

**APPLICATION FOR APPOINTMENT TO  
JUDICIAL OFFICE**

**SECTION I: PUBLIC INFORMATION  
(QUESTIONS 1 THROUGH 68)**

**PERSONAL INFORMATION AND  
CONSTITUTIONAL  
QUALIFICATIONS**

1. Full Name:

Matthew David Cochran

2. Have you ever used or been known by any other name?

No.

If yes, provide prior name(s):

3. Office Address:

Yavapai County Public Defender's Office  
2830 N. Commonwealth Dr., Suite 101  
Camp Verde, AZ 86322

4. How long have you lived in Arizona? What is your home zip code?

I have lived in Arizona 21.5 years. My home zip code is 86327.

5. Identify the county you reside in and the years of your residency.

I live in Yavapai County and have lived there for 20.5 years.

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6. Have you been an Arizona resident for the last five years? (Ariz. Const. art. VI, § 22)

Yes.

7. Have you been a resident of Yavapai County for the last year? (Ariz. Const. art. VI, § 37(D))

Yes.

8. Have you been admitted to the practice of law in Arizona for the last five years? (Ariz. Const. art. VI, § 22)

Yes.

9. If appointed, will you be 30 years old before taking office? (Ariz. Const. art. VI, § 22)

Yes.

10. List your present and any former political party registrations and approximate dates of each:

I was registered as a Democrat from 1994 to 2004.

I have been a registered Republican since 2004.

11. Gender: Male

Race/Ethnicity: Caucasian

### EDUCATIONAL BACKGROUND

12. List names and locations of all post-secondary schools attended and any degrees received.

Ohio Wesleyan University, Delaware, OH

Kent State University, Kent, OH Bachelor of Arts received in June, 1999.

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Washington College of Law, American University, Washington, D.C., received Juris Doctorate received in May 2002.

13. List major and minor fields of study and extracurricular activities.

Ohio Wesleyan University  
Major: Undeclared

Kent State University  
Majors: Biology and Political Science  
Extracurriculars: Mock Trial Team; Phi Alpha Delta - Pre-Law Fraternity

Washington College of Law, American University  
Extracurriculars: Civil Practice Clinic; Internship with American Red Cross, Holland Laboratories; Internship at Maricopa County Attorney's Office.

14. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

Kent State University:  
Golden Key National Honor Society  
Pi Sigma Alpha National Political Science Honors Society

<b>PROFESSIONAL BACKGROUND AND EXPERIENCE</b>
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15. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that require special admission to practice.

Admitted by the Arizona Supreme Court on October 22, 2002.

16. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening?

No.

If so, explain.

b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state?

No.

If so, explain any circumstances that may have hindered your performance.

17. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Please also attach a resume.

EMPLOYER	DATES	LOCATION
Yavapai County Public Defender's Office	October 2013 to present	Prescott, AZ/ Camp Verde, AZ
Law Office of Matthew D. Cochran, PLLC	July 1, 2010 to October 2013	Prescott, AZ
Yavapai County Attorney's Office	November 25, 2002 to June 18, 2010	Prescott, AZ
Studied for the Bar Exam; Worked at Bank One Ballpark; Conducted a job search	May 2002 to November 24, 2002	Scottsdale, AZ

18. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

Kennedy C. Klagge  
Lourdes Todd  
Daniel Furlong  
Damon Rossi  
Jillian Bachman-Underhill  
Andrew Falick  
Nathan Best

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Harvel Golden  
Blake Cormie  
James Bigbee  
Conner Pursell  
Charles Owen  
David Loder  
Josh Butner  
Taran Parker  
Christopher Misbach  
Robert Gundacker  
Amy Young  
April Goswick  
Daniella Ferrari  
Gary Horton  
Dana Souser  
Cynthia Giltner  
John Hollis  
Casey Martin  
Michelle DeWaelche  
Renee Mendelsohn  
Grace Guisewite  
Ruth Szanto  
Vincent Ware  
Arizona Baskin  
Cecelia Dubravec  
Jay Dosad  
David Knox  
Angela Ramos

19. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

For the last five years my practice has been exclusively in criminal law. My duties have included being the first chair attorney on capital cases and handling other serious, complex, and high-profile cases.

In addition to my case load, my duties have included supervising attorneys in the Prescott and Camp Verde offices. In my supervisor role, I have attended and participated in meetings with other departments in the criminal justice system in order to coordinate resolutions to issues that arise within the system.

20. List other areas of law in which you have practiced.

While in private practice, I did civil work for clients with small claims against businesses.

While at the Public Defender's Office, I have done work in civil commitments and I have supervised attorneys practicing in that area and in guardianships.

21. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

None.

22. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

My experience in drafting legal documents centers on the drafting of motions to suppress, motions to dismiss, motions to preclude evidence, along with other pre-trial and post-trial motions in criminal litigation.

In addition, I worked closely with the Public Defender to draft the first ever written document of office policies. This process required me to review and analyze relevant employment law statutes and rules along with reviewing the county-wide policies. Finally, we consulted and collaborated with the County Human Resources Department and were able to produce significant and meaningful guidance for our staff and attorneys.

During the COVID-19 pandemic, I was part of the working group of criminal justice partners collaborating to find solutions to allow the criminal justice system to continue to operate as effectively as possible. As part of that work, I was tasked with collaborating with a representative of the Yavapai County Attorney's Office to provide the Yavapai County Superior Court with a draft jury questionnaire for the Court to use once jury trials resumed. We were able to create a jury questionnaire which is still being used in the Superior Court in Yavapai County.

