State Bar # 018059) and Jocquere L. Blackwell (Arizona  
State Bar # 023588) from representing me any further  
in the case listed above, for the following reasons: ①

Attorney Kratter and Blackwell's gross failure to protect my most fundamental constitutional rights in this capital case, there is a "complete breakdown in communication" with them, there is "irreconcilable conflict" between us (see *State v. Gomez*, 231 Ariz. 219 (2012)), their lack of diligence has severely hampered my defense investigation in this case, and their willful violations of my privacy rights and intentional release of my communications protected under the Attorney-Client Privilege has subjected them to answer to additional civil law suits, law suits in which I shall seek deterrent civil redress for the injuries that they have so flagrantly inflicted upon me.

On January 16<sup>th</sup> 2019 I filed a Pro Se Civil Suit alleging Legal Malpractice against attorneys Marci Kratter and Jocquese Blackwell in the Maricopa County Superior Court in case Number CV2019-000906 (a copy of the one page docket history printout from January 24<sup>th</sup> 2019 and a copy of my original Complaint is attached to this motion) I am now communicating with my two capital case defense attorneys in a Plaintiff - Defendant capacity.

→ Their conduct is reckless and unethical  
Over the last several months attorneys Kratter and Blackwell have went to great lengths to destroy my right to self-representation, which includes calling a doctor that I spoke to in a privileged capacity as a witness in an upcoming Rule 11 hearing, to divulge conversations that he and I have had that are protected under the Attorney-Client privilege. Attorney Kratter and Blackwell's goal is to fabricate a fake mental illness on me that I do not have, in their perpetual efforts to impede on my right to self-representation and to injure my credibility.

Attorneys Kratter and Blackwell are very resentful of the fact that I sued them in the Superior Court for Legal Malpractice, and I am concerned that they will continue to engage in activity that is designed to sabotage my defense in this case.

On February 13<sup>th</sup> 2018 I filed "Josiah English III's" (2)

Request for Ruling on His Second Motion to Proceed Pro Per." On March 29<sup>th</sup> 2018 we had a hearing to address that motion in front of Judge Christopher Coury. Rather than give me the Faretta Colloquy and then allow me to represent myself in this case, Judge Coury (without legitimate cause) sent this case to Rule 11 (over my objection), and ordered that I be evaluated by doctors (please see "Defendant's Complaint to The Georgia Composite Medical Board - Enforcement Unit" filed on January 7<sup>th</sup> 2019 in this case, and my Pro Se Petition for Special Action filed in Arizona Court of Appeals - Division one case number 1 CA-SA 19-0013 on January 8<sup>th</sup> 2019 for more details). See Court of Appeals documents attached to this motion.

On May 31<sup>st</sup> 2018 Doctor Leslie Dana - Kirby determined that I am "Competent to Stand Trial" (even though no one in this case has ever alleged that I am not competent to stand trial). Doctor Kirby's one page evaluation letter is attached to this motion. On October 3<sup>rd</sup> 2018 Doctor Jacqueline Worsley also determined that I am "Competent to Stand Trial" (see Doctor Worsley's one page evaluation letter attached to this motion).

At that point this case should have been sent back to the trial court. Instead, first chair attorney Marci Kratter made a frivolous motion for a competency hearing in front of Judge Wendy Morton on October 9<sup>th</sup> 2018 (see the <sup>5 pages</sup> Minute Entry for that hearing filed on October 12<sup>th</sup> 2018 attached (3))



to this motion). At that Rule 11 hearing on October 9th 2018 I told Judge Wendy Morton in open court that I am "vehemently opposed" to the competency hearing and that there is no legitimate cause for one because I have never had any mental health issues ever in my life and no one in this case has ever provided any evidence to support why I was ever sent to the Rule 11 program to speak to doctors to begin with. I told Judge Morton that Judge Coury nor anyone else, not the prosecution, nor either of my Defense attorneys Kratter or Blackwell ever mentioned anything about me being evaluated by any doctors until I requested a ruling on my Second Motion to Proceed Pro Per on March 29th 2018. Judge Morton ignored me and still ordered the competency hearing that I did not request.

I asked Judge Morton if her Minute Entry could reflect that I am opposed to the competency hearing and she told me that it would. At the bottom of page 4 of Judge Morton's Minute Entry filed on October 12th 2018 it states:

"The Defendant addresses the Court."

"LET THE RECORD REFLECT the Defendant is opposed to the Rule 11 Evidentiary Hearing."

(see attached)

Attorney Marci Kratter has spent more time investigating me and listening to my jailhouse phone calls, than she has investigating the charges that have been levied against me by the state, in furtherance of her fruitless obsession to plant a fake mental illness on me that I do not have and have never had. In over a year now, attorneys Marci Kratter and Jocquese Blackwell have conducted very little investigation towards my defense in this case. I have been stuck in this Maricopa County Jail for two years now on an excessive, unconstitutional one million dollar cash bond. By blatantly depriving me of my constitutional right to self-representation and forcing these two court appointed attorneys on me that I do not want, Judge Coury and Judge Morton have seriously injured my defense investigation, have gradually eroded my due process protections in which I am afforded through the constitutions of Arizona and The United States, and they have caused irrevocable prejudice to my defense in its entirety.

see U.S. v. Moreland, 604 F.3d 1058, 1066, U.S. 9th Circuit Court of Appeals, (A court cannot force counsel on an unwilling defendant).

For over a year and two months now attorney Marci Kratter has offered me nothing but excuses for her failures, such as repeatedly telling me how "busy" she is with her other eleven cases. Marci Kratter, as a licensed attorney in the state of

Arizona has a duty to manage her case load in a responsible fashion so that she can adequately allocate her time amongst her clients (especially in a capital case). I don't think that attorney Marci Kratter is supposed to be juggling eleven other cases along with my capital case please see Matter of Wolfram, 174 Ariz. 49 (1993):

"A lawyer must not accept representation if the lawyer's workload prohibits handling a matter in compliance with our professional rules. See State v. Smith, 140 Ariz. 355, 363, 681 P.2d 1374, 1382 (1984) (warning "that accepting more cases than can be properly handled may result not only in reversals for failing to adequately represent clients, but [also] in disciplinary action"); ER 1.3 (comment) ("A lawyer's workload should be controlled so that each matter can be handled adequately.")

"If Respondent was too busy to provide competent, diligent representation, he should have either hired adequate help or refused the case - and the fee."

over the last year and two months attorneys Kratter and Blackwell have gone multiple months in a row without visiting me here in the jail about my case.

Attorney Marci Kratter refuses to let me be involved in my own defense investigation. Whenever I make a suggestion Marci Kratter tells me "no I'm not doing that". Usually when I ask her questions about my case, she has a nasty attitude (6)

and she rolls her eyes and she huffs and puffs and on at least three separate occasions at the jail she has stomped out of the meeting early because she is so extremely controlling that she does not want the defendant to ask any questions.

Marci Kratter believes that a defendant is so far inferior to her that a defendant should have little to no involvement in his or her own defense. Marci Kratter is the type of attorney that will cause a client to lose at trial because of her gross negligence, make up a million frivolous excuses, dodge phone calls and emails, and then move on to the next case to do the same thing to the next client. I have seen this happen many, many times in my five years of experience as a private investigator, especially in criminal cases. Attorneys like Marci Kratter and Jocquese Blackwell are only concerned with making as much money as possible.

Had Judge Coury simply given me the Faretta colloquy on March 29<sup>th</sup> 2018 and allowed me to represent myself in this case, I could have been managing my own defense and I would have gotten so many things accomplished towards my defense investigation over the last ten months. Please see State v. Hidalgo, 241 Ariz. 543 (2017) (Supreme Court of Arizona):

"The right to self-representation respects the defendant's right to choose how to conduct his

defense," see *Faretta v. California*, 422 U.S. 806, 834, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975) (Capital Defendant in Maricopa County who was allowed to proceed pro per during the case in Chief without having his case sent to Rule 11 to be evaluated by doctors or being forced to undergo a competency hearing).

Also:

at the hearing on March 29<sup>th</sup> 2018  
(in open court and on the record) attorney Kratter told Judge Coury "Mr. English needs to know if he represents himself I am not going to be his secretary or his errand runner". I also told Judge Coury in open court that attorney Kratter told me back in November 2017 that if I represent myself "I am not going to help you".

In his Minute Entry filed on April 4<sup>th</sup> 2018, Judge Coury states on page 3:

"IT IS ORDERED directing counsel to file a motion with the name of the doctors and additional questions to be addressed by the doctor regarding competency to represent himself by no later than noon on 04/03/2018."

Judge Coury's inquiry as to whether or not I am "competent to represent myself" is not relevant to the question of my competence to waive my right to counsel "knowingly, voluntarily, and intelligently". Please see U.S. v. Arlt, 41 F.3d 516 (1994) (U.S. 9<sup>th</sup> Circuit Court of Appeals) at A

"Indeed, the Supreme Court's decision in Godinez explicitly forbids any attempt to measure a defendant's competency to waive the right to counsel by evaluating his ability to represent himself."

"The Court notes that "the competence that is required of a defendant seeking to waive his right to counsel is the competence to waive the right, not the competence to represent himself." *Godinez* 509 U.S. at ----, 113 S.Ct. at 2687.

"It adds that "technical legal knowledge' is 'not relevant' to the determination whether [a defendant] is competent to waive his right to counsel." *Id.* (quoting *Faretta v. California*, 422 U.S. 806, 835, 95 S.Ct. 2525, 2541, 45 L.Ed. 2d 562 (1975)); see also *Peters v. Gunn*, 33 F.3d 1190, 1192 (9th Cir 1994).

Also see *Faretta v. California*, 422 U.S. 806 (1975) at \* 835

"For this reason, in order to represent himself, the accused must 'knowingly and intelligently' forgo those relinquished benefits."

"Here, weeks before trial, Faretta clearly and unequivocally declared to the trial judge that he wanted to represent himself and did not want counsel. The record affirmatively shows that Faretta was literate, competent, and understanding, and that (10) (H)

"he was voluntarily exercising his informed free will."

"We need make no assessment of how well or poorly Farettta had mastered the intricacies of the hearsay rule and the California code provisions that govern challenges of potential jurors on voir dire. For his technical legal knowledge, as such, was not relevant to an assessment of his knowing exercise of the right to defend himself."

"In forcing Farettta, under these circumstances, to accept against his will a state-appointed public defender, the California courts deprived him of his constitutional right to conduct his own defense. Accordingly, the judgment before us is vacated, and the case is remanded for further proceedings not inconsistent with this opinion."

Also see Adams v. Carroll, 875 F.2d 1441, 1445 (9th Cir 1989)

"The denial of the right to self-representation is not amenable to harmless error analysis."



