

## APPLICATION FOR JUDICIAL OFFICE

### SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 65)

#### PERSONAL INFORMATION

1. Full Name:  
**Julie Marie McDonald**
2. Have you ever used or been known by any other name? **No** If so, state name:
3. Office Address:  
**202 South First Avenue, Suite 301-C  
Yuma, AZ 85364**
4. How long have you lived in Arizona? What is your home zip code?  
**19 years  
85367**
5. Identify the county you reside in and the years of your residency.  
**Yuma County  
12 years**
6. If appointed, will you be 30 years old before taking office? ☒ yes ☐ no  
If appointed, will you be younger than age 65 at the time of appointment? ☒ yes  
☐ no

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

**Democrat – 1990's**  
**Independent – Most of 2000's**  
**Republican – 2018 and 2019**

8. Gender: **Female**

Race/Ethnicity: **White**

## **EDUCATIONAL BACKGROUND**

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

**Edmonds Community College (no degree)**  
**University of Washington – Bachelor of Arts**  
**California Western School of Law - Juris Doctor**

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

**Edmonds Community College: General studies. I went to classes at night while working full-time in the personal insurance industry.**

**University of Washington: Sociology with an emphasis in African-American History. During my time at the University of Washington, I held part-time positions at a medical answering service and the student government office.**

**Graduate School: Major was study of law with an emphasis in criminal law. Outside of studies I participated in part-time work study, and worked part-time as a legal assistant at a private law office.**

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

**University of Washington**

**Dean's List Fall 1996 and Spring 1997**  
**Ethnic Studies Student Association Member**  
**Student Government Member**

**California Western School of Law**

**Second Place Oral Appellate Advocacy Competition**  
**Certified by State Bar of California to appear in court as an intern**  
**Pro Bono Honors Program Award**  
**State Bar of California Wiley M. Manuel Award for Pro Bono Service**

|   |
|---|
| <b>PROFESSIONAL BACKGROUND AND EXPERIENCE</b> |
|---|

12. 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.

**State Bar of Arizona – July 2000 - Present**

**Federal District Court of Arizona - December 2007 - Present**

**Federal Criminal Justice Act Panel – 2012 - 2013 and 2015 - Present**

13. 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.
14. 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. Do not attach a resume.

| EMPLOYER   | DATES          | LOCATION |
|--|----------------|----------|
| Julie M. McDonald, P.C.<br>Solo Practitioner           | 2014 - Present | Yuma, AZ |
| Yuma Municipal Court<br>Judge Pro Tempore              | 2015 - Present | Yuma, AZ |
| Metcalf & McDonald, PC<br>Partner                      | 2013 – 2014    | Yuma, AZ |
| AzCOPS<br>Union Member Attorney                        | 2010 – Present | Yuma, AZ |
| AzCPOA<br>Union Member Attorney                        | 2011 – Present | Yuma, AZ |
| Donovan Law, PLLC<br>Associate                         | 2008 – 2013    | Yuma, AZ |
| Yuma County Legal Defender<br>Assistant Legal Defender | 2007 – 2008    | Yuma, AZ |

|   |                    |   |
|---|--------------------|---|
| <b>Cochise County Legal Defender<br/>Assistant Legal Defender</b> | <b>2000 – 2007</b> | <b>Bisbee, AZ</b>                                   |
| <b>University of Phoenix<br/>Adjunct Professor</b>                | <b>2003 – 2008</b> | <b>Sierra Vista, AZ<br/>Tucson, AZ<br/>Yuma, AZ</b> |
| <b>Law Offices of Donald L. LeVine<br/>Legal Assistant</b>        | <b>1998 – 2000</b> | <b>San Diego, CA</b>                                |
| <b>Work Study<br/>Assistant to Professor</b>                      | <b>1997 – 1998</b> | <b>San Diego, CA</b>                                |

15. 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.

|   |                       |
|---|-----------------------|
| <b>James Coil, Presiding Judge<br/>Yuma Municipal Court<br/>1515 South Second Avenue<br/>Yuma, AZ 85364</b> | <b>2015 - Present</b> |
|---|-----------------------|

|  |                       |
|--|-----------------------|
| <b>Jeanette Umphress, Judge Pro Tempore<br/>Yuma Municipal Court<br/>1515 South Second Avenue<br/>Yuma, AZ 85364</b> | <b>2015 - Present</b> |
|--|-----------------------|

|  |                    |
|--|--------------------|
| <b>Janet H. Metcalf – Law Partner<br/>51 West Second Street<br/>Yuma, AZ 85364</b> | <b>2013 - 2014</b> |
|--|--------------------|

16. 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.