Another skillset that I developed in my practice is writing mitigation letters in potential capital cases. This is an extended process that takes at least several months of focused and diligent work which occurs prior to the State formally filing its Notice of Intent to Seek the Death Penalty. The process begins with putting together a capital team that includes myself, a second chair attorney, a guilt phase investigator, a paralegal, and a mitigation specialist. Once the team is formed, the first chair decides what the priorities for the investigation are. The team members collaborate in their duties and eventually all relevant information

is included in the mitigation memorandum, which hopefully convinces the State not to seek the death penalty. The majority of the letters I have provided the State have convinced the State to decide not to seek the death penalty.

23. Have you practiced in adversary proceedings before administrative boards or commissions?

No.

If so, state:

- a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency.
- b. The approximate number of these matters in which you appeared as:
- Sole Counsel: \_\_\_\_\_
- Chief Counsel: \_\_\_\_\_
- Associate Counsel: \_\_\_\_\_

24. Have you handled any matters that have been arbitrated or mediated?

No.

If so, state the approximate number of these matters in which you were involved as:

- Sole Counsel: \_\_\_\_\_
- Chief Counsel: \_\_\_\_\_
- Associate Counsel: \_\_\_\_\_

25. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case; and (4) a statement of any particular significance of the case.

State v. Clifford Katz – V1300CR201380534

- 1) June, 2014 through July 13, 2015.
- 2) The State of Arizona was represented by Ethan Wolfinger. His email is [REDACTED] and his phone number is [REDACTED]. My co-counsel in the case was Kennedy Klagge. Her email is [REDACTED] and her phone number is [REDACTED].
- 3) I was assigned to represent Mr. Katz part way through the case and quickly realized this was a case where the client was likely Guilty Except Insane. He was charged with firing a rifle at his neighbors. While the State initially did not agree to offer a Guilty Except Insane plea, We were ultimately able to convince the State it was the proper resolution. My client ended up receiving the help he needed to return to being a law-abiding citizen.
- 4) The significance of this case is the extensive amount of very focused, detailed work that was necessary to obtain the best resolution for the client.

State v. Hector Miranda – V1300CR201680563

- 1) October 26, 2016 to March 20, 2018.
- 2) The State of Arizona was represented by Patti Wortman. Her email is [REDACTED] and her phone number is [REDACTED].
- 3) I was assigned to represent Mr. Miranda in October of 2016. My client was charged with committing an Armed Robbery that turned into a First Degree Murder case resulting him facing a life sentence. At the time of the offense, my client was 17 years old and was charged as an adult. In this case, I directed a lengthy mitigation investigation which resulted in a plea to a lesser offense of Second Degree Murder along with other charges. My client was sentenced to 30 years in prison.
- 4) The significance of this case is the amount of time and work that went into getting the plea offer that resolved the case and kept a very young man from spending the rest of his life in prison.



State v. Jermaine Shields – V1300CR201580565

- 1) December 10, 2015 to January 31, 2017.
- 2) The State of Arizona was represented by Mike Morrison. His email address is [REDACTED] and his phone [REDACTED]
- 3) I was appointed to represent Mr. Shields. He was part of a group of people who committed an Armed Robbery of a man in Cottonwood, AZ. During the robbery, one of the people with Mr. Shields was shot and killed by the target of the robbery. Mr. Shields was charged with Armed Robbery and First Degree Felony Murder among other charges. I was able to negotiate a plea where the First Degree Felony Murder charge was dismissed, and Mr. Shields was sentenced to 10 years in the Arizona Department of Corrections.
- 4) The significance of this case is that if Mr. Shields had been convicted of First Degree Felony Murder, he would have been sentenced to life in prison and that the amount of work it took to get Mr. Shields the plea he did was quite extensive.

State v. Briar Aven – P1300CR201900451

- 1) April 10, 2019 to April 27, 2021.
- 2) The State of Arizona was represented by Dana Owens. Her email address is [REDACTED] and her phone number is [REDACTED]
- 3) I was appointed to represent Ms. Aven. She was charged with First Degree Murder for the killing of her grandmother. She was further charged for concealing the body in a back bedroom for about two years and using her grandmother's identity for financial gain. I was able to negotiate a plea for Ms. Aven to Second Degree Murder along with other charges related to the concealing the body and financial crimes. Ms. Aven was sentenced to 38 years in the Arizona Department of Corrections.
- 4) The significance of this case is the amount of mitigation work done to negotiate a plea that was in the best interest of the client and saved her from a life sentence.

State v. Jason Engel – V1300CR202080497

- 1) September 8, 2020 to November 18, 2021.
- 2) The State of Arizona was represented by Mike Morrison. His email address is [REDACTED] and his phone [REDACTED]

number is [REDACTED]

- 3) I was appointed to represent Mr. Engel. He was charged with Second Degree Murder for driving while under the influence of alcohol and striking a motorcycle, which resulted in the death of the single rider. The rider was an off-duty member of local law enforcement in the Verde Valley area of Yavapai County.
- 4) The significance of this case is the intense local interest in the case surrounding the victim's standing in the community. I was able to do a significant mitigation investigation and ultimately secured a beneficial plea, and convinced the judge at sentencing, despite a court. Despite a courtroom full of local law enforcement, I convinced the judge at sentencing to give my client the minimum sentence allowed under the plea agreement.