Also see Neder v. United States, 527 U.S. 119  
S.Ct. 1827, 144 L.Ed. 2d 35 (1999) (Supreme  
Court of The United States)

(Most constitutional errors can be harmless  
but some errors are 'structural' and thus  
subject to automatic reversal in 'very limited  
classes of cases.' The denial of self-  
representation at trial is 'structural'  
requiring automatic reversal.)

The Rule 11 evidentiary hearing currently pending in Judge Morton's court is unwarranted, it serves no proper purpose, it was frivolously requested by Marci Kratter, a vindictive and controlling attorney who has gone to great lengths to sabotage my Constitutional right to self-representation, it only serves to continue the ongoing defamation of my name, the egregious deprivation of my right to self-representation under the 6th and 14th Amendments to The U.S. Constitution, and the destruction of my right to a Speedy Trial protected under the 6th and 14th Amendments to The U.S. Constitution.

I do not belong in the Rule 11 program and I should have never been sent there. There was no evidence, and there still is no evidence in existence to justify Judge Coury's order that sent my case to the Rule 11 Court. Rule 11 Court is for people with mental deficiencies, and I am not a person with a mental deficiency. I certainly mean no disrespect to people who do have mental deficiencies.

→ This area of law should be handled with care and not disrespected by the courts.

Rule 11 Court should not be manipulated and usurped to intentionally infringe on a Defendant's right to self-representation and to destroy his right to a speedy trial, and to hold the Defendant in jail longer, the way that it has in my criminal case.

On June 26<sup>th</sup> 2018 I filed "Defendant's Fifth Assertion of His Right To A Speedy Trial" in which I asserted my right to a speedy trial on the record for the fifth time in my criminal case (case # CR 2017-105183001).

Just three weeks later in a court order filed on July 18<sup>th</sup> 2018 by Presiding Criminal Court Judge Sam J. Myers, he vacated my June 10<sup>th</sup> 2018 trial date, almost a full eleven months before I was scheduled to go to trial. Why would Judge Myers vacate my trial date so early? (See the first page of Judge Myers order filed on July 18<sup>th</sup> 2018 attached to this motion)

We are next scheduled for a status conference in Rule 11 Court on February 5<sup>th</sup> 2019. It appears that on that day, a date will be set to address attorney Marci Kratter's evidentiary hearing that I did NOT request and one that I told Judge Morton in several court hearings that I am "vehemently opposed" to.

At the evidentiary hearing, attorneys Kratter and Blackwell intend to call doctor Bhushan Agharkar as a witness, to divulge the contents of conversations that he and I had in the Lower Buckeye Jail on two separate occasions in a privileged capacity in April and June of 2018. Attorneys Kratter and Blackwell and my Mitigation Specialist (17)

Maria De La Rosa all told me that my conversations with Doctor Agharkar are privileged. Attorney Joquese told me "promise me that you will meet with doctor Agharkar". Now I see that they all intended to betray me by calling doctor Agharkar as a witness to divulge our privileged communications. Attorneys Kratter and Blackwell want doctor Agharkar to fabricate a fake mental illness about me to further infringe upon my right to self-representation, since he is the only doctor that I met with. (I refused to meet with the court-appointed doctors Drake, Kirby, or Worsley, but Doctors Kirby and Worsley stated that I am "competent to stand trial" based on my pleadings and other documents, and doctor Drake said that she could not deliver an opinion)

On numerous occasions attorneys Kratter and Blackwell have compromised my privileged communications protected by the Attorney-Client Privilege. When they bring me discovery for my criminal case they allow jail officials to flip through my discovery documents and read them and pick through them to determine which documents they are going to allow me to have and which ones they are not.

In July of 2018 I told attorney Kratter that this violates the Attorney-Client privilege and that jail officials still keep on doing it. Attorney Kratter replied "well probably because you have been writing complaints and (15)

they are just sick of it." I found this answer to be quite disturbing and this was yet another instance that made me call attorney Kratter's competence to represent me in this case, into question.

On May 8<sup>th</sup>, 2018, rather than delivering the documents to me in person, attorney Jocuese Blackwell seriously compromised my Attorney - Client Privilege by dropping off fifty eight pages of confidential documents (relative to my criminal case) to a Detention officer here in the Lower Buckeye Jail, without an envelope or anything to cover them, fully exposed. The Detention officer later delivered the documents to me at my cell door. These documents contained sensitive Defense Communications, discovery documents, and other confidential documents. That Detention officer or any other official in this jail could have made copies of my confidential documents and done whatever they wanted to with them. Attorney Blackwell was negligent in his failure to protect the Attorney - Client privilege (especially in this capital case).

Sergeant House, here in the Lower Buckeye Jail told my Private Investigator, my attorneys Kratter and Blackwell, and the Mitigation Specialist Maria De La Rosa that I can not hand them any papers and that they can not hand me any papers without checking (15)

the papers in at the front desk (including hand-written notes) or else the documents will be considered "contraband". I told Marci that this assertion from Sergeant House was absurd and that it violates the Attorney-Client Privilege and that she has an ethical duty to protect the Attorney-Client privilege. To date attorney Kratter has not done anything about this and continues to allow my Attorney-Client Privilege to be violated by jail officials. This is a violation of the Arizona Rules of Professional Conduct (Rule 42).

See ER 1.6 Confidentiality of Information:

- (a) "A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent..."
- (e) "A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client."

When I met with doctor Bushan Agharkar at the jail, he reassured me on both occasions that our conversations were privileged in connection to my ongoing criminal case. Now doctor Agharkar and attorney Kratter are claiming that our communications were not privileged. This is (17)

a flagrant betrayal of my trust by doctor Bhushan Agharkar and attorneys Marci Kratter and Jocquese Blackwell. (doctor Agharkar is an extension of the Defense)

Also see Arizona Trial Handbook for Arizona Lawyers (December 2014)

(Attorney - Client Privilege) Stating:

" The attorney - client privilege has existed in a common law form since Elizabethan times.

In Arizona, it is codified at ARS § 12 - 2234 for civil actions and at ARS § 13 - 4062 (2) for Criminal actions "

" The purpose of the privilege is to encourage full and frank disclosure of information by the client to the attorney so that the attorney can effectively represent the client. "

" The privilege belongs to the client, and may be waived only by the client. "

" The lawyer is obligated to assert the privilege to protect the client's communications. "

I do not waive my Attorney - Client Privilege and doctor Bhushan Agharkar, nor attorney Marci Kratter or attorney Jocquese Blackwell or anyone else has my consent to divulge any communications (18)

that I have had with them in a privileged capacity.

Lately, attorney Marci Kratter has been scheduling video visits at the jail with me so she can print out the records of the visits to make it appear as if we are "communicating". In actuality we have spent most of those three video sessions arguing because attorney Marci Kratter is so dishonest and conniving she makes it very difficult to have a normal conversation. We have spent three video sessions going over requests that I made in a letter back in September 2018. Ever since I told attorney Kratter that I filed the Legal Malpractice law suit against her and attorney Blackwell, she now wants to send me the documents that she neglected to send me back in September 2018 when I made the requests.

I have told attorney Kratter on numerous occasions that I do not want her to represent me and that I would like her to immediately withdraw off of my case so that I can represent myself in this criminal case. However, attorney Kratter insists on forcing her service on me.

In open court at the Rule 11 hearing on December 11<sup>th</sup> 2018 I made an oral motion to withdraw attorney Marci Kratter as my attorney of record, but (17)



Judge Wendy Morton denied my motion and then she never even mentioned that I moved to withdraw attorney Kratter in her Minute Entry that followed the hearing.

In a document that I filed in my criminal case on August 13<sup>th</sup> 2018 entitled "Defendant's Objection Regarding Special Action", on page 4 I stated:

"Attorney Marci Kratter has talked about possibly filing a Special Action on my behalf with a higher court in this case. Not only do I not consent for her to file such an interlocutory appeal on my behalf, I would like for Marci Kratter to be immediately removed as my attorney of record, and Maria De La Rosa to be removed as my Mitigation Specialist in this case, because any measure of trust that I once had in these people has been violated and simply does not exist anymore."

(Please see a copy of that five page document attached to this motion).

Verbally and in writing I have advised attorneys Kratter and Blackwell and their Mitigation Specialist Maria De La Rosa that they do not have my consent to acquire or release my personal medical records that are protected under state and federal privacy laws. They still unlawfully acquired my personal medical records and flagrantly (20)

published them with other people.

In my criminal case on September 5<sup>th</sup> 2018 I filed a document entitled "Defendant's Letter to Attorneys Marci Kratter and Jocquese Blackwell Regarding Privacy Rights." (a copy of that four page letter is attached to this motion)

Both attorneys Marci Kratter and Jocquese Blackwell have tried to convince me on numerous occasions that I do not have a right to a speedy trial. This is horrible advice and no prudent defense attorney would ever suggest something so absurd.

### Request for Relief

Attorneys Marci Kratter and Jocquese Blackwell have flagrantly betray my trust by convincing me to meet with doctor Bhushan Agharkar in a privileged capacity, when they knew from the beginning that they later planned to call him as a witness in the Rule 11 court to divulge our privileged and confidential communications.

Their conduct is so atrocious and so flagrant that I have to assume that if they are willing to (21)

Deliberately violate my Attorney - Client Privilege in that manner, attorneys Kratter and Blackwell have most likely told the prosecutors from the Maricopa County Attorney's office everything that I have discussed with them regarding my criminal case.

Attorneys Marci Kratter and Joquese Blackwell have been sneaky and dishonest with me and I do not trust them and I ask that they be immediately removed as my attorneys of record in this criminal case and that they also be precluded from acting as my Advisory Counsel in this case if this Court allows me to proceed Pro Per.

I have spent the last two years in jail listening to attorneys telling me that they are going to do this, and they are going to do that, and then they don't do any of it. After two years of flagrant attorney neglect, my Defense investigation has suffered irreparable loss. Evidence that is favorable and exculpatory to my Defense that I have been asking my attorneys for since I was first placed in this jail on February 1st 2017 has been lost or destroyed.

Commissioner  
Nothwehr  
flat out  
denied  
my motion  
to proceed  
pro per  
in March  
2017  
with no  
explanation,  
and then  
Judge  
Cory  
again  
deprived  
me of  
my right  
to self-  
representation  
by ordering  
me to Rule  
11 for no  
legitimate  
cause after  
asking to  
represent  
myself  
the second  
time on  
March  
29th  
2018.

→ This Maricopa County Judiciary has egregiously violated my right to self-representation and my Due Process rights by denying my right to proceed pro per and forcing these attorneys on me that I do NOT want, who have ruined my Defense investigation by doing nothing but make excuses about how busy they are with their other cases.

As a Defendant in a capital case I am entitled to heightened Due Process protections under the 14th Amendment to The U.S. Constitution. TO the contrary, my Due Process rights have been perpetually trampled upon and disregarded by this Maricopa County Judiciary.

