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**IN THE SUPERIOR COURT, THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF COCONINO**

**STATE OF ARIZONA,**  
Plaintiff,  
  
vs.  
**SAMUEL D. GOOCH,**  
Defendant.

Case No. CR2020-00476

**STATE'S RESPONSE TO MOTION FOR  
REMAND TO THE GRAND JURY FOR A  
REDETERMINATION OF PROBABLE  
CAUSE**

Hon. Cathleen Brown Nichols, Division 5

The State of Arizona, by and through undersigned counsel, asks this Court to deny the motion for remand. This response is supported by the following Memorandum of Points and Authorities.

RESPECTFULLY SUBMITTED this 11th day of August, 2020.

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By /s/ Ammon Barker  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. FACTS**

Mark Gooch, Defendant's brother, is charged with first degree murder of Sasha Krause (Victim) in Coconino County Superior Court. The Victim's body was found February 21, 2020 near Sunset Crater Volcano National Monument in Coconino County. Mark was arrested and booked into Maricopa County Jail on one count of homicide on April 21, 2020. At the time of the murder and arrest, Mark was stationed at Luke Air Force Base (AFB) outside of Phoenix. The news of Mark's arrest was released to the press. His brother, Defendant Samuel Gooch, was later charged with Attempted Hindering Prosecution.

On April 21st, Coconino County police were told that Jermia Levesque, who was also stationed at Luke AFB, had told his superior that Mark had asked him to store a firearm for him. The firearm was a Marlin brand .22 caliber rifle. Levesque had been storing the firearm since February 23rd or 24th, 2020. Officers later seized the firearm as part of the murder investigation.

Also, on April 21st, a Coconino County detective interviewed Mark Gooch's brother, Samuel Gooch, in Wisconsin. During the interview, the detective asked Defendant if he knew whether Mark had taken any guns with him to Arizona. Defendant said he did not think so because firearms were not allowed on the base.

Soon after Mark's arrest, Defendant contacted Kemper Koeple, also stationed at Luke AFB, who was known to have some of Mark's personal items. Defendant wanted to make arrangements for Mark's possessions. Koeple notified investigators about the communication with Defendant and on April 29th a call was set up between Levesque, who had been storing the firearm, and Defendant. Levesque was located in Maricopa County and Defendant was in Wisconsin. The call was recorded and officers listened in.

1 When Levesque mentioned that the property he had was a firearm, Defendant  
2 responded, “Um, anyway, can you just dispose of that?” After some further back and  
3 forth, Defendant said, “considering what’s going on, if you are comfortable, I would say  
4 get rid of it anyway you deem fit, if not I will deal with it whenever I get there.” Defendant  
5 eventually agreed to take anything Levesque did not dispose of when he arrived in  
6 Arizona.

7 On April 30th there was a second call where Levesque and Defendant again  
8 discussed plans for Mark’s items. They talked about the meeting on May 3rd, 2020 and  
9 selected a meeting spot. On May 1st, Levesque received a text message from an  
10 unknown number with the person identifying themselves as Samuel Gooch. Defendant  
11 and Levesque chose a time to meet on May 3rd.

12 On May 3rd, Coconino County officers drove to Surprise, Arizona, near Phoenix,  
13 with a decoy rifle to conduct a controlled delivery to Defendant. Defendant arrived at the  
14 meeting place, made contact with Levesque, took the firearm, and placed it in his  
15 vehicle. Once Defendant was in his vehicle, police contacted him and found the firearm  
16 underneath the middle seat of the car.

## 18 **II. LEGAL ARGUMENT AND ANALYSIS**

19 Defense counsel argues that the propriety of venue was and is at issue in this  
20 case and that the State did not give evidence supporting the proposition that the crime  
21 of attempted hindering prosecution “was committed or resulted in Coconino County.”  
22 Mtn, p. 5.

23 “Under Article 6, section 14(4) of the Arizona Constitution, ‘the superior court’ has  
24 original jurisdiction of ‘[c]riminal cases amounting to felony, and cases of misdemeanor  
25 not otherwise provided for by law.’” *Lay v. Nelson in & for County of Yuma*, 246 Ariz.  
26 173, 176, 436 P.3d 496, 499 n.2 (App. 2019). “All of Arizona’s superior courts are treated  
as a single entity for purposes of subject-matter jurisdiction. That is because ‘[t]he

1 superior courts . . . shall constitute a single court, composed of all the duly elected or  
2 appointed judges in each of the counties of the state.” *Id.* (citing Ariz. Const. art. 6, §  
3 13). “Once Arizona has acquired subject-matter jurisdiction over a felony offense  
4 pursuant to § 13-108, venue provisions determine where the offense will be tried.” *Id.*  
5 (citing A.R.S. § 13-109 (2019); *Massengill v. Superior Court*, 3 Ariz. App. 588, 591, 416  
6 P.2d 1009 (1966)). “While jurisdiction is the power of a court to try a case, venue  
7 concerns the locale where the power may be exercised.” *State v. Willoughby*, 181 Ariz.  
8 530, 543, 892 P.2d 1319, 1332 (1995) (citations omitted).