26. Have you represented clients in litigation in Federal or state trial courts?

Yes.

If so, state:

The approximate number of cases in which you appeared before:

Federal Courts: 0

State Courts of Record: 2,800

Municipal/Justice Courts: 350

The approximate percentage of those cases which have been:

Civil: .5%

Criminal: 95%

The approximate number of those cases in which you were:

Sole Counsel: 2,796

Chief Counsel: 4

Associate Counsel: 2

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion: 2%

You argued a motion described above: 1%

You made a contested court appearance (other than as set forth in the above response): 30%

You negotiated a settlement: 98.5%

The court rendered judgment after trial: 0.5%

A jury rendered a verdict: 1%

The number of cases you have taken to trial:

Limited jurisdiction court: 60-80

Superior court: 50

Federal district court: 0

Jury: 52

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible.

Non-jury trials are approximate because while I was employed at the Yavapai County Attorney's Office, the office did not track bench trials in the Justice Courts.

27. Have you practiced in the Federal or state appellate courts?

Yes.

If so, state:

The approximate number of your appeals which have been:

Civil: 0

Criminal: 1

Other: 0

The approximate number of matters in which you appeared:

As counsel of record on the brief: 1

Personally in oral argument: 0

28. Have you served as a judicial law clerk or staff attorney to a court?

No.

If so, identify the court, judge, and the dates of service and describe your role.

29. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

State v. Christian Royalty – P1300CR200900998

- 1) October 2, 2009 to June 17, 2010.
- 2) The case was heard in the Yavapai County Superior Court. The case began in front of the Hon. Thomas Lindberg but was tried in front of the Hon. Michael R. Bluff.
- 3) Mr. Royalty was represented by John Hollis. His email is [REDACTED] and his phone number is [REDACTED]. I was the assigned prosecutor on the case.

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- 4) The investigation in this case began in Florida where it was found that Mr. Royalty was engaging in sexual talk with a 12-year-old girl. Law enforcement served a search warrant at Mr. Royalty's residence where multiple images of child pornography were located. Mr. Royalty was tried on 10 counts of Sexual Exploitation of a Minor and after a hung jury during the first trial, he was finally convicted of 10 counts. Mr. Royalty was sentenced to 10 consecutive, 35 to life sentences.
- 5) The significance of this case is the predatory conduct involved where Mr. Royalty had offered the 12-year-old's father money to take the girl and victimize her. I was able to protect her without further traumatizing her by having her testify in court. This case had significant media coverage.

State v. John Heinkel – P1300CR201200664

- 1) June 17, 2012 to April 1, 2013.
- 2) This case was tried in the Yavapai County Superior Court in front of the Hon. Tina R. Ainley.
- 3) The State was represented by Steve Young. His email address is [REDACTED] and his phone number is [REDACTED]. I represented Mr. Heinkel.
- 4) In this case, Mr. Heinkel was charged with Aggravated Assault for the discharge of a firearm during an argument between him and two of his roommates. One roommate suffered a significant injury to her arm from the bullet.
- 5) The significance of this case is that while Mr. Heinkel was convicted on all counts, due to the mitigation I presented in the case, I was able to convince the judge that a mitigated term of 6.5 years in the Arizona Department of Corrections was the appropriate sentence.

State v. Douglas Knell – P1300CR20160580

- 1) May 4, 2016 to November 13, 2017.
- 2) The case was handled in the Yavapai County Superior Court in front of the Hon. Michael R. Bluff.
- 3) The State was represented by Patti Wortman. Her email address is [REDACTED] and her phone number is [REDACTED]. I represented Mr. Knell.
- 4) In this case, Mr. Knell was charged with Possession of Methamphetamine for Sale. Law enforcement located 7 grams of methamphetamine in the car Mr. Knell was driving.
- 5) The significance of this case is that at trial, I argued for the lesser included offense of Possession of Methamphetamine and the jury agreed and returned that verdict. Additionally, Mr. Knell had another

case in which I was able to convince the judge to suppress the evidence because the search violated the 4<sup>th</sup> Amendment.

State v. Kenneth Wayne Thompson – P1300CR201200355

- 1) May 2, 2012 to April 3, 2019. My involvement in the case began in the winter of 2018.
  - 2) The case was tried in the Yavapai County Superior Court in front of the Hon. Patricia Trebesch.
  - 3) The State was represented by Steve Young and Robert Johnson. Mr. Young's contact email address is [REDACTED] and his phone number is [REDACTED]. Mr. Johnson is retired and I do not have current contact information for him. I was co-counsel for Mr. Thompson. The lead attorney in the case was Gregory Parzych. His email is [REDACTED] and his phone number is [REDACTED]. Robert Gundacker was also co-counsel for Mr. Thompson. His email is [REDACTED] and his phone number is [REDACTED].
  - 4) In this case Mr. Thompson was charged with two counts of First Degree Murder, among other charges. The State filed an intent to seek the death penalty. Mr. Thompson was accused of driving from another state and killing two people with a hatchet.
  - 5) The significance of this case is that it was a capital trial and, thus, very high stakes litigation. By participating in this trial I qualified to be a first chair attorney on capital cases without the need to associate with an attorney who has tried a capital case to verdict.
30. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.).

Not applicable.

31. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

Not applicable.