When is the tyranny and discrimination going to end in this case? Will it ever cease? When are people going to start complying with the commands of the Constitutions of Arizona and The United States in my criminal case?

My Due Process rights and my right to a fair trial have already been substantially eroded by the misconduct that has taken place thus far in my case. Does this Judiciary plan on providing me with a fair trial in this case? If not, then (23)

this case should be immediately dismissed  
with prejudice and I should be released  
from this County Jail at once.

I respectfully request that this case be  
removed from the Rule 11 court and that attorneys  
Kratzer and Blackwell be withdrawn as my attorneys  
of record, that the trial court please provide  
me with a Faretta Hearing and then allow me  
to represent myself so I can manage my own  
Defense and conduct my own defense investigation  
and try to mitigate the severe damage that  
has been inflicted on my defense investigation  
by attorneys who neglectfully sat around and  
did nothing but tell me lies for the last two  
years. (Expedited Hearing Requested)

Respectfully Requested,

Defendant,

Josiah English III

~~English III~~

Executed on this 29<sup>th</sup> day of January 2018  
in Maricopa County Arizona.

## Certificate of Notice

The Maricopa County Sheriff's office will not make me an adequate number of copies of this document for service, so I hereby certify that on January 29<sup>th</sup> 2019 I sent (via U.S. mail) the original of "Defendant's Motion to Withdraw Counsel and Request for a Faretta Hearing" to the Clerk of this Court for filing, and on that same day I sent notice of this filing (via U.S. mail) to the following people:

- 1) Hon. Judge Jay Adleman
- 2) Hon. Judge Pro Tem Wendy Morton
- 3) Hon. Judge Sam Myers
- 4) The Maricopa County Attorney's office located at 301 W. Jefferson St. Phoenix, AZ 85003
- 5) Marci Kratter (first chair attorney for Josiah English III at 335 East Palm Lane Phoenix, AZ 85004)
- 6) Jocquese Blackwell (second chair attorney for Josiah English III at 3101 N. Central Avenue, Suite 820 Phoenix, AZ 85012)

Attachments

December 28<sup>th</sup> 2018



COPY

JAN 10 2019

CLERK OF THE SUPERIOR COURT  
A. MCLOONE  
DEPUTY CLERK

[To]: The Clerk of The Maricopa County Superior Courts

[From]: Josiah English III / Pro Se Plaintiff / Pretrial  
Detainee # T337857 in the Maricopa County Jail  
located at 3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

CV 2019-000906

[Regarding]: Filing of a new civil suit

Greetings clerk of the Court

I am respectfully requesting that you please file this  
new civil action for Legal Malpractice, Josiah English III  
et al. v. Marci A. Kratter, et al.

I have enclosed the following documents:

- \* The original and one copy of the "Civil Cover Sheet"  
(three pages)
- \* The original and two copies of the "Civil Complaint"  
(eleven pages) (one copy for me and one for Civil Court Administration)
- \* The original and two copies of the "Plaintiff's Demand  
for Jury Trial" (one page) (one copy for me and one copy  
for civil Court Administration) ①



\* The original and two copies of the "Certificate of Compulsory Arbitration" (one page) <sup>(one copy for me and one for Civil Court Administration)</sup>

\* Original <sup>please process</sup> Summons (two pages each) for each of the nine defendants (eighteen pages total)

\* Original Deferred Fee Application (ten pages)

I am respectfully requesting that you please process this new filing and then mail me back file stamped copies, and all of the Summons (after they have been processed) in the self-addressed envelope that I have enclosed with U.S. Stamps on it. I have enclosed copies of the following documents and I respectfully ask that you please file stamp the first page of each document and mail the file stamped copies back to me in the stamped envelope that I have enclosed:

\* one copy of the "Civil Cover Sheet"

\* one copy of the "Civil Complaint"

\* one copy of the "Plaintiff's Demand for Jury Trial"

\* one copy of the "Certificate of Compulsory Arbitration"

\* one copy of this letter

Also, can you please file this letter as part of the record after a case number has been issued.

### Request for a Specific Judge

I am respectfully requesting that this case be assigned to The Honorable Sherry K. Stephens because she is currently presiding over a separate civil case in which I am the Pro Se Plaintiff, styled Josiah English III v. DeeAnn Gillespie Strub, et al, in the Maricopa County Superior Court, case # CV2018-001720, and that case and this case both derive from the same allegations and circumstances, and implicate many of the same people within my currently pending criminal case (Maricopa County case # CR2017-105183-001) and my currently pending juvenile cases involving my two children Melani English and Victor English, who are also Plaintiff's in this case (Maricopa County case numbers: JS18922 and JD33768). Thank you.

Respectfully Requested on this 28<sup>th</sup> day of  
December 2018, in Maricopa County Arizona,  
Pro Se Plaintiff,  
Josiah English III  
J III

**Law Office of Marci A. Kratter, P.C.**  
335 E. Palm Lane  
Phoenix, Arizona 85004  
(602) 528-0882: Office  
(602) 914-7332: Fax  
Email: marci\_kratter@yahoo.com

April 11, 2018

Dear Josiah,

Enclosed is a copy of the motion I filed addressing the Court's order for Rule 11 evaluations. Please feel free to call me with any questions you have about the motion. A few other things:

1. Dr. Agharkar is scheduled to see you on April 25, 2018. Per our discussion on April 4, 2018, I have asked the doctor to refrain from recording his observations in any way. As Lee and I told you, this will be a preliminary meeting.
2. On April 5, 2018, I emailed Ellen Dahl to inquire about the outstanding discovery that had been requested by Anna in October of 2017. I specifically asked her for the recordings made by you on the day of your arrest, as well as letters of authentication from AT&T.

On April 9, 2018, I received an email from Claire Cushing, Ms. Dahl's paralegal indicating she would check on the status of the items requested. If I don't hear back from Ms. Cushing by the 16<sup>th</sup> of April, I will email her to follow up.

3. Maria told me you wanted a copy of the Grand Jury Transcript. When I checked our file to get it, I realized we did not have it. When Lisa came in on April 10<sup>th</sup>, I asked her to get it and mail it to you. At that time, Lisa

Law office of Marci Kratter  
5 E. Palm Lane  
Phoenix, AZ 85004

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TUE 17 APR 2018 AM

APR 18 2018

Legal mail  
confidential

2448

Mr. Josiah English

T 337357

Lower Buckeye Jail

3250 W. Lower Buckeye Rd.

Phoenix, AZ 85009

\*\*\*\*\*

\*\*\*VISITATION PASS\*\*\*

INMATE: ENGLISH, JOSIAH ADAM, III

BOOK NO: T337357

FACILITY: LBJF LOCATION: T24B18002 CLASS: MAXIMUM

SEAT: IR /

VISITOR: ARHARKAR, BHUSHAN

TYPE: PRIVILEGED

CLASS: CONTINUOUS

DATE: 04/25/18 TIME SIGNED UP: 13:17

=====

\*\*\*INMATE MOVEMENT\*\*\*

-----OUT TIMES-----IN TIMES-----

TIME OUT OF CELL: \_\_\_\_\_ EMP: \_\_\_\_\_

VISIT START: \_\_\_\_\_

VISIT OVER: \_\_\_\_\_

RETURN TO CELL: \_\_\_\_\_ EMP \_\_\_\_\_

FROM LID: JGA2 BY: B2027

\*\*\*\*\*

295

X33

COPY

SEP - 5 2018



CHRIS DE ROSE, CLERK  
MARTINEZ  
DEPUTY CLERK

Name: Josiah English III

Pre-Trial Detainee # T337357 in the Maricopa

Jail located at: 3250 W. Lower Buckeye Rd.

Phoenix, AZ

85009

In The Superior Court of The State of Arizona  
In and for the County of Maricopa

State of Arizona

Case # CR2017-105183001

v.

Josiah English III

(Defendant)

Honorable Jay Adleman

Judge Presiding

Defendant's Letter to Attorneys Marci Kratter and  
Jocquese Blackwell Regarding Privacy Rights

Dear Attorneys Kratter and Blackwell, I have never given either of you my consent for the acquisition nor release of any of my records that are protected by federal and state privacy statutes and laws.

I have advised you of this on several occasions in person, and I will now reiterate this point to you in writing.

To Attorneys Marci Kratter and Jacquese Blackwell, ~~Mitigation~~  
Specialist Maria De La Rosa, or any other person, you  
do not have my permission to acquire, nor release, any  
of my private records, medical or otherwise, in any manner,  
without my my express written, signed and notarized consent

Any action to the contrary, I will deem to be in violation  
of my privacy rights that are protected under federal  
and state laws, To Wit:

- ★ Federal Confidentiality Rules (Title 42 C.F.R.)  
(prohibits the disclosure of private information unless disclosure is  
expressly permitted by the written consent of the person to  
whom it pertains)
- ★ The Federal Health Insurance Portability and Accountability  
Act (HIPAA) at Title 42 United States Code, section 1320
- ★ Federal Privacy Regulations found at Title 45 C.F.R.  
Section 164.512
- ★ Also see *Ueland v. U.S.*, 291 F.3d 993, 999 (7th Cir. 2002)  
(stating government could not "gratuitously reveal a prisoner's  
medical information to third parties")
- ★ American Bar Association Supplementary Guidelines for the  
Mitigation Function of Defense Teams in Death Penalty Cases: (252) (2)

Page 683, F. "Mitigation specialists must possess the knowledge and skills to obtain all relevant records pertaining to the client and others. They must understand the various methods and mechanisms for requesting records and obtaining the necessary waivers and releases..."

\* Also, any and all other applicable federal and Arizona state privacy laws and case authorities.

Respectfully,  
Defendant,  
Josiah English III  
J-III

Executed on this 28<sup>th</sup> day of August 2018 in Maricopa County Arizona.

Certificate of Service I hereby certify that "Defendant's Letter to Attorneys Marci Kratter and Jocquese Blackwell Regarding Privacy Rights" was mailed to the Clerk of this Court for filing on August 28<sup>th</sup> 2018 (via U.S. mail) and copies of this letter were sent (via U.S. mail), on the same day, to the following people:

\* Honorable Judge Jay Adleman

\* Maricopa County Attorney's Office at 301 W. Jefferson St. (253) ③



Phoenix, AZ 85003

★ Attorney Marci Kratter (First Chair Attorney for Josiah English III) at 335 East Palm Lane Phoenix, AZ 85004

★ Attorney Jacquese Blackwell (Second Chair Attorney for Josiah English III) at 3101 N. Central Ave. Suite 820 Phoenix, AZ 85012

★ Maria De La Rosa (Mitigation Specialist assigned to Josiah English III's case) at P.O. Box 3350 Gilbert, AZ 85299

Defendant,  
Josiah English III  
~~Q. III.~~

41 Pages  
Total plus  
Attachments

COPY

JAN 07 2019

CLERK OF THE SUPERIOR COURT  
M. WESSNER  
DEPUTY CLERK



Name: Josiah English III

Pretrial Detainee # T337357 in the Maricopa  
County Jail located at: 3250 W. Lower Buckeye Rd.  
Phoenix, AZ  
85009

In The Superior Court of The State of Arizona  
In and for the County of Maricopa

State of Arizona

Case # CR 2017-105183001

v.