9 Under A.R.S. § 13-109(A), “[c]riminal prosecutions shall be tried in the county in  
10 which conduct constituting any element of the offense or a result of such conduct  
11 occurred, unless otherwise provided by law.” A.R.S. § 13-109(A). In addition, 13-  
12 109(B)(1) says: “[i]f conduct constituting an element of an offense or a result constituting  
13 an element of an offense occurs in two or more counties, trial of the offense may be held  
14 in any of the counties concerned.” A.R.S. § 13-109(B)(1).

15 The elements of hindering prosecution in the first degree are: (1) the state must  
16 show that a defendant intended to hinder the apprehension, prosecution, conviction, or  
17 punishment of another for a felony and, (2) that the defendant rendered assistance to  
18 such person. A.R.S. § 13–2512; *State v. Duarte*, 246 Ariz. 338, 346, 438 P.3d 707, 715  
19 (App. 2018).

20 There is currently no Arizona case law on the issue of hindering prosecution and  
21 venue. In addition, most of the case law on A.R.S. § 13-109 concern changes of venue,  
22 rather than statutory interpretation. *But see State v. Comer*, 165 Ariz. 413, 422-23, 799  
23 P.2d 333, 342-42 (1990) (discussing “conduct” and finding that in a sexual abuse and  
24 sexual assault case, venue was proper in county in which defendant kidnapped victim  
25 and in which he committed acts demonstrating his intent). However, Arizona’s court of  
26 appeals has interpreted language that is similar to A.R.S. § 13-109 in § 13-108, dealing

1 with jurisdiction rather than venue. “In interpreting a statute, we first look to the  
2 measure’s words, giving them their ordinary meaning unless the legislature has provided  
3 a definition. Additionally, when possible, “[w]e ... construe statutes to give effect to an  
4 entire statutory scheme.” *Lay*, 246 Ariz. 173, 175, 436 P.3d 496, 498 (App. 2019)  
5 (citations omitted).

6 A.R.S. § 13-108 states:

- 7 A. This state has jurisdiction over an offense that a person commits by his own  
8 conduct or the conduct of another for which such person is legally accountable if:  
9 1. *Conduct constituting any element of the offense or a result of such conduct*  
occurs within this state.

10 A.R.S. § 13-108(A)(1) (italicized for emphasis).

11 The court held that “the ‘result’ of criminal conduct occurs within a jurisdiction  
12 when the crime has and is intended to have a ‘substantial’ or ‘direct’ effect within the  
13 jurisdiction.” *Lay*, 246 Ariz. at 178 (App. 2019) (citing *State v. Flores*, 218 Ariz. 407, 414  
14 188 P.3d 706, 713 (App. 2008); *State v. Miller*, 157 Ariz. 129, 130-34, 755 P.2d 434,  
15 435–39 (1988)). Regarding A.R.S. § 13-108, Arizona courts have cautioned that  
16 “jurisdiction is not created wherever a ‘result’ or ‘detrimental effect’ occurs; instead, ‘the  
17 adverse consequence must be part of the design of the actor.’” *Flores*, 218 Ariz. at 415.

18 Similar reasoning can be used to interpret the venue statute. In this case, the  
19 purpose of the Defendant’s attempt to hinder prosecution was to hinder the murder  
20 prosecution occurring in Coconino County. The crime of hindering prosecution is  
21 intended to have a substantial and direct effect on a prosecution in a specific jurisdiction.  
22 There would be no case of hindering prosecution if there were no case being  
23 prosecuted. Because the result of this particular criminal conduct—hindering  
24 prosecution—occurred in Coconino County, this Court has jurisdiction over Defendant’s  
25 case.  
26

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1 During the grand jury presentation, the State provided evidence to support the  
2 proposition that the crime of attempted hindering prosecution, “was committed or  
3 resulted in Coconino County” while also not excluding the fact that many of those  
4 involved in this case were in different jurisdictions. The State was clear that this matter  
5 was related to Mark Gooch and the murder investigation he was involved in where a  
6 body—that had been shot—was discovered in Coconino County. GJ, 10:14-19. The  
7 State was also clear about the fact that Defendant was from out-of-town, specifically  
8 Wisconsin, and that he had “travel[ed] halfway across the United States” to collect Mark  
9 Gooch’s firearm in Arizona. GJ, 19:11-13; 28:18-19. The State also noted that Levesque  
10 was stationed at Luke AFB. GJ, 18:21-19:2. Finally, the detective testifying to the Grand  
11 Jury stated that the controlled delivery took place in Surprise, Arizona. GJ, 32:7-10.  
12 However, that evidence still showed that Defendant intended to hinder the prosecution  
13 of Mark Gooch, which was a prosecution occurring in Coconino County.

14 **III. CONCLUSION**

15 Venue is proper in this case and the State did provide evidence that the crime of  
16 attempted hindering prosecution occurred or resulted in Coconino County. Defendant’s  
17 Motion should be denied.  
18

19 RESPECTFULLY SUBMITTED this 11th day of August, 2020.

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COPY of the foregoing  
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11th day of August, 2020,  
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Hon. Cathleen Brown Nichols  
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