32. Describe any additional professional experience you would like to bring to the Governor's attention.

I am a member of the Yavapai County Courthouse Security Steering Committee as the Public Defender's Office only representative on this Committee. As a committee, we meet regularly to implement changes to the security needs of the courthouses around the county and the security needs of all parties.

During the COVID-19 pandemic, I was one of two criminal defense attorneys involved in meeting with the Judges, the County Attorney's Office, court staff and law enforcement to discuss different and novel ways to continue to conduct criminal court in Yavapai County. As part of this process, I was the criminal defense attorney member of the subcommittee charged with collaborating to establish protocols to resume criminal jury trials while protecting all participants from exposure to COVID-19. Additionally, I was tasked with coordinating with a member of the County Attorney's Office to develop a jury questionnaire for use in jury selection to help reduce the number of potential jurors coming into the courthouse.

While at Kent State University, I participated in an internship program in Washington, D.C., where I interned in the United States House of Representatives. During this internship, I reviewed correspondence from constituents and wrote responses as needed.

<b>BUSINESS AND FINANCIAL INFORMATION</b>
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33. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 17?

No.

If so, give details, including dates.

34. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise?

No.

If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are appointed?

Not applicable.

If not, explain your decision.

35. Have you filed your state and federal income tax returns for all years you were legally required to file them?

Yes.

If not, explain.

36. Have you paid all state, federal and local taxes when due?

Yes.

If not, explain.

37. Are there currently any judgments or tax liens outstanding against you?

No.

If so, explain.

38. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support?

No.



If so, explain.

39. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce?

Yes.

If so, identify the nature of the case, your role, the court, and the ultimate disposition.

In my role as a Deputy Public Defender, I, along with many others in the criminal justice system, were sued in Federal District Court for the District of Arizona. The person alleged I, along with the Court, members of the Yavapai County Attorney's Office, and others in the Yavapai County Public Defender's Office of committing crimes and ethics violations during a case. My only role in that case was standing in for the assigned attorney at arraignment and supervising the attorney who was assigned to the case. The lawsuit ultimately was dismissed for lack of legal service.

40. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest?

No.

If so, explain.

41. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties?

No.

If so, explain.

## CONDUCT AND ETHICS

42. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity?

No.

If so, provide details.

43. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation?

No.

If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition.

44. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain.

Not applicable.

45. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice.

None.

46. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 45.

None.

47. List and describe any sanctions imposed upon you by any court.

None.

48. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction?

No.

If so, in each case, state in detail the circumstances and the outcome.

49. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law?

No.

If your answer is "Yes," explain in detail.

50. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency?

No.

If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) and contact information of any persons who took such action, and the background and resolution of such action.

51. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs?

No.

If so, state the date you were requested to submit to such a test, type of test requested, the name and contact information of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.

52. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings?

No.

If so, explain the circumstances of the litigation, including the background and resolution of the case, and provide the dates litigation was commenced and concluded, and the name(s) and contact information of the parties,

**PROFESSIONAL AND PUBLIC SERVICE**

53. Have you published or authored any legal or non-legal books or articles (including online and including under a pen name or pseudonym)?

No.

If so, list with the citations and dates of publication.

54. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes.

If not, explain.

55. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars?

Yes.

If so, describe.

I taught a class on penalty enhancers at the Arizona Public Defenders Association Conference in 2015.

56. List memberships and activities in professional organizations, including offices held and dates.

Member of National Association of Criminal Defense Lawyers from April 2023 to present.

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar?

No.

List offices held in bar associations or on bar committees. Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like.

In 2017, 2019, and 2020, it was my pleasure and privilege to participate in the Yavapai County Veterans Stand Down assisting Veterans to resolve outstanding criminal matters in the Yavapai County Superior Court and the Justice Courts within Yavapai County. Unfortunately, in other years, my court calendar prevented me from being able to participate.

57. Describe the nature and dates of any relevant community or public service you have performed.

I was a member of the Kiwanis Club of Prescott from 2011 to 2013.

I was a board member of the Yavapai Republican Men's Forum from approximately 2006 to 2015. I served 2 years as the President from 2013 to 2015.

In 2017, 2019, and 2020, it was my pleasure to participate in the Yavapai County Veterans Stand Down assisting veterans to resolve outstanding criminal matters in the Yavapai County Superior Court and the Justice Courts within Yavapai County.

While I attended The Heights Church in Prescott, I served as the lead usher at one of the evening services and was a leader in small group Bible studies.

I was a coach of the Prescott High School Mock Trial team in 2005.

58. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received.

I was awarded the 2005 Victim's Rights Week Award for Outstanding Service by the Victim Services Division of the Yavapai County Attorney's Office.

I was awarded the 2007 Yavapai County Felony Prosecutor of the Year Award and nominated for the APAAC Felony Prosecutor of the Year for Small Jurisdictions.

59. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates.

I was a Precinct Committeeman in the Yavapai County Republican Party from approximately 2010 to 2015.

I was elected as a State Committeeman for the Republican Party in 2015.

I applied for Division 1 of the Yavapai County Superior Court on June 16, 2020.

I applied for Division Pro Tem B of the Yavapai County Superior Court in January 2021.

Have you ever been removed or resigned from office before your term expired?

No.

If so, explain.

Have you voted in all general elections held during the last 10 years?

Yes.

If not, explain.