Josiah English III

(Defendant)

Honorable Jay Adleman  
Judge Presiding

Defendant's Complaint to The Georgia Composite  
Medical Board - Enforcement Unit

The details  
with regard  
to Doctor  
Bhushan  
Agharkar's  
unethical  
conduct  
begin on  
page 19.

Dear Georgia Composite Medical Board - Enforcement Unit,  
I am writing to submit a complaint on a Doctor who is  
licensed in the state of Georgia. The Doctor's name and  
contact information is listed below:

\* Dr. Bhushan Agharkar (Accused) (404-939-6636)

\* Medical Doctor and Clinical Psychologist licensed  
to practice in the state of Georgia for 18 years

\* Address: 4062 Peachtree Road Northeast, Suite

A-203 Brookhaven, Georgia 30319

①

Pro Se Petition for Special Action

January 7th 2019

IAN 08 2019

AMY M. WOOD, CLERK

To: Clerk of The Arizona Court of Appeals - Division One

From: Josiah English III / Pro Se Petitioner  
Pretrial Detainee # T337357 in the Maricopa  
County Jail

Regarding: New filing of a petition for  
Special Action / Maricopa County  
Case # CR 2017-  
105183001

Greetings Clerk of the Court,

The staff here in the Lower Buckeye Jail will not make a copy of my petition for me. This is very cruel. ~~Q~~ Therefore I am unable to provide a copy for the Court. I hope that my petition can still be processed. I do not even have a copy for myself so I will be giving you just my original document. It is a total of 365 (Three hundred and sixty five pages) including Exhibits and attachments. I have also enclosed my 5 page application for a fee deferral.

Also can you please file this letter as part of the record in this case once ~~Q~~ a case number is issued. Thank you very much.

Josiah English III



Name: Josiah English III (Pro Se)  
Booking No: T337357 (pretrial Detainee in the Maricopa County Jail)  
Facility Address: 3250 W. Lower Buckeye Rd.  
City, State, & Zip: Phoenix, AZ 85009

COURT OF APPEALS DIVISION ONE  
STATE OF ARIZONA  
FILED

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION 1

JAN 08 2019

AMY M. WOOD, CLERK

BY: \_\_\_\_\_

Capital Case

Josiah English III

~~Plaintiff,~~

vs. Petitioner

Hon. Christopher Couy,

~~Defendant(s)~~

Judge of the Superior Court  
of the State of Arizona, in  
and for the County of Maricopa,

Respondent Judge,

and

Hon. Richard L. Nathwehr,  
Commissioner of the Superior  
Court of the State of Arizona,  
in and for the County of Maricopa,  
Respondent Judge,

and

Hon. Wendy S. Morton, Judge  
Pro Tem of the Superior Court  
of the State of Arizona, in and  
for the County of Maricopa,  
Respondent Judge,

and

Hon. Sam J. Meyers, Judge of  
the Superior Court of the State of  
Arizona, in and for the County of Maricopa,  
Respondent Judge,

and

The State of Arizona,  
Real Party In Interest

Case No.: \_\_\_\_\_

Title Petition for Special Action  
from the Maricopa County  
Superior Court:

Case # CR2017-105183001

Submitted on January 7th  
2019

**Court of Appeals, Division One**  
Special Action

**1 CA-SA 19-0013**

**ENGLISH v HON COURY, et al**

**Appellate Case Information**

Case Filed: 8-Jan-2019  
Case Closed:

**Dept/Composition**  
**Department E**

Hon. David D Weinzweig  
Hon. Kent E Cattani  
Hon. James P Beene

**Side 1. JOSIAH ENGLISH, III, Petitioner**

**(Litigant Group) ENGLISH**

• Josiah Adam English, III PRO SE

**Side 2. THE HONORABLE CHRISTOPHER COURY, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA; THE HONORABLE SAM MYERS, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA;**

**Respondent Judges,**

**THE HONORABLE RICHARD NOTHWEHR, Judge Pro Tem of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA; THE HONORABLE WENDY MORTON, Judge Pro Tem of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA;**

**Respondent Judge Pro Tems,**

**STATE OF ARIZONA,**

**Real Party in Interest., Respondent**

**(Litigant Group) HON COURY**

• Hon. Christopher A Coury, Respondent Judge

**(Litigant Group) HON NOTHWEHR**

• Hon. Richard L Nothwehr, Respondent Judge

**(Litigant Group) HON MORTON**

• Hon. Wendy S Morton, Respondent Judge

**(Litigant Group) HON MYERS**

• Hon. Sam J Myers, Respondent Judge

**(Litigant Group) STATE**

• State of Arizona, Real Party in Interest

**Attorney for: Real Party in Interest**

Diane Meloche, Esq. (AZ Bar No. 18197)

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge Role <Comments>	Trial	Dispo
MAR CR2017-105183-001			Richard L Nothwehr, Authoring Judge of Order Sam J Myers, Authoring Judge of Order Wendy S Morton, Authoring Judge of Order Christopher A Coury, Authoring Judge of Order		

**2 OPEN DUE DATES**

**Response to Petition For Special Action due**

**Due By: Thursday, January 17, 2019**

Re: FILED: Petition for Special Action (w/Stay Request) (Petitioner Pro Per)

**Response Due**

**Due By: Wednesday, January 23, 2019**

Re: FILED: Petition for Special Action (w/Stay Request) (Petitioner Pro Per)

**2 PENDING MATTERS**

**General Motion**

Filed: 8-Jan-2019

Petition for Special Action (W/STAY REQUEST) (Petitioner Pro Per)

**Petition for Special Action**

Filed: 8-Jan-2019

Petition for Special Action

**Court of Appeals, Division One  
Special Action**

**1 CA-SA 19-0013**

**ENGLISH v. HON CORY, et al.**

**4 PROCEEDING ENTRIES**

1. 8-Jan-2019 FILED: Petition for Special Action (w/Stay Request) (Petitioner Pro Per)
2. 8-Jan-2019 FILED: Application for Deferral or Waiver of Court Fees and/or Costs and Consent to Entry of Judgment (Petitioner Pro Per)
3. 8-Jan-2019 FILED: Order re: Indigence
4. 9-Jan-2019 FILED: Order Setting Dates/petition set for am of 2/6/19 by Dept E, Judges Weinzwieg, Cattani, Beene





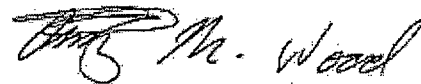
**IT IS FURTHER ORDERED** that any response or objection to the relief requested in the petition, shall be filed and served within seven business days after service of the petition upon the respondent, unless the court, prior thereto, declines to accept jurisdiction without requiring a response. Unless otherwise ordered by the court, a reply to a response may be filed and served within five business days after service of the response, with such filing to be made by no later than 1:00 p.m. on the date it is due. After the time for filing a response has expired, the parties will be notified if the court has scheduled oral argument. The parties will not receive notification if the court elects to forgo oral argument.

**IT IS FURTHER ORDERED** that in the event a stay has been requested, Petitioner or Petitioner's counsel must contact the office of Presiding Judge David D Weinzweig at (602) 452-6730 to arrange a time for the stay motion to be heard.

**NOTICE TO RESPONDENTS:** In order to avoid scheduling conflicts that might arise because of the time limitations contained in this order, Division One of the Court of Appeals will not entertain cross-petitions in this special action. In the event respondents seek affirmative relief from the order that is the subject matter of the petition for special action, respondents are directed to file a separate special action and seek consolidation with this pending matter.

Regularly updated information about the status of this case may be viewed by visiting <https://www.azcourts.gov/coal/> and clicking on "Case Status" from the menu. A summary of Division One's policies may be viewed by clicking on the "Policies" link under the "Filer Information" section of the home page menu.

**NOTICE TO FILERS:** Arizona Supreme Court Administrative Order 2012-2 requires all attorneys to utilize electronic filing via AZTurboCourt when filing in the Court of Appeals. If you are not bound by this requirement, all documents filed in a special action shall comply with Rule 4 of the Arizona Rules of Civil Appellate Procedure - Filing and Service. Nothing herein requires that the Respondent Judge be served by e-mail.



---

Amy M. Wood, Clerk

1 CA-SA 19-0013

Page Three

A copy of the foregoing  
was sent January 9th, 2019, to:

Josiah Adam English III, T337357 (mailed)

Diane Meloche

Hon Christopher A Coury

Hon Richard L Nothwehr

Hon Sam J Myers

The Court of Appeals, Division One offers subscription lists to receive emails regarding new opinions and informational news items. Interested persons can text "COALINFO" to 22828 to sign up for both opinions and news. Individuals wishing to receive only opinions or only news may visit the website: <http://www.azcourts.gov/coal/> and click on "subscribe".

EXR

EXR

Two  
sided

Chris DeRose, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
12/14/2018 8:00 AM

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

12/11/2018

HONORABLE WENDY S. MORTON

CLERK OF THE COURT  
L. Pena  
Deputy

STATE OF ARIZONA

ELLEN DAHL  
JULI S WARZYNSKI  
ERIC AIKEN  
CHRISTOPHER TODD SAMMONS

v.

JOSIAH ADAM ENGLISH III (001)

MARCI A KRATTER  
JOCQUESE L BLACKWELL

DOB: [REDACTED]  
Booking No.: T337357

CELIA DRAKE  
CITS - CCC SPANISH  
COMM. MORTON  
CORRECTIONAL HEALTH SERVICES  
CORRECTIONAL HEALTH SERVICES-  
FORENSIC SERVICES  
COURT FORENSIC SERVICES UNIT  
JACQUELINE WORSLEY  
LESLIE DANA-KIRBY

RULE 11 STATUS CONFERCE /  
RULE 11 EVIDENTIARY HEARING RESET

9:22 a.m.

