

1 **LAW OFFICES OF JOSHUA S. DAVIDSON, PLC**
14362 North Frank Lloyd Wright Blvd - Suite 1000
2 Scottsdale, Arizona 85260
WWW.JDAVIDSONLAW.COM
3 Telephone 480-248-7022
Facsimile 480-336-2250
4 Joshua S. Davidson 019048
josh@j davidsonlaw.com
5 Attorney for Defendant

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

8 STATE OF ARIZONA,

9 Plaintiff,

10 vs.

11 **SAMUEL D. GOOCH,**

12 Defendant.

Case No. **CR 2020-00476**

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

Oral Argument Requested

(Hon. Cathleen Brown Nichols– Div. 5)

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15 Defendant moves this Court for its Order remanding this case to the Grand
16 Jury based on the State’s failure to disclose that the subject conversations
17 between Mr. Gooch and Mr. Levesque from which the indictment arises all
18 occurred outside of Coconino County, Arizona. The State’s Response in this
19 matter all but ignores this deprivation of Defendant’s procedural due process
20 rights and attempts to sidestep this issue rather than providing any meaningful
21 legal justification for the failure to present this clearly exculpatory information.

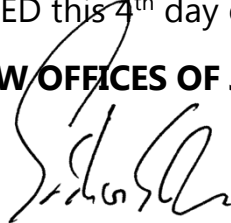
22 As the State concedes in its Response, the result of criminal conduct occurs
23 when the crime both **had and was intended to have** a substantial or direct
24 effect within the jurisdiction. State’s Response p.5 (emphasis added). The State
25 does not, and cannot, cite any evidence from which a reasonable fact-finder
26 could conclude that that Mr. Gooch’s conduct alleged conduct **had** any effect –
27 much less a substantial or direct effect – within Coconino County, Arizona,

1 irrespective of what his alleged intent was. Unfortunately, the Grand Jury was
2 prevented from making this determination on their own because the State
3 withheld the fact that Mr. Gooch and Lavesque were both outside of Coconino
4 County during their conversations. This omission prevented the grand jury from
5 basing its decision to issue the Indictment against Mr. Gooch upon an accurate
6 set of facts and the applicable law. Remand is therefore required. *See, State v.*
7 Superior Court (Mauro), 139 Ariz. 422, 425, 678 P.2d 1386, 1389 (1984).

8 The Fourth and Fourteenth Amendments to the United States Constitution
9 guarantees Mr. Gooch the right to procedural due process. He is also afforded
10 the constitutional right to be tried in the county where his offense was allegedly
11 committed under Article Two, Section Twenty-Four of the Arizona Constitution.
12 The manner in which the State presented this case to the grand jury seeks to
13 violate both of these rights.

14 RESPECTFULLY SUBMITTED this 4th day of August, 2020.

15 **LAW OFFICES OF JOSHUA S. DAVIDSON, PLC**

16
17 By 
18 Joshua S. Davidson
19 Attorney for Defendant

20 COPY of the foregoing emailed
21 this same date to:

22 Christal Stump
23 Judicial Assistant to Hon. Cathleen Brown Nichols
24 200 N. San Francisco St.
25 Flagstaff, AZ 86001
26 cstump@courts.az.gov

27 Ammon Barker
Coconino County Attorney's Office
110 E. Cherry Avenue
Flagstaff, Arizona 86001 4627
abarker@coconino.az.gov

By: 