60. Describe any interests outside the practice of law that you would like to bring to the Governor's attention.

Outside the practice of law I enjoy working out at a local CrossFit affiliate and spending time with my fourteen-year-old son, and spending time with my parents, sister and brother in law. I am also a member of Cornerstone Church in Prescott.

**HEALTH**

61. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying?

Yes.

**ADDITIONAL INFORMATION**

62. The Governor seeks to consider the diversity of the county's population in making her appointment. Provide any information about yourself (your heritage, background, life experiences, etc.) that may be relevant to this consideration.

When I was growing up my father was a pathologist and part of his job was to do autopsies in the Youngstown, OH area. Looking back, hearing him discuss those autopsies and his laboratory work sparked my interest in science and later in life led me to an interest in criminal law and how science is used in that forum. My mother was, and still is, a practicing clinical psychologist. Learning the effects of mental illness on people and families fermented an empathy for the mentally ill that I carried into my adulthood and ultimately into my legal career.

I will bring these experiences to the bench by continuing my empathy for the mentally ill and have a solid base of understanding biology and medicine to make the best ruling I can.

63. Provide any additional information relative to your qualifications you would like to bring to the Governor's attention.

Having worked as both a prosecutor and a defense attorney, I would bring an understanding of the role of both parties to any criminal cases I would hear as a judge. These experiences would allow me to understand the positions of the defendant and the State in working with each to bring matters to an optimal resolution.

My significant litigation experience brings with the familiarity with the rules of evidence that I could immediately apply not only to criminal matters but also to

civil litigation and other matters that come before me.

Also, having the unfortunate life circumstance of having gone through a divorce, I am able to understand the emotions of litigants that would be before me when handling a family court calendar. In my circumstance, myself and my former spouse worked hard to make sure the things we decided during our divorce were in our son's best interest. My former spouse and I continue this work and even work together professionally. I can bring my experience in navigating divorce to focus litigants on the key realization that any children and their well-being are the priority.

In my role as a first chair attorney for capital cases I have developed team building skills. The role of the first chair is to manage the case. To fulfill this role one must be able to put the team members in position that best suit their skills and abilities while also allowing the members to develop and improve their skills in all areas. In leading these teams, I have had to take the work of many people and turn those efforts into a coherent litigation strategy. I have done this by being open to the team members' suggestions and ideas and then make the necessary decision. I can bring this skill to the bench and in particular use it to ensure that myself and my staff work as a team to best serve the people of Yavapai County.

64. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location?

Yes

If not, explain.

65. Attach a brief statement explaining why you are seeking this position.
66. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available pursuant to a public records request.



67. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than two written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available pursuant to a public records request.

Not applicable

68. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews.

Not applicable.

# QUESTION 65

I have been living and practicing law in Yavapai County for about 21.5 years. During this time, I was a prosecutor, had a private practice, and worked as a deputy public defender. In each of the positions, I was able to serve the people of Yavapai County. First, as a prosecutor, I was able to help the victims of crimes: from theft, to domestic violence, as well as the family members of those who were killed, to obtain justice for what had occurred to them. Next, in private practice, I was able to assist my clients in getting the best resolutions for their legal problems. When I had my private practice, I had a contract to represent indigent clients when the Public Defender's Office could not. This passion for representing those who cannot afford an attorney first took root in private practice. I enjoyed that portion of my private practice the most. That interest led me to apply at the Public Defender's Office. While in the Public Defender's Office, I have truly enjoyed serving those who could not obtain representation privately. For me, becoming a judge is a continuation of that desire to serve the people of Yavapai County.

As I progress in my career, I continue to look for new challenges. One of the things that excites me about the idea of being a Superior Court judge is learning new areas of law. I am eager to delve into family law, civil law, and other areas of law to which I may be assigned. Also, of significant interest to me in being a judge is deciding the cases objectively and impartially, instead of being an advocate for one side or the other. I look forward to that intellectual exercise.

In observing the judiciary nationally, it has become apparent that there is a trend of the bench being politicized. While I have not observed that issue in with the bench in Yavapai County, I do see what I believe is a disturbing trend nationally for judges to decide in advance which way they want to rule and then justify that desired result. I do not believe this is a way a judge should rule. Judges should operate the exact opposite way. It is the legal analysis that should inform the result. To do otherwise is to use the judiciary to create law rather than to interpret law. I strongly believe that the executive branch and legislative branch that are the appropriate forums to write the laws. In part, I seek this position to do my share to help the judicial system maintain its reputation of integrity and fairness while striving for excellence.

I look forward to joining the many hard-working judges in Yavapai County in coming to just, fair, and thoughtful rulings in the matters brought before the court.

**WRITING SAMPLE 1—  
MOTION FOR SANCTIONS  
FOR DISCLOSURE  
VIOLATIONS**

## LAW AND ARGUMENT

This court is well aware that the disclosure of the identity of informants is governed by Rules 15.1(b)(11) and 15.4(b)(2), Arizona Rules of Criminal Procedure and interpretive case law. Rule 15.4(b)(2) contemplates that the identity of *testifying* informants will be disclosed. The issue is whether the identity of a non-testifying informant should be disclosed. The Arizona decisions have clearly established that when the informant was present at the time of, or participated in, the commission of the crime charged, then he would be a material witness on the issue of Defendant's guilt and his identity must be disclosed. *State v. Martinez*, 15 Ariz. App, 430, 432, 489 P.2d 277, 279 (App. 1971). *See also* (*State v. Godwin*, 106 Ariz. 252, 475 P.2d 236 (1970); *Rivera v. Superior Court*, 430 P.2d. 696 (App. 1967); *State v. Altamirano*, 116 Ariz. 291, 509 P.2d 233 (1977)).