Courtroom SCT 2B

State's Attorney:	Ellen Dahl, Juli Warzynski and Chris Sammons
Defendant's Attorney:	Marci Kratter and Jocquese Blackwell
Defendant:	Present
Interpreter:	Jennifer Hammond, for the Next of Kin
Minor Victim's Attorney:	Eric Aiken
Next of Kin:	Landy Gutierrez, by telephone

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

12/11/2018

prior to the status conference, and defense counsel shall provide counsel for the State with the test data.<sup>1</sup>

Upon disclosure of the expert witness, the Court may upon request of defense counsel, issue an order specifying the materials must be disclosed subject to the following conditions:

- 1) Limiting the State's ability to disseminate or discuss the information contained within the disclosed materials;
- 2) Restricting discussion regarding the content of the materials;
- 3) Limiting the use of the materials to this defendant's Rule 11 proceeding;
- 4) Requiring the destruction of copies, and the return of all original materials, if any;
- 5) Sealing any materials used as exhibits, and;
- 6) Requiring the State and Defense counsel to file a notice with the Court avowing that the aforementioned orders have been complied with in a time to be specified.

The State of Arizona, the Defendant, and Correctional Health Services ("CHS"), stipulate to the entry of a protective order for disclosure of the Rule 11 raw testing data. The stipulated terms of the order are as follows:

- A. Upon receiving the requested Rule 11 testing materials, counsel for the Defendant shall execute a receipt for the testing materials and provide a copy of same to the CHS Forensic Services;
- B. Rule 11 testing materials are only to be used for this Defendant's Rule 11 case in the instant Rule 11 proceedings;
- C. Defense counsel, counsel for the State and members of Counsels' staff may only disseminate and/or copy the Rule 11 testing materials for their duly licensed mental health experts who will be testifying or otherwise assisting in the preparation or presentation of the Rule 11 case on behalf of either defense counsel or counsel for the State.
- D. Rule 11 testing materials shall not be copied nor disseminated to any other individual by either counsel, or counsels' staff, or either party's mental health expert without further order of the Court;
- E. Defense counsel, counsel for the State, and members of counsels' staff are forbidden from discussing the information in these testing materials with anyone other than opposing counsel or mental health expert witnesses under direct or cross examination.

---

<sup>1</sup> Test data shall include, but not be limited to: CD/DVD's, a list of the test(s) administered, raw and scaled scores, client/patient responses to test questions or stimuli, and notes/recordings concerning client/patient statements and behavior during examination.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2017-105183-001 DT

12/11/2018

IT IS ORDERED that Mercy Care disclose whether this Defendant is enrolled in Mercy Care and provide additional information as requested herein.

The Court Liaison from Mercy Care informs the Court that the Defendant is not enrolled with Mercy Care. ↗

9:33 a.m. Matter concludes.

EX5

EX5

C. Camacho

C. CAMACHO, FILED

2019 JAN 31 AM 9:39

1 MARCI A. KRATTER  
2 The Law Office of Marci A. Kratter  
3 335 East Palm Lane  
4 Phoenix, AZ 85003  
5 (602) 528-0882  
6 AZ State Bar No. 018059  
7 Marci\_kratter@yahoo.com  
8 Attorney for Josiah English

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 **IN THE MATTER OF:**

12 JS 18922  
13 JD 33768 X

14 **REQUEST TO THE COURT**  
15 **ORAL ARGUMENT REQUESTED**

16 MELANI GUTIERREZ ENGLISH  
17 (DOB: [REDACTED] 13)  
18 VICTOR GUTIERREZ ENGLISH  
19 (DOB: [REDACTED] 14)

HON. JO LYNN GENTRY

20 Counsel for Mr. Josiah English, father to the children in this matter, respectfully requests  
21 that this Court order the production of a recording (FTR) of the Status Conference held on  
22 January 15, 2019, in front of the Honorable Jo Lynn Gentry. Mr. English is in custody and is  
23 charged in a criminal matter, CR2017-105183; he is currently in Rule 11 proceedings to  
24 determine mental competency.  
25

26 Mr. English is represented by the Undersigned in his criminal matter; he represents  
27 himself in the matters in Juvenile Court and is presently requesting that he be allowed to  
28



1 represent himself in the criminal matter as well. The trial court presiding over the criminal case  
2 ordered competency evaluations of Mr. English in an attempt to ascertain whether Mr. English is  
3 competent to represent himself. Three doctors were tasked with evaluating Mr. English, but Mr.  
4 English refused to meet with any of them. The Undersigned would like to be able to provide the  
5 Rule 11 evaluators and the trial court with FTR footage from hearings where Mr. English  
6 represents himself. The Undersigned believes that would be the best of evidence of Mr.  
7 English's competence.  
8

9         The two cases that set forth the Constitution's "mental competence" standard, *Dusky v.*  
10 *United States*, 362 U.S. 402 (1960) (*per curiam*), and *Drope v. Missouri*, 420 U.S. 162 (1975),  
11 specify that the Constitution does not permit trial of an individual who lacks "mental  
12 competency." *Dusky* defines the competency standard as including both (1) "whether" the  
13 defendant has "a rational as well as factual understanding of the proceedings against him" and (2)  
14 whether the defendant "has sufficient present ability to consult with his lawyer with a reasonable  
15 degree of rational understanding." *Dusky*, 362 U.S. at 402. *Drope* repeats that standard, stating  
16 that it "has long been accepted that a person whose mental condition is such that he lacks the  
17 capacity to understand the nature and object of the proceedings against him, to consult with  
18 counsel, and to assist in preparing his defense may not be subjected to a trial." *Drope*, 420 U.S.  
19 at 171. Arizona courts have promulgated Rule 11 to comply with those constitutional mandates.  
20 *State v. Amaya-Ruiz*, 166 Ariz. 152, 161-62, 800 P.2d 1260, 1269-70 (1990). See also A.R.S. §  
21 13-4502 (A) ("A person shall not be tried, convicted, sentenced or punished for an offense if the  
22 court determines that the person is incompetent to stand trial.  
23

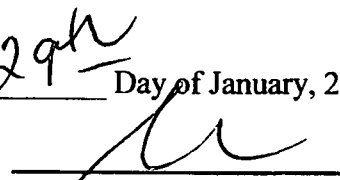
24         Undersigned Counsel believes that a review of the Juvenile Court proceedings in which  
25 he acts as his own counsel will be of value to the doctors and will assist them with determining  
26  
27  
28

1 whether Mr. English has *a rational as well as factual understanding of the proceedings against*  
2 *him and whether he has sufficient present ability to consult with his lawyer with a reasonable*  
3 *degree of rational understanding.* Furthermore, it is possible that the Rule 11 evaluators may  
4 find Mr. English to be a gray area defendant- one who is competent to assist counsel, but not  
5 competent to represent himself. There is no better evidence than the FTR footage from these  
6 proceedings. The FTR footage will be helpful not only to the doctors, but to the trial court.  
7

8 Rule 11 proceedings and all documents produced during this process are sealed by the  
9 court; this recording and its contents will not be available to anyone outside of the Court, those  
10 involved in the evaluation process, and the defense team for Mr. English.  
11

12 Oral Argument is respectfully requested.

13 RESPECTFULLY SUBMITTED this 29<sup>th</sup> Day of January, 2019.

14 By:   
15 MARCI A. KRATTER  
16 Attorney for Mr. English  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
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28

1 This motion filed with  
2 MARICOPA COUNTY CLERK OF THE COURT  
3 JUVENILE COURT CENTER  
4 3131 WEST DURANGO  
5 PHOENIX, AZ 85009 *Jan. 29, 2019*

6 and  
7 Copy of the foregoing Motion Faxed /  
8 Delivered/mailed and/or emailed this 31<sup>st</sup> of  
9 *Jan* 2019, to:

10 HON. JO LYNN GENTRY  
11 MARICOPA COUNTY SUPERIOR COURT  
12 JUVENILE COURT CENTER  
13 3131 WEST DURANGO  
14 PHOENIX, AZ 85009

15 JOSEPH C. RAMIRO- SHANAHAN  
16 The Law Office of Joseph C. Ramiro-Shanahan  
17 5800 E. Thomas Rd., Suite 109  
18 Scottsdale, AZ 85251-7510

19 ROLAND ARROYO  
20 830 N. 1<sup>st</sup> Avenue  
21 Phoenix, AZ 85003

22 ANNDREA S. KAWAMURA  
23 Assistant Attorney General  
24 Arizona Attorney General's Office  
25 1275 West Washington  
26 Phoenix, AZ 85007  
27 DCS

28 DEEAN GILLESPIE STRUB  
Gillespie Shields & Durrant  
7319 N. 16<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85020-5294

By   
Lisa Elam

EXT

EXT

Skip To Main Content

Search

Two Sided

Criminal Court Case Information - Case History

## Case Information

Case Type: Criminal Location: Downtown

## Party Information

Party Name - Number	Relationship	Sex	Attorney	Judge	Case #
State Of Arizona - (1)	Plaintiff	N/A	Dahl, Ellen		
Josiah Adam EnglishIII - (2)	Defendant	M	Kratter, Marci	Adleman	CR2017-105183-001
B Next Of Kin - (3)	Next of Kin	F	To Be Determined		
B Witness - (4)	Witness	N/A	To Be Determined		
B Witness - (5)	Witness	N/A	To Be Determined		
B Witness - (6)	Witness	N/A	To Be Determined		

## Disposition Information

Party Name	ARSCode	Description	Crime Date	Disposition Code	Disposition	Date
Josiah Adam English III	13-1201A (F6)	ENDANGERMENT	1/31/2017	Dismissed Due To Grand Jury Indictment	Dismissed Due To Grand Jury Indictment	2/10/2017
Josiah Adam English III	13-1105A1 (F1)	MURDER 1ST DEG- PREMEDITATED	1/31/2017	Dismissed Due To Grand Jury Indictment	Dismissed Due To Grand Jury Indictment	2/10/2017
Josiah Adam English III	13-1201A (F6)	ENDANGERMENT	1/31/2017	Dismissed Due To Grand Jury Indictment	Dismissed Due To Grand Jury Indictment	2/10/2017
Josiah Adam English III	13-1105A1 (F1)	MURDER 1ST DEG- PREMEDITATED	1/31/2017			
Josiah Adam English III	13-1201A (F6)	ENDANGERMENT	1/31/2017			
Josiah Adam English III	13-1201A (F6)	ENDANGERMENT	1/31/2017			

