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1 Fourth Judicial District  
Missoula County Courthouse  
2 Missoula, Montana 59802  
Telephone: (406) 258-4780  
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FILED APR 29 2015

SHIRLEY E. FAUST, CLERK  
By M. L. [Signature] Deputy

4 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

5  
6 STATE OF MONTANA,  
7  
8 Plaintiff,  
9  
10 and  
11 WILLIAM MICHAEL WINDSOR,  
12 Defendant.

Dept No. 3  
Cause No. DC-14-509

OMNIBUS HEARING  
MEMORANDUM

10 The Prosecutor and the Defendant's counsel, by signing this memorandum,  
11 acknowledge that they have both read the omnibus hearing statute, MCA 46-13110,  
12 and are now prepared to discuss any pretrial matters in addition to and including  
those matters listed in MCA 46-13-110. Our discussion of and subsequent agreement  
on these pretrial matters is summarized by this memorandum.

13 I. DISCOVERY

14 1. In compliance with MCA 46-15-322, the State shall immediately and  
on a continuing basis:

- 15 a. Disclose the names, addresses and statements of the State's
- 16 witnesses (including experts) that the State may call as witnesses in
- 17 their case-in chief.
- 18 b. Disclose and make available for inspection all physical or
- 19 documentary evidence in the State's possession that the State may
- 20 use at trial or which was obtained from or belonged to the
- Defendant.
- c. Disclose all oral, written or recorded statements made by Defendant
- to investigating officers or to third persons.

1 d. Disclose all exculpatory evidence known to the State, including  
2 evidence that would tend to reduce the Defendant's potential  
3 sentence.

4 2. In compliance with MCA 46-15-323, the Defendant shall, 30 days  
5 after arraignment, and on a continuing basis:

6 a. Disclose the names, addresses and statements of the Defendant's  
7 witnesses (including experts) that the Defendant may call in their  
8 case-in-chief.

9 b. Disclose and make available for inspection all physical or  
10 documentary evidence in the Defendant's possession that may be  
11 used at trial.

12 3. Initial discovery shall be completed by \_\_\_ done and continuing\_\_\_.  
13 Discovery disputes shall be raised no later than twenty-one (21) days  
14 prior to trial (or at the time of the final pre-trial, whichever is earlier);

15 **II. CO-DEFENDANT(S)**

16 The Defendant states that there \_\_\_\_\_ is \_\_\_x\_\_\_ is not a co-  
17 defendant in this case. The name(s)/cause number(s) of the co-  
18 defendant(s) is/are

19 \_\_\_\_\_  
20 Co-Defendant \_\_\_\_\_ is represented by  
\_\_\_\_\_ ; Co-Defendant \_\_\_\_\_ is  
represented by \_\_\_\_\_.

21 **III. FITNESS TO PROCEED**

22 The Defendant's fitness to proceed is at issue: ( ) Yes (v) No. If yes:

23 a. A psychiatric examination of the Defendant shall be conducted by  
24 (the State Hospital) \_\_\_\_\_  
25 Name of Psychiatrist: \_\_\_\_\_

26 b. Further orders: \_\_\_\_\_

1 \_\_\_\_\_  
2 **IV. INFORMANT, AND SURVEILLANCE**

3 **INFORMANT:** The State declares that a confidential informant was  
involved ( )Yes ( x )No. If yes:

4 The Informant will be called as a witness: ( )Yes ( )No

5 The State has disclosed the informant's identity: ( )Yes ( )No

6 The State will disclose the Informant's identity by: \_\_\_\_\_

7 **ELECTRONIC SURVEILLANCE:** The State declares there has been  
8 electronic surveillance of the Defendant or his premises: ( )Yes ( x )No. If yes:  
All material obtained by electronic surveillance has been supplied to the  
9 Defendant.

10 **INVESTIGATIVE SUBPOENA:** The State declares that an investigative  
subpoena has been executed: ( )Yes ( x )No

11 All material obtained by the investigative subpoena has been supplied to  
the Defendant ( )Yes ( )No.

12 **V. SUPPRESSION MOTIONS**

13 1. The Defendant moves, pursuant to MCA 46-13-302, to suppress  
14 physical evidence: (  )Yes ( ) No. If yes: \_\_\_\_\_

15 The Defendant's statement of facts and brief filed by: 5-21-15

16 The State's brief filed by: 6-4-15

17 The Defendant's reply brief filed by: 6-11-15

18 2. The Defendant moves, pursuant to MCA 46-13-301, to suppress  
19 Defendant's admission or confession: (  )Yes ( ) No If yes:

20 The Defendant's brief filed by: 5-21-15

The State's brief filed by: 6-4-15

Defendant's reply brief by: 6-11-15

(NOTE: The motions will be deemed submitted without a hearing unless a Request for  
Hearing is submitted prior to the end of the briefing period.)

1 **VI. OTHER CRIMES, WRONGS OR ACTS/TRANSACTION EVIDENCE**

2 The State intends to introduce evidence of other crimes, wrongs, or acts,  
3 or transaction evidence pursuant to Rule 404, M.R.E.: ( x )Yes ( )No

4 If yes, the State declares that all such evidence has been disclosed to  
5 counsel for Defendant through the normal discovery process.