In the *Rivera* decision the Court held "the privilege of the State to protect the identity and indirectly the safety of a confidential informant can be destroyed when the State places its confidential informant in a position of being a material witness to the crime charged." *Rivera v. Superior Court*, 6 Ariz. App. 117, 119, 430 P.2d. 696, 698 (App. 1967). They went on to state "In the instant case the confidential informant is also a material witness to the actual crime alleged to have been committed, and both the United States Supreme Court and our courts have indicated that this type of informant may not be concealed from the defendant and his attorney." *Id.*

The Arizona Supreme Court has indicated the appropriate remedy for non-disclosure when discussing the State's refusal to disclose a material informant. "A further limitation arises from the fundamental requirements of fairness. Where the disclosure of an informer's identity, or of the contents of his communication, is relevant and helpful to the defense of an accused or is essential to a fair determination of a cause, the privilege must give way. In these situations, the trial court may require disclosure and, if the Government withholds the information, dismiss the action." *State v. Kelly*, 99 Ariz. 136, 143-44, 407 P.2d 95, 99 (1965), *Rovario v. U.S.*, 353 U.S. 53, 60-61, (1957).

*See also (State v. Godwin 106 Ariz. 252 (1970)).*

In the instant case the informant was put into a position to directly see and participate in the alleged criminal offense. Therefore, the State made the confidential informant a material witness on its own accord. Now that this issue has been brought to the State's attention, they refuse to disclose the identity of the informant.

What makes this non-disclosure even more egregious is that Det. D [REDACTED] misled Defendant and the State. The purpose of as a police report is to: 1. Accurately record what occurred in a case; 2. Note the collection of evidence; and 3. Identify relevant witness. Det. D [REDACTED]'s report fails on all three grounds. It misled Defendant and the State. This coupled with the State's refusal to disclose a clearly material informant demands dismissal of this case with prejudice.

If the Court does not dismiss the case with prejudice Defendant, then asks the Court to order the State to disclose the material informant and for Defendant to interview the Material Informant. The court, pursuant to Rule 15.4(b)(2) is required to make a finding as to whether disclosure of the non-testifying informant's identity will: (1) "result in substantial risk to the informant"; or (2) "result in substantial risk to ... the informant's operational effectiveness." Additionally, if non-disclosure of the non-testifying informant's identity will infringe the defendant's constitutional rights, disclosure should be ordered despite risk to the informant himself or risk to the informant's operational effectiveness. In other words, the defendant's constitutional rights trump the informant's safety or the informant's future usefulness to the police against others similarly situated. "Rule 15.4(b)(2) only allows non-disclosure, 'provided the failure to disclose will not infringe the constitutional rights of the accused.'" *State v. Gutierrez*, 121 Ariz. 176, 182, 589 P.2d 50, 56 (App. 1978). "Where the disclosure of an informant's identity is relevant and helpful to the defense or is essential to a fair determination of a cause (due process rights), the privilege protecting the name of a confidential reliable informant must give way." *Id.* "The appellant need not prove that the informant would give testimony favorable to the defense in order to compel the disclosure of his identity, nor need he

prove that the informant was a participant or even an eyewitness to the crime. The appellant only need show that the informant would be a material witness on the issue of guilt whose evidence might result in exoneration and that non-disclosure of his identity would deprive the defendant of a fair trial.” *Id.* “It may be that the informant actually witnessed nothing material to the defense. However, the accused must be afforded an opportunity to interrogate the witness and make this determination for himself. The appellant must not be compelled to rely on what others may testify as to what a witness may or may not have observed in a particular case.” *Id.* The Arizona decisions have clearly established that when the informant was present at the time of, or participated in, the commission of the crime charged, then he would be a material witness on the issue of Defendant’s guilt and his identity must be disclosed. *State v. Martinez*, 15 Ariz. App. 430, 432, 489 P.2d 277, 279 (App. 1971). *See also* (*State v. Godwin*, 106 Ariz. 252, 475 P.2d 236 (1970); *Rivera v. Superior Court*, 430 P.2d. 696 (App. 1967); *State v. Altamirano*, 116 Ariz. 291, 596 P.2d 233 (1977)). In the instant case the informant was put into a position to directly see and participate in the alleged criminal offense. Therefore, the State made the confidential informant a material witness on its own accord. Now that this issue has been brought to the State’s attention, they refuse to disclose the identity of the informant. In the alternative to dismissal of the case Defendant asks the Court to order the State to disclose the material informant to the Defendant and to provide Defense Counsel an opportunity to interview the material informant.