## Case Documents

Filing Date	Description	Docket Date	Filing Party
2/13/2019	PPM - Pro Per Motion/Notice/Mail - Party (001)	2/15/2019	Defendant (2)
	NOTE: LETTER		
2/7/2019	MOT - Motion - Party (001)	2/8/2019	
	NOTE: MOTION FOR ORDER TO SEAL		
2/4/2019	MFW - Motion For Withdraw of counsel - Party (001)	2/5/2019	Defendant (2)
	NOTE: REQUEST FOR A FARETTA HEARING		
1/28/2019	023 - ME: Order Entered By Court - Party (001)	1/28/2019	
1/23/2019	MOT - Motion - Party (001)	1/23/2019	
	NOTE: MOTION TO COMPEL THE STATE TO PRODUCE FULL COPY OF FORM IV PROBABLE CAUSE STATEMENT		
1/15/2019	176 - ME: Continuance - Party (001)	1/15/2019	
1/9/2019	SUA - Subpoena And Affidavit Of Service - Party (001)	1/10/2019	
	NOTE: SERVED 01/09/19		
1/8/2019	023 - ME: Order Entered By Court - Party (001)	1/8/2019	
1/7/2019	REQ - Request - Party (001)	1/11/2019	
	NOTE: THAT YOU PLEASE FILE MY ORIGINAL DOCUMENT ENTITLED/DEFENDANTS COMPLAINT TO GEORGIA COMPOSITE MEDICAL BOARD/ENFORCEMENT UNIT		
1/7/2019	PPM - Pro Per Motion/Notice/Mail - Party (001)	1/11/2019	Defendant (2)
	NOTE: DEFENDANTS COMPLAINT TO THE GEORGIA COMPOSITE MEDICAL BOARD		
12/27/2018	SUA - Subpoena And Affidavit Of Service - Party (001)	12/28/2018	
	NOTE: SERVED 12-26-18		
12/26/2018	SUA - Subpoena And Affidavit Of Service - Party (001)	1/2/2019	
	NOTE: EMAIL SERVED 12/26/18		
12/20/2018	SUA - Subpoena And Affidavit Of Service - Party (001)	12/21/2018	
	NOTE: SUBPOENA DUCES TECUM		
12/19/2018	NOT - Notice - Party (001)	12/20/2018	
	NOTE: Notice of Witnesses		
12/19/2018	REQ - Request - Party (001)	12/20/2018	
	NOTE: REQUEST FOR SUPPLEMENTAL REPORTS BASED ON FTR RECORDINGS		
12/14/2018	176 - ME: Continuance - Party (001)	12/14/2018	
12/12/2018	022 - ME: Order Signed - Party (001)	12/12/2018	

NOTE: REQUEST FOR RULING ON HIS SECOND MOTION TO PROCEED PRO PER

→ 2/12/2018	NAR - Notice Of Appearance - Party (001)	2/13/2018	
	NOTE: Notice of Appearance as Co-Chair / 2nd Chair		
12/19/2017	028 - ME: Status Conference Set - Party (001)	12/19/2017	
12/5/2017	056 - ME: Hearing Set - Party (001)	12/5/2017	
11/21/2017	003 - ME: Hearing Reset - Party (001)	11/21/2017	
11/21/2017	029 - ME: Status Conference - Party (001)	11/21/2017	
11/9/2017	028 - ME: Status Conference Set - Party (001)	11/9/2017	
→ 11/7/2017	098 - ME: Substitution Of Counsel - Party (001)	11/7/2017	
11/7/2017	REQ - Request - Party (001)	11/7/2017	
	NOTE: REQUEST TO RESET ORAL ARGUMENT AS STATUS CONFERENCE		
11/6/2017	ORD - Order - Party (001)	11/7/2017	
	NOTE: THAT THE OFFICE OF THE MARICOPA COUNTY PUBLIC DEFENDER BE REMOVED FROM ALL FURTHER REPRESENTATION OF THE DEFENDANT IN THIS CAUSE NUMBER		
11/6/2017	SDD - Notice: Sealed Document - Party (001)	11/8/2017	
11/2/2017	027 - ME: Pretrial Conference - Party (001)	11/2/2017	
10/30/2017	RMR - Response to Defendant's Motion - Party (001)	10/30/2017	
	NOTE: STATE'S RESPONSE TO DEFENSE MOTION FOR DISCLOSURE REGARDING VAERACITY AND IMPEACHMENT EVIDENCE		
10/20/2017	016 - ME: Ext/Time/Filing Granted - Party (001)	10/20/2017	
10/19/2017	REL - Reply - Party (001)	10/19/2017	
	NOTE: REPLY RE: DEFENDANT'S MOTION FOR A LIST OF STATE'S EVIDENCE OF OTHER ACTS, AND MOTION FOR A LIST OF STATE'S EVIDENCE OF INTRINSIC ACTS		
10/16/2017	RMR - Response to Defendant's Motion - Party (001)	10/16/2017	
	NOTE: Response to Defendants Motion For a List of States Intention to Use Other Acts		
10/16/2017	DAR - Notice of Disclosure and Request for Disclosure - Party (001)	10/16/2017	
	NOTE: STATE'S NOTICE OF DISCLOSURE AND REQUEST FOR DISCLOSURE		
10/13/2017	094 - ME: Oral Argument Set - Party (001)	10/13/2017	
10/13/2017	MET - Motion for Extension Of Time - Party (001)	10/13/2017	
	NOTE: Defendants Motion For Time In Which To File A Reply And Extension Of Oral Argument Date Regarding Veracity And Impeachment Evidence Disclosure		
10/12/2017	MOT - Motion - Party (001)	10/13/2017	
	NOTE: DEFENDANT'S MOTION FOR A LIST OF STATE'S EVIDENCE OF OTHER ACTS, AND MOTION FOR A LIST OF STATE'S EVIDENCE OF INTRINSIC ACTS		
10/11/2017	MOT - Motion - Party (001)	10/11/2017	
	NOTE: DEFENDANT'S MOTION FOR DISCLOSURE PURSUANT TO RULE 15, ARIZONA RULES OF CRIMINAL PROCEDURE		
10/5/2017	MOT - Motion - Party (001)	10/5/2017	
	NOTE: Defendants Motion For Disclosure Regarding Veracity And Impeachment Evidence		
9/25/2017	RTR - Return Receipt For Official Court Files/Transcripts/Exhibits - Party (001)	9/28/2017	
9/22/2017	RRF - Release Receipt For Official Court Files/Transcripts/Exhibits - Party (001)	9/27/2017	
	NOTE: TEMPORARY		
9/22/2017	OFT - Order for Temporary Removal of Court File/Transcripts/Exhibits - Party (001)	9/27/2017	
9/22/2017	MTR - Motion for Temporary Removal Of Court File/Transcripts/Exhibit - Party (001)	9/27/2017	
9/19/2017	NOT - Notice - Party (001)	9/20/2017	
	NOTE: NOTICE OF REASSIGNMENT TO THE PUBLIC DEFENDER'S OFFICE		
9/18/2017	085 - ME: Conference - Party (001)	9/18/2017	
9/15/2017	SDD - Notice: Sealed Document - Party (001)	9/18/2017	
9/14/2017	SDD - Notice: Sealed Document - Party (001)	9/18/2017	
9/13/2017	SDD - Notice: Sealed Document - Party (001)	9/18/2017	
8/28/2017	027 - ME: Pretrial Conference - Party (001)	8/28/2017	
8/15/2017	PPM - Pro Per Motion/Notice/Mail - Party (001)	8/16/2017	Defendant (2)
	NOTE: OBJECTION TO A CHANGE OF VENUE AND JURY DEMAND		
8/9/2017	005 - ME: Hearing - Party (001)	8/9/2017	
8/7/2017	083 - ME: Conference Reset/Cont - Party (001)	8/7/2017	
8/1/2017	960 ME: Capital Case Assignment and Scheduling Order - Party (001)	8/1/2017	
8/1/2017	PPM - Pro Per Motion/Notice/Mail - Party (001)	8/3/2017	Defendant (2)
	NOTE: OBJECTION TO A CHANGE OF VENUE AND JURY DEMAND		
7/21/2017	027 - ME: Pretrial Conference - Party (001)	7/21/2017	
7/14/2017	019 - ME: Ruling - Party (001)	7/14/2017	
7/14/2017	NOI - Notice Of Intent - Party (001)	7/14/2017	
	NOTE: STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY, NOTICE OF AGGRAVATING FACTORS AND WITNESSES		
7/11/2017	PPM - Pro Per Motion/Notice/Mail - Party (001)	7/12/2017	Defendant (2)
	NOTE: SECOND MOTION TO PROCEED PRO PER		
6/30/2017	REQ - Request - Party (001)	6/30/2017	
	NOTE: REQUEST FOR COURT INTERPRETER		
6/29/2017	DAR - Notice of Disclosure and Request for Disclosure - Party (001)	6/29/2017	
	NOTE: STATE'S NOTICE OF DISCLOSURE AND REQUEST FOR DISCLOSURE		
6/16/2017	SDD - Notice: Sealed Document - Party (001)	6/20/2017	
	NOTE: MINUTE ENTRY DATED 06/16/17		
6/16/2017	SDD - Notice: Sealed Document - Party (001)	6/20/2017	
	NOTE: MOTION FOR COURT ORDER TO ASSIST MITIGATION INVESTIGATION AND PROPOSED ORDER		
6/16/2017	SDD - Notice: Sealed Document - Party (001)	6/20/2017	
	NOTE: ORDER		
6/7/2017	016 - ME: Ext/Time/Filing Granted - Party (001)	6/7/2017	

3/13/2017	9:30	Status Conference
4/3/2017	8:15	Initial Pretrial Conference
5/2/2017	8:30	Complex / Capital Case
5/2/2017	8:31	Comprehensive PreTrial Conference
5/9/2017	8:30	Complex / Capital Case
7/11/2017	8:32	Complex / Capital Case
8/7/2017	9:30	Status Conference
8/9/2017	9:00	Status Conference
8/23/2017	8:30	Complex / Capital Case
8/28/2017	8:30	Complex / Capital Case
9/14/2017	9:30	Status Conference
10/4/2017	8:30	Pre-Trial Conference
10/11/2017	8:00	Trial
10/25/2017	8:30	Complex / Capital Case
11/20/2017	9:00	Status Conference
11/20/2017	13:30	Status Conference
12/12/2017	8:30	Status Conference
2/13/2018	8:30	Status Conference
3/7/2018	10:00	Status Conference
3/29/2018	8:30	Status Conference
4/17/2018	13:30	Oral Argument
6/12/2018	9:00	Rule 11 Hearing
6/13/2018	8:30	Complex / Capital Case
7/17/2018	9:00	Rule 11 Hearing
7/27/2018	10:00	Complex / Capital Case
8/14/2018	9:00	Rule 11 Hearing
9/11/2018	9:00	Rule 11 Hearing
10/9/2018	9:00	Rule 11 Hearing
12/11/2018	9:00	Rule 11 Hearing
12/14/2018	13:30	Rule 11 Hearing
1/8/2019	9:00	Rule 11 Hearing
1/11/2019	13:30	Rule 11 Hearing
2/5/2019	9:00	Rule 11 Hearing
3/26/2019	9:00	Rule 11 Hearing
3/29/2019	13:30	Rule 11 Hearing
4/2/2019	9:00	Rule 11 Hearing
4/5/2019	13:30	Rule 11 Hearing
5/10/2019	8:30	Pre-Trial Conference
6/10/2019	9:30	Trial

EXU

EXU



Chris DeRose, Clerk of Court  
\*\*\* Electronically Filed \*\*\*  
T. Alameda, Deputy  
4/16/2018 8:20:58 AM  
Filing ID 9258708

WILLIAM G. MONTGOMERY  
MARICOPA COUNTY ATTORNEY

Ellen M. Dahl  
Deputy County Attorney  
Bar ID #: 022405  
301 West Jefferson, 4th Floor  
Phoenix, AZ 85003  
Telephone: (602) 506-5780  
mcaomod@mcao.maricopa.gov  
MCAO Firm #: 00032000  
Attorney for Plaintiff

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

THE STATE OF ARIZONA,

Plaintiff,

vs.