- 6 1. The Defendant may file a brief opposing the use of any such  
evidence by: 6-5-15
- 7 2. The State's response brief due on: 6-19-15
- 8 3. The Defendant's reply brief due on: 6-26-15

9 (NOTE: The motions will be deemed submitted without a hearing unless a Request for  
10 Hearing is submitted prior to the end of the briefing period. If and only if such  
evidence is discovered later, the exclusion of the evidence may be addressed in a  
motion in limine)

11 **VII AFFIRMATIVE DEFENSES**

12 The Defendant is aware of the time limits imposed by MCA 46-15-323 in  
which Defendant may assert certain defenses.

13 1. The Defendant will assert an affirmative defense: (  )Yes ( )No  
14 If yes, the affirmative defense is: legal necessity, lack of notice

15 2. The Defendant will introduce evidence of good character: (  )Yes ( )No

16 3. The names and addresses of all witnesses to be called in support of  
17 any affirmative defense or good character, together with all written reports or  
statements made by them shall be furnished to the State by: 5-21-15

18 4. The State shall furnish the Defendant with the names and  
19 addresses of all witnesses the State intends to call, to rebut the Defendant's  
affirmative defense or good character, by: 6-21-15

20

1 **VIII MOTIONS BY THE STATE**

2 The State has pretrial motions: ( x )Yes ( )No If yes: These motions are:

3 (a) in limine \_\_\_\_\_

4 (b) \_\_\_\_\_

5  
6 The State's brief filed by: \_\_\_\_\_

7 The Defendant's brief filed by: \_\_\_\_\_

8 The State's reply brief filed by: \_\_\_\_\_

9 (NOTE: The motions will be deemed submitted without a hearing unless a Request for Hearing is submitted prior to the end of the briefing period.)

10 **IX. MOTIONS BY THE DEFENDANT**

11 The Defendant has pretrial motions: (  )Yes ( )No If yes:

12 These motions are: see attached list

13 The Defendant's brief filed by: 6-1-15

14 State's response filed by: 6-25-15

The Defendant's reply brief filed by: 7-3-15

15 (NOTE: The motions will be deemed submitted without a hearing unless a request for Hearing is submitted prior to the end of the briefing period.)

16  
17 **X. PERSISTENT FELONY OFFENDER**

18 Pursuant to MCA 46-13-108, the State hereby gives notice to the Defendant that the State seeks to have the Defendant sentenced as a Persistent Felony Offender because of the following convictions:

19 (a) no

20 (b) \_\_\_\_\_

1 **XI. TRIAL PROCEDURE**

- 2 1. Expected length of trial is:  3  days.
- 3 2. The Court will draw a panel consisting of  100  prospective jurors.
- 4 The State waives any right to be present at the drawing and agrees that  
5 the panel may be drawn from those individuals who have returned their  
6 juror questionnaires: ( x )Yes ( )No.
- 7 Defendant waives any right to be present at the drawing and agrees  
8 that the panel may be drawn from those individuals who have returned  
9 their juror questionnaires: ( )Yes (  )No.
- 10 3. All motions in limine shall be filed and fully briefed not later than  
11  20  days prior to trial unless upon good cause shown (or at the  
12 time of the final pre-trial, whichever is earlier).
- 13 4. All standard jury instructions shall be filed prior to voir dire.  
14 Additional instructions will be submitted on a showing of good  
15 cause.
- 16 5. Appropriate Disposition Date: \_\_\_\_\_

17 (Note: After this date no plea bargains will be accepted by the Court, nor will any pleas  
18 bargains be allowed to be filed after this date.)

19 **XII. APPOINTMENT OF COUNSEL**

20 As the court-appointed counsel for the Defendant, I acknowledge that this  
21 appointment includes the trial of this matter in District Court, post-trial motions,  
22 sentencing and, absent specific permission to withdraw, an appeal to the  
23 Montana Supreme Court if the Defendant elects to appeal and I do not deem  
24 such an appeal to be frivolous. In the event the Defendant wishes to proceed  
25 with an appeal I believe has no merit, I will proceed pursuant to the provisions of  
26 46-8103(2), MCA. If the Defendant elects not to appeal, the Defendant and I will  
27 sign a written notice of "Election Not to Appeal" and I will file the "Election Not to  
28 Appeal" with the Court.

pro se

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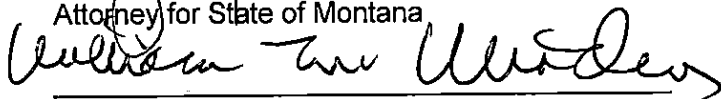
**XIII. STIPULATION OF ENTRY**

Counsel for the State and for the Defendant have reviewed this Omnibus Hearing Memorandum and hereby stipulate to its entry by the Court.

DATED this 21 day of APRIL 2015.



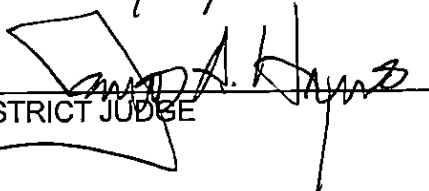
JENNIFER CLARK  
Attorney for State of Montana



WILLIAM MICHAEL WINDSOR  
Defendant

SO ORDERED:

Dated: 04/27/15



DISTRICT JUDGE

MOTION TO CHANGE PLACE OF  
TRIAL FOR PREJUDICE

MOTION TO DECLINE MULTIPLE CHARGES  
ARE MISDEMEANORS AS THEY  
CONSTITUTE ONLY ONE CHARGE

MOTION TO DISMISS

MOTION TO SUPPRESS EVIDENCE

MOTION TO DECLINE LACK OF  
JURISDICTION

MOTION TO DECLINE LACK OF  
PROBABLE CAUSE