Additionally, Arizona Rule of Criminal Procedure 15.1 dictates the timing of the disclosure of a material informant and what information the prosecutor is deemed to have knowledge of. Rule 15.1 (b)(11) states: “the prosecutor shall make available to the defendant the following material and information within the prosecutor’s possession of control: whether the case has involved an informant , and, if so, the informant’s identity, if the defendant is entitled to know either or both of these facts under Rule 15.4(b)(2). As discussed in the previous paragraphs [REDACTED] is entitled to disclosure of the

informant pursuant to Rule 15.4(b)(2). A prosecutor's obligation under Rule 15.1 extends to materials and information in the possession or control of any law enforcement agency which has participated in the investigation of the case and that is under the prosecutor's direction or control. *Az R Cr Pro 15.1 (f)(2)*. Certainly, information known to the Yavapai County Sherriff's Office is deemed to be known by the Yavapai County Attorney's Office. Additionally, the recordings that indicated the female was in the car were sent to the Defense by the Yavapai County Attorney's Office, thus the State knew of this issue prior to the Defense. The prosecutor is required to disclose the information listed in Rule 15.1(b) not later than 30 days after arraignment. *Az R Cr Pro 15.1 (c)(1)*. As Mr. [REDACTED] waived his right to preliminary hearing on July 13, 2010 that is the arraignment date. Therefore, the deadline to disclose the material informant was on August 12, 2010. This is a date long since passed. The State has missed the deadline to disclose the material informant and thus this is another basis to dismiss this case with prejudice.

When the State was confronted with this issue it responded by indicating it would withdraw the plea offer if it was challenged on its position. This would be in violation of Arizona Rule of Criminal Procedure 15.8. "Rule 15.8 was designed to protect defendant's right to effective assistance of counsel when considering a plea offer. It does not require the State to make a plea offer to a defendant, but ensures that if a plea offer is extended, the defendant will have all material information to make an informed decision. ... Rule 15.8 also ensures a defendant's counsel will also have the material information to competently advise the defendant about the plea offer." *Rivera-Longoria v Slayton*, 2010 WL 4102906, 593 Ariz. Adv. Rep. 4 ¶ 13, (2010). The interview of the material informant is material to Mr. [REDACTED]'s decision to accept the current plea offer and for counsel to competently advise Mr. [REDACTED] about the plea offer. The actual charged transaction in Phoenix is not found on the recording. Thus, it is imperative that Defendant be allowed to interview the material informant to see if the material informant agrees with Det. D [REDACTED]'s version of events. Thus, Defendant asks this Court to order the



State to not withdraw the current plea offer until all material disclosure has been made. Defendant asks for this prospectively as the State has already indicated its desire to withdraw the offer if Defendant asks for the Court to order this disclosure.

### **CONCLUSION**

WHEREFORE, the defense respectfully requests that this Court order the dismissal of this case with prejudice. The State has not operated in good faith in this case. They refuse to disclose a material informant who by case law the State is mandated to disclose. In response to Mr. [REDACTED]'s request for disclosure the State says they will pull the plea offer. The State is going to pull the offer because Mr. [REDACTED] wants to hold them to their obligations under Arizona Rules of Criminal Procedure 15.1 and 15.4 and Due Process. Additionally, Mr. [REDACTED] desires to have the effective assistance of counsel afforded to him by the Constitution of the United States and the Constitution of the State of Arizona. For these desires the State wishes to punish Mr. [REDACTED] more harshly. To do anything other than dismiss the case with prejudice would be to promote the State's unfair and prejudicial practices.

**WRITING SAMPLE 2 –  
MOTION TO SUPPRESS  
FOR VIOLATION OF 4<sup>th</sup>  
AMENDMENT**

## THE STOP

An officer must have reasonable suspicion a traffic violation has occurred to initiate a traffic stop. *Arizona v. Johnson* 555 U.S. 323 (2009). If an officer has “an articulable, reasonable suspicion, based upon the totality of the circumstances,” that a traffic violation has occurred, he or she may conduct a limited investigatory stop. *State v. Sweeney* 224 Ariz. 107 (2010)(citing *State v. Teagle*, 217 Ariz. 17, 22 ( App. 2007) and *Terry v. Ohio*, 392 U.S. 1, 30 (1968)).

Reasonable suspicion is something short of probable cause, but it must be more than an “inchoate and unparticularized suspicion or ‘hunch.’” *Sweeney at 112 (citing U.S. v. Sokolow*, 490 U.S. 1, 7 (1989)).

In this case Ofc. [REDACTED] was not in a position to see the stop sign and based his traffic stop of the pickup truck on allegedly not seeing the headlights stop. Such an observation does not give an officer reasonable suspicion of the supposed traffic violation. Ofc. [REDACTED] saw no other traffic violation when he followed the pickup truck for 4 blocks.

The only conclusion this Court can come to is that the traffic stop in this case was not based upon reasonable suspicion but an unparticularized hunch and was conducted in violation of the 4<sup>th</sup> Amendment to the Constitution of the United States and Article 2 Section 8 of the Constitution of the State of Arizona.

## THE DETENTION

“[A]n investigative detention must be temporary and no longer than is necessary to effectuate the purpose of the stop.” *Florida v. Royer*, 460 U.S. 491, 500 (1983). “A seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if

it is prolonged beyond the time reasonably required to complete that mission.” *Illinois v. Caballes*, 543 U.S. 405, 407 (2005). The traffic stop cannot be extended unless there is reasonable suspicion of criminal activity. *Rodriguez v. U.S.* 135 \_\_\_ U.S. \_\_\_, 135 S.Ct. 1609 (2015). Once the time reasonably required to issue a warning has passed, an officer “must allow a driver to continue on his way unless (1) the encounter between the driver and the officer becomes consensual, or (2) during the encounter, the officer develops a reasonable and articulable suspicion that criminal activity is afoot.” *Sweeney* at 112 See also *State v. Kjolrud*, 239 Ariz. 319 (App. 2016). In this case the continued detention went well beyond the time that was reasonable to investigate the stop sign violation and was extended without reasonable suspicion.