JOSIAH ADAM ENGLISH, III,

Defendant.

CR 2017-105183-001

STATE'S SUPPLEMENTAL  
NOTICE OF DISCLOSURE

(Assigned to the Honorable  
Christopher A. Coury, Div. CRJ26)

The State of Arizona, by and through undersigned counsel, hereby gives notice pursuant to Rules 15.1 and 15.6, Arizona Rules of Criminal Procedure, that the State may present the following additional evidence or call the following additional witnesses in the case in chief or as rebuttal witnesses:

- Jeannette Butcher, Maricopa County Attorney's Office
- Alfredo Richard, Maricopa County Attorney's Office
- Sandy Corral, Child Help

\* The Maricopa County Attorney's office has been having prosecutors sit in during court proceedings in my Juvenile case to see what they can "use" for the criminal case. Now two Maricopa County prosecutors are listed as rebuttal witnesses in my criminal case.

Submitted April \_\_\_\_\_, 2018.

WILLIAM G. MONTGOMERY  
MARICOPA COUNTY ATTORNEY

BY: Ellen Dahl  
/s/ Ellen M. Dahl  
Deputy County Attorney

Copy mailed/delivered  
April \_\_\_\_\_, 2018, to:

The Honorable Christopher A. Coury  
Judge of the Superior Court

Marci A. Kratter  
335 East Palm Lane  
Phoenix, AZ 85004  
Attorney for Defendant

BY: Ellen Dahl  
/s/ Ellen M. Dahl  
Deputy County Attorney

EMD/ar

Ex V

Ex V

## Supervisor Grievance Response

Inmate English, Josiah T337357

**Summary of Grievance:** Inmate English alleges in his grievance that his civil rights are being violated because Detention Staff refused to make copies of his legal documents for him. He states that he represents himself in 5 different cases in 5 different courts. He states that he paid a process server to come to the jail and pick up these documents, so they could be delivered to the Arizona Court of appeals in connection to his criminal case. He states that the refusal to make copies for him is an abuse of the Sheriff's Offices powers and done strictly to be cruel to him. As a result of MCSO's refusal to make copies, the process server had to make the copies and it caused them to be late in filing these documents with the clerk of the court. He states that due to his criminal case being capital in nature, he is entitled to "heightened" due process protections.

His resolution is to stop being treated like a second-class citizen and to provide pro per/pro se detainees with photo copies of their legal documents.

**Supervisor Response:** First and foremost, Inmate English, you have not been granted pro per status by the court on your criminal case. According to the court, you are represented by Marci Kratter and Jocquese Blackwell. Those appointments being done as of 11/2/2017 and 2/12/2018 respectively. The request you made of MCSO should have been made to your court appointed counsel, as you state it is in connection to your criminal case.

Pro Se Inmate is defined in MCSO Policy DP-6, Inmate Legal Services, as "An inmate representing himself in a civil matter. In this Policy, it shall apply only to suits against government entities over conditions of confinement, other civil rights issues, or civil matters filed against the inmate in which he is named the respondent." If you receive a Letter of Assignment or a case number from the court for civil or civil rights cases, you will need to provide ILS with a copy of the letter or the documentation of the case number for ILS to acknowledge your Pro Se status. Pro Se status does not afford you any special privileges. If any of your cases meet the criteria defined above for Pro Se status, ILS will provide the following, but not limited to, services:

1. Assisting in accessing the appropriate, assigned legal aid organizations and judicial or law enforcement officials.
2. Providing the proper forms and formats for filing motions in the State and Federal courts.
3. Notarizing legal documents
4. Providing the necessary legal materials to research relevant matters in their specific case.
5. Filing motions prepared and completed by inmates in State and Federal courts and ensuring that copies have been made and mailed to the affected parties.
6. Providing legal form packets, as specified in the Policy, to each pre-trial inmate as required.

Although Detention Officers have made copies of documents for you in the past, they are under no legal obligation to do so. As such, this practice is currently under review by command staff, and may be

discontinued. Until that review has been completed, Detention Staff will not be making copies of any documents for you.

Bob House #19958

Supervisor Signature

1/28/19

Date

[Signature]  
Inmate Signature

1-31-2019 / 5:25 p.m.

Date

Resolved                     

Unresolved   ✓

Check One:  1. Library  2. Religious  3. Legal  4. Programs  5. Other

Pg. 1 Two pages Total

Maricopa County Sheriff's Office  
Paul Penzone, Sheriff

TU. 2-19-2019 11:30 p.m.

**Inmate Request Form**  
**Formulario de Solicitud para presos**

Name (Nombre): <u>Josiah English III</u>	Jail (Carcel): <u>Lower Buckeye</u>
Booking No. (Numero Fichado): <u>T337357</u>	House (Casa): <u>T24</u>
Date of Birth (Fecha De Nacimiento): <u>[REDACTED]</u>	Cell (Celda): <u>B15</u>

**1. Inmate Library Request (Biblioteca)**  English  Español

Inmates are provided a variety pack of reading materials. Each jail receives a delivery once per month.  
NO INMATE REQUEST IS REQUIRED.  
Para presos que han sido identificados por leer y hablar únicamente en español, el material de lectura en español está disponible.  
 MARQUE POR FAVOR LA CAJA SI USTED SOLO LEE Y HABLA ESPAÑOL.

**2. Inmate Religious Request (Solicitud Religiosa)**  
Religion:  Catholic (Catolico)  Protestant (Protestante)  Muslim (Musulman)  
 Other religion (Otra religion) \_\_\_\_\_

Request (Solicitud):  Bible (Biblia)  Bible Study (Estudio biblico)  
 Inspirational Material (Material inspirante)  Religious Counseling (Consejo religioso)  
 Religious Diet (Dieta religioso)

**3. Inmate Legal Requests (Solicitud Legales)**  
Inmate Legal Requests must be submitted on the Inmate Legal Request form.  
(Solicitudes Legales para Presos deberan presentarse en el formulario de Solicitud Legal para Presos.)

**4. Inmate Programs (Programas)**  
 Self-help (Esfuerzo propio)  GED  Juvenile Education (Educacion juvenil)  
 Adult Special Education (Educacion especial de Adulto)  
 Alpha Program (Programa Alpha) (Substance Abuse Treatment - for Sentenced Inmates ONLY)

**5. Other Inmate Information Request (Otra Informacion)**  
 Court date (Fecha de corte)  Release date (Fecha de liberar)  Property release (Liberar del propiedad)  
 Legal call (Llamada legal)  Other Request for photocopies of legal documents.

Please explain your request or question. Print clearly. (Por favor de explicar su solicitud o pregunta. Escribir claramente.)  
Inmate Legal Services has told me in several ILS forms that they are not going to give me any copies of any of my legal documents. For the last several days my requests for copies of my legal motions and pleadings has been denied by jail staff. To represent myself in several different courts of law and this ongoing deprivation of photocopies of my legal pleadings is causing serious damage to my cases with each day that goes by. Particularly, I represent myself in the Juvenile Court where DCJ is attempting to terminate my

Respectfully Submitted,  
Inmate Signature: [Signature]

Receiving Officer  
Date: 2-20-19 Time: 0003  
Signature: [Signature]

Response (if needed): MCSO HAS NO OBLIGATION TO ASSIST YOU IN YOUR CIVIL OR CRIMINAL CASES BY MAKING COPIES, AS I HAVE ALREADY INFORMED YOU IN MULTIPLE GRIEVANCE RESPONSES. ALTHOUGH YOU HAVE HAD COPIES MADE IN THE PAST, THAT PROCESS AND PRACTICE IS BEING REVIEWED. NO COPIES WILL BE MADE UNTIL THAT REVIEW IS COMPLETE.

Check One:

- 1. Library
- 2. Religious
- 3. Legal
- 4. Programs
- 5. Other

Maricopa County Sheriff's Office  
Paul Penzone, Sheriff

**Inmate Request Form**  
**Formulario de Solicitud para presos**

Pg. 2

Name (Nombre): <u>Josiah English III</u>	Jail (Carcel): <u>Lower Buckeye</u>
Booking No. (Numero Fichado): <u>T337357</u>	House (Casa): <u>T24</u>
Date of Birth (Fecha De Nacimiento): <u>[REDACTED]</u>	Cell (Celda): <u>B15</u>

**1. Inmate Library Request (Biblioteca)**     English     Español

Inmates are provided a variety pack of reading materials. Each jail receives a delivery once per month.  
NO INMATE REQUEST IS REQUIRED.  
Para presos que han sido identificados por leer y hablar unicamente en español, el material de lectura en español está disponible.  
 MARQUE POR FAVOR LA CAJA SI USTED SOLO LEE Y HABLA ESPAÑOL.

**2. Inmate Religious Request (Solicitud Religiosa)**

Religion:     Catholic (Catolico)     Protestant (Protestante)     Muslim (Musulman)  
 Other religion (Otra religion) \_\_\_\_\_

Request (Solicitud):     Bible (Biblia)     Bible Study (Estudio biblico)  
 Inspirational Material (Material inspirante)     Religious Counseling (Consejo religioso)  
 Religious Diet (Dieta religioso)

**3. Inmate Legal Requests (Solicitud Legales)**

Inmate Legal Requests must be submitted on the Inmate Legal Request form.  
(Solicitudes Legales para Presos deberan presentarse en el formulario de Solicitud Legal para Presos.)

**4. Inmate Programs (Programas)**

Self-help (Esfuerzo propio)     GED     Juvenile Education (Educacion juvenil)  
 Adult Special Education (Educacion especial de Adulto)  
 Alpha Program (Programa Alpha) (**Substance Abuse Treatment – for Sentenced Inmates ONLY**)

**5. Other Inmate Information Request (Otra Informacion)**

Court date (Fecha de corte)     Release date (Fecha de liberar)     Property release (Liberar del propiedad)  
 Legal call (Llamada legal)     Other \_\_\_\_\_

Please explain your request or question. Print clearly. (Por favor de explicar su solicitud o pregunta. Escribir claramente.) relationship with my daughter (age six) and my son (age four), whom I love very dearly, just based on the criminal charges that have been levied against me (and in which I have not yet been to trial to address). Without photocopies of my pleadings, my position in my court cases is severely crippled. I need to have a copy of my motions and pleadings so that I can mail my original to the clerk of the court to be filed in my cases. I can pay for the costs of my copies. Can I please have photocopies

Respectfully Submitted,  
Inmate Signature: [Signature]

Receiving Officer  
Date: 2-20-18    Time: 6:00?  
Signature: [Signature]

of my legal doc-ument

Response (if needed):

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EX W

EX W



Pg. 3

# INMATE LEGAL REQUEST

## Petición Legal para preso

Last Name (Apellido) English III First Name (Primer Nombre) Josiah  
 Booking # (Numero Fichado) T337357 Date of Birth (Fecha de Nacimiento) ~~REDACTED~~  
 Jail (Carcel) Lower Buckeye House (Casa) & Cell (Celda) T24815 Today's Date (Fecha De Hoy) 2-12-2019

PRO-PER  PRO-SE Maricopa County / Juvenile Court  
 Criminal CR # \_\_\_\_\_ Civil Action CV # JS18922 and JD33768  
 (# Del Caso Criminal) (# Del Caso Civil)  
 CR Attorney \_\_\_\_\_ Civil Rights # \_\_\_\_\_  
 (Abogado Defensor Del Caso Criminal) (# Del Caso De Derechos Civiles)  
 Domestic DR/FN/FC # \_\_\_\_\_  
 (# Del Caso De Derechos De Familia/Relaciones Domesticas)

### CHECK APPROPRIATE BOX (MARQUE LA OPCION APROPIADA)

- Inmate Legal Request (Solicitud Legales):**
- Copies (1 Copy Only [Legal Doc])  
(Copias (Una Copia Solamente [Documentos Legales]))
  - Court Filings (Archivar)  Legal Forms (Formularios Legales)
  - Delivery (Entregar)  Mailing (Envio Por Correo)
  - Legal Supplies (Articulos Legales)  Notary (Notario)
  - Legal Research (Investigacion Legal)

**I.L.S.**  
**REC'D** FEB 13 2019  
**RET'D** FEB 14 2019

### PRINT ONLY (IMPRIMA SOLAMENTE)

Please explain your request or questions. Print Clearly. (Por favor de explicar su solicitud o pregunta. Escribir claramente.) if I send my original hand written motions and pleadings to Inmate Legal Services, will Inmate Legal services make copies of them and then send me back my original documents with the copies so that I can serve a copy of my pleadings on the court and the other parties involved and mail my original to the clerk of the court for filing? I have to serve them copies to be in compliance with the Arizona Rules of Procedure for the Juvenile Courts. I can pay for the copies out of my funds account. Respectfully Submitted,

Inmate's Signature (Firma Del Recluso) [Signature] Officer's Signature & Serial # B3707 Time and Date Rec'd 0145 2-13-19

**DO NOT WRITE BELOW THIS LINE - FOR I.L.S. USE ONLY**  
**(NO ESCRIBA DEBAJO DE ESTA LINEA - PARA USO EXCLUSIVO DE LA OFICINA DE ILS)**

ILS will only make copies of your documents if ILS will be mailing/filing or delivering your documents to court. As it is, ILS does not process anything to the juvenile courts B1300

# INMATE LEGAL REQUEST

## Petición Legal para preso

Last Name (Apellido) English III First Name (Primer Nombre) Josiah  
 Booking # (Numero Fichado) T337357 Date of Birth (Fecha de Nacimiento) [REDACTED]  
 Jail (Carcel) Lower Buckeye House (Casa) & Cell (Celda) T24B15 Today's Date (Fecha De Hoy) 2-12-2019

PRO-PER  PRO-SE Maricopa County Superior Court  
 Criminal CR # \_\_\_\_\_ Civil Action CV # 2018-001720  
 (# Del Caso Criminal) (# Del Caso Civil)  
 CR Attorney \_\_\_\_\_ Civil Rights # \_\_\_\_\_  
 (Abogado Defensor Del Caso Criminal) (# Del Caso De Derechos Civiles)  
 Domestic DR/FN/FC # \_\_\_\_\_  
 (# Del Caso De Derechos De Familia/Relaciones Domesticas)

### CHECK APPROPRIATE BOX (MARQUE LA OPCION APROPIADA)

- Inmate Legal Request (Solicitud Legales):
- Copies (1 Copy Only [Legal Doc])  
(Copias (Una Copia Solamente [Documentos Legales]))
  - Court Filings (Archivar)
  - Delivery (Entregar)
  - Legal Supplies (Articulos Legales)
  - Legal Research (Investigacion Legal)
  - Legal Forms (Formularios Legales)
  - Mailing (Envio Por Correo)
  - Notary (Notario)

**I.L.S.**  
**REC'D** FEB 14 2019  
**RET'D** FEB 14 2019

### PRINT ONLY (IMPRIMA SOLAMENTE)

Please explain your request or questions. Print Clearly. (Por favor de explicar su solicitud o pregunta. Escribir claramente.) Without legitimate cause, Sergeant House has told me that I am not allowed to get copies of my legal documents. If I send my original hand written motions and pleadings to Inmate Legal Services, will Inmate Legal Services make copies of them and then send me back my original documents with the copies so that I can serve a copy of pleadings on the court and the other parties involved, and mail my original to the clerk of the court for filing? To comply with the AZ Rules

Inmate's Signature (Firma Del Recluso) [Signature] Officer's Signature & Serial # B1993 Time and Date Rec'd 200 2-12-19

**DO NOT WRITE BELOW THIS LINE - FOR I.L.S. USE ONLY**  
**(NO ESCRIBA DEBAJO DE ESTA LINEA - PARA USO EXCLUSIVO DE LA OFICINA DE ILS)**

ILS does not provide case law, make copies, or file, mail, or deliver anything for private party cases.  
 B1300

of Civil Procedure I can pay for the copies out of my funds occur

Ex X

Ex X

AUG 13 2018

CHRIS DEROSE, CLERK  
J. ALONSO  
DEPUTY CLERKAugust 3<sup>rd</sup> 2018

**To:** The Clerk of the Maricopa County Superior Court

**From:** Josiah English III / Defendant / Pre-Trial  
 Detainee # T337357 in the Maricopa County Jail  
 located at 3250 W. Lower Buckeye Rd. Phoenix,  
 AZ 85009

**Regarding:** Case # CR2017-105183001

Greetings Clerk of the Court,

Can you please file my document enclosed,  
 entitled "Defendant's Objection Regarding  
 Special Action" in the case number listed above.

I have also enclosed a copy of my objection and a  
 stamped envelope addressed to me. Can you please  
 file stamp my copy and then mail the file stamped  
 copy back to me in the stamped envelope that I  
 have provided.

Also, can you please file this letter as part of the  
 record in this case. Thank you very much.

Respectfully Requested,

Josiah English III *[Signature]*

(297)

I have enclosed  
 a copy of this  
 letter. Can you  
 please mail me  
 a file stamped  
 copy of  
 this letter  
 as well.

Name: Josiah English III

Pre-Trial Detainee # T337357 in the Maricopa  
County Jail located at 3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

In The Superior Court of The State of Arizona  
In and for the County of Maricopa

State of Arizona

Case # CR2017-10518.3001

v.

Josiah Adam English III  
(Defendant)

Honorable Jay Adleman  
Judge Presiding

### Defendant's Objection Regarding Special Action

Comes Now, Josiah English III, the Defendant in the  
above styled and numbered case, who files this objection  
with the Court. I am currently being held under pre-  
trial detention in the Maricopa County Arizona Jail.

In this case, I vehemently object to my Attorney  
of record, Marci Kratter, or any other person filing  
a Special Action, or any other form of interlocutory appeal,  
with a higher court, on my behalf, and with regard to this  
capital case. I have good cause to call Attorney  
Kratter's legal decision making into question. (3001)

My reason is that my Attorney Marci Kratter has betray my trust several times in this case by surreptitiously engaging in important decision making, in total disregard for my input or my consent. (Please see ER 1.4 "Communication" of the Arizona Rules of Professional Conduct / Rule 4a)

(a) "A lawyer shall:

(1) "Promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in ER 1.0(e), is required by these Rules; (Rule 1.0 (e) "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.)

(2) "reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) "Keep the client reasonably informed about the status of the matter;

(5)(b) "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. (2)

Also see ER 1.2 "Scope of Representation and Allocation of Authority Between Client and Lawyer"

(a) "Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued."

Also see Matter of Wolfram, 174 Aciz. 49 (1993)  
at Discussion, D. The Violations, 3, ER 1.4: Communication

"The Committee found, and the Commission agreed, that Respondent violated ER 1.4. ER 1.4(a) and (b) require that "[a] lawyer shall keep a client reasonably informed about the status of a matter... and explain [it] to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." See Tore Cardenas, 164 Aciz. 91 (1991), 791 P.2d at 1034 (finding the failure to notify clients of important matters and explain them to insure informed decision making violated ER 1.4)

"Even though the lawyer is responsible for the means chosen to pursue a client's objectives, informing the client regarding the essentials of those means is still required." See ER 1.4 (comment).

Also, Attorney Kratter and my Mitigation Specialist <sup>(302)</sup> (3) Maria De La Rosa have been dishonest with me, my family

members, and my friends on several occasions, which has contributed to the erosion of any trust that I previously had in them. (among other things)

Attorney Marci Kratter has talked about possibly filing a Special Action on my behalf with a higher court in this case. Not only do I not consent for her to file such an interlocutory appeal on my behalf, I would like for Marci Kratter to be immediately removed as my attorney of record, and Maria De La Rosa to be removed as my Mitigation Specialist in this case, because any measure of trust that I once had in these people has been violated and simply does not exist anymore.

Respectfully Submitted,  
Defendant,  
Jasiah English III  
J. III.

Executed on this 3<sup>rd</sup> day of August 2018 in Maricopa County Arizona.



Certificate of Service: I certify that "Defendant's Objection Regarding Special Action" was sent to the Clerk of the Maricopa County Superior Courts for filing on August 3<sup>rd</sup> 2018 (via U.S. mail), and on that same day, copies of the above listed document were sent (via U.S. mail), to the following people:

★ Honorable Judge Jay Adleman

★ The Maricopa County Attorney's Office at 301 W. Jefferson St. Phoenix, AZ 85003

★ Attorney Marci Kratter (First Chair Attorney for Josiah English III) at 335 East Palm Lane Phoenix, AZ 85004

★ Attorney Joqueez Blackwell (Second Chair Attorney for Josiah English III) at 3101 N. Central Ave. Suite 820 Phoenix, AZ 85012

★ Maria De La Rosa (Mitigation Specialist for Josiah English III) at P.O. Box 3350 Gilbert, AZ 85299

Defendant,  
Josiah English III  
J. III