During this traffic stop Ofc. [REDACTED] had Mr. L [REDACTED] exit the car and step back to the patrol car. It was during this time that Ofc. [REDACTED] questioned Mr. L [REDACTED]. This simple act was a search and seizure violation. Generally, officers are permitted to remove occupants from a vehicle as a safety precaution. *Pennsylvania v. Mimms*, 434 U.S. 106 (1997). But the United States Supreme Court clarified this general rule: “Unlike a general interest in criminal enforcement, ... the government’s officer safety interest stems from the mission of the stop itself...On-scene investigation into other crimes, however, detours from that mission ... So too do safety precautions taken in order to facilitate such detours.” *Kjolrud* at ¶ 13 (citing *Rodriguez* at 1616).

In this case the detention must be no longer than investigating the alleged failure to stop at a stop sign. Such investigation ended quickly as the driver [REDACTED] admitted to Ofc. [REDACTED] he had done a running stop at the stop sign. Additionally, Mr. L [REDACTED] stated that he was giving Mr. K [REDACTED] a ride to a friend’s house on Sharon Dr. in Prescott Valley and that they

stopped at the Shell station so he (Mr. L [REDACTED]) could get cigarettes and so Mr. K [REDACTED] could get something to drink. During this conversation Ofc. [REDACTED] noted that Mr. L [REDACTED] was nervous. Ofc. [REDACTED] completed his conversation with Mr. L [REDACTED] before speaking with the passenger, Mr. K [REDACTED]. Thus prior to even talking with Mr. K [REDACTED], Ofc. [REDACTED] unconstitutionally extended the traffic stop beyond the time necessary to effectuate its purpose.

During this unconstitutional extension of the traffic stop Ofc. [REDACTED] had a conversation with Mr. K [REDACTED]. Mr. K [REDACTED] told Ofc. [REDACTED] that Mr. L [REDACTED] had picked him up to take him to his friends on Sharon Dr. in Prescott Valley, AZ and that they stopped at the Shell station so he (Mr. K [REDACTED]) could get cigarettes. It was only after this conversation that Ofc. [REDACTED] called for a K-9 unit to respond. It took almost 40 minutes for the K-9 unit to arrive.

According to Ofc. [REDACTED] he detained the occupants because of the information from the arrested person, Mr. L [REDACTED]'s alleged nervousness, and the inconsistent stories.

First, the arrested person could not give an address that Mr. K [REDACTED] was living at. The information, at best, was vague. Ofc. [REDACTED] did not know the specific house the arrested person was talking about.

Second, Courts have indicated that using nervousness as an indicator should be scrutinized closely. "[C]ourts must be wary of granting much weight to a law enforcement officer's subjective observation that a defendant was nervous." *State v. Magner*, 191 Ariz. 392 (1998)(citing *U.S. v. Fernandez*, 18 F.3d 874, 879 (10<sup>th</sup> Cir. 1994)). Mr. L [REDACTED]'s nervousness was from the initial stop. The contact with Mr. L [REDACTED] was momentary. The traffic stop occurred at 2247 hours and only eight minutes later the K-9 unit was called. Noting in those 8 minutes Ofc. [REDACTED] also spoke with Mr. K [REDACTED] there was simply not enough time for any initial

nervousness by Mr. L [REDACTED] to dissipate. This is not the type of nervousness that should be given any weight in the determination of reasonable suspicion.

Third, the stories given by Mr. L [REDACTED] and Mr. K [REDACTED] are not inconsistent. Both said that Mr. L [REDACTED] was driving Mr. K [REDACTED] to a friend's place on Sharon Dr. The way the car turned and was proceeding is entirely consistent with going to Sharon Dr. The only inconsistencies were who was buying cigarettes at the Shell Station. Their stories are minimally different, if at all, as it is perfectly plausible they were both going to get cigarettes at the Shell Station. Even if "inconsistent" it is hardly enough to establish reasonable suspicion that contraband will be located in the truck.

In the end Ofc. [REDACTED] did not have reasonable suspicion to extend the traffic stop into a detention to wait for a K-9 unit. It is for that reason the further detention violated the 4<sup>th</sup> Amendment of the U.S. Constitution and Article 2 Section 8 of the Constitution of the State of Arizona and all evidence obtained from the search of the truck should be suppressed as the fruits of the poisonous tree. *Wong Sun v. U.S.*, 371 U.S. 471 (2003).

#### CONCLUSION

In conclusion, Ofc. [REDACTED] had only one thing in mind when he saw the truck. This one thing was to search that truck by any means necessary including the wanton disregard for the 4<sup>th</sup> Amendment of the U.S. Constitution and Article 2 Section 8 of the Constitution of the State of Arizona. Ofc. [REDACTED] pulled the truck over without reasonable suspicion of a traffic violation as the stop sign Mr. L [REDACTED] allegedly did not stop at was not even in his line of sight. Ofc. [REDACTED] proceeded to unconstitutionally extend the traffic stop beyond the scope of the traffic violation by removing the occupants from the truck, and then extended the stop even further to wait for a K-9 officer when he had no reasonable suspicion to do so. It is for these reasons that

all evidence found during the search of the truck should be suppressed as the fruit of the poisonous tree.