**Ninety-five percent (95%) of my practice consists of privately retained or court appointed criminal defense matters. This portion of my practice involves representing clients at all stages of misdemeanor and felony prosecutions in the trial court. I regularly appear before the Yuma County Superior Court, Yuma County Justice Courts, City of Yuma Municipal Court, and City of San Luis Municipal Court. My privately retained cases have also caused me to appear before the La Paz County Superior Court and the Salome Justice Court. I further represent indigent clients charged with illegal entry or being held as a material witness in the Federal District Court located in Yuma. In addition to my criminal defense work, I represent clients in Orders of Protection Hearings, appear in Administrative Law Hearings at the Motor Vehicle Division, represent law enforcement officers belonging to the AzCOPS Union who are involved in disciplinary matters, represent corrections officers belonging to the AzCPOA Union who are involved in disciplinary matters, and I act as a victim representative in the criminal courts.**

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

**Juvenile Delinquency  
Administrative Law**

18. 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.

**Criminal Law – Certified in Arizona 2008 to present**

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

**The majority of criminal cases are resolved through plea agreements. As such, the ability to negotiate is, and always has been, a critical and significant part of my law practice. I engage in negotiations in some form on a nearly daily basis, whether it be with opposing counsel, my client, the other party, or the court. In order to effectively represent my clients, I must have a detailed understanding of the facts of the case, all mitigating and aggravating information applicable to my client, credibility issues regarding witnesses, the specifics and the nuances of the law and rules of procedure, sentencing parameters, and influential social and political issues, and I have become skilled at doing so. Effective negotiation requires I be able to clearly**

communicate the information and issues I've identified, be sensitive to the needs and positions of the others involved, actively listen, and be ready with alternative resolutions.

The practice of criminal law requires extensive Motion practice, spanning a variety of issues, and I have a great deal of experience in that area. I have experience filing Motions involving suppression of evidence based on the manner in which a case was investigated and/or violations of the United States and Arizona Constitutions, limiting evidence allowed at trial, enforcing disclosure requirements, enforcing crime victim rights, mental competency of a defendant or victim, remanding cases back to a Grand Jury, dismissal of cases, as well as any other constitutional, evidentiary, or legal issues that arise in any given case. I keep abreast of court decisions at the State and Federal levels as any change in or interpretation of the law can have a critical impact on my client's case or issue(s). Recognition of and familiarity with potential legal challenges and ongoing legislation and court processes is paramount to effectively handling and/or negotiating any matter, as they can be the difference between a conviction, acquittal, or dismissal, and directly affect the rights of both defendants and crime victims.

20. Have you practiced in adversary proceedings before administrative boards or commissions? **Yes** If so, state:

a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency.

**Motor Vehicle Division – Less than 100  
Personnel Board Appeal Hearing - 1**

b. The approximate number of these matters in which you appeared as:

Sole Counsel: All  
Chief Counsel: \_\_\_\_\_  
Associate Counsel: \_\_\_\_\_

21. 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: \_\_\_\_\_

22. 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.

- a. **State v. Jamie Beth Hoffman**  
Yuma County Superior Court  
S1400CR201700538  
S1400CR201700794  
S1400CR201700795  
S1400CR201700777  
March 2017 through January 2018

Jim Eustace  
[Jim.Eustace@yumacountyaz.gov](mailto:Jim.Eustace@yumacountyaz.gov)  
928-817-4300

Ms. Hoffman was a local business owner, who became addicted to opiates. Her addiction caused her to lose her business and she began shoplifting to support her increasing habit. Ms. Hoffman was indicted on a total of two counts of shoplifting with two or more shoplifting priors alleged; five counts of shoplifting and one count of theft. These were all felony charges which could have resulted in a prison sentence. While her court matters were pending, Ms. Hoffman successfully completed in-patient rehabilitation, as well as after-care services. I was able to utilize Ms. Hoffman's addiction and subsequent success in treatment to negotiate a plea to one count of shoplifting, with a requirement that all other counts and cases be dismissed. As part of this agreement, Ms. Hoffman was placed on probation with no incarceration for a period of three years. She agreed to pay full restitution for any losses incurred by the victims. While on probation, Ms. Hoffman was accepted into the local Drug Court Program, and will be graduating successfully in March 2019.



***b. State v. Mariah Jade Fletcher***

**Yuma County Superior Court**

**S1400CR201800411**

**April 2018 through July 2018**

**Nathaniel Sorenson**

**Nathaniel.Sorenson@yumacountyaz.gov**

**928-817-4300**

**Ms. Fletcher was charged with felony burglary in the third degree for stealing a bicycle. Ms. Fletcher suffered from numerous mental health diagnoses that were difficult to confirm because she also self-medicated with a variety of substances. At the age of 16, Ms. Fletcher was declared Seriously Mentally Ill. It was now 13 years later and I was able to collect all of her medical and mental health records related to this designation. I contacted Ms. Fletcher's local case worker and she advised me Ms. Fletcher received Ativan and Valium on a daily basis from the Yuma Regional Medical Center. This was not allowing for successful mental health treatment. The treatment providers were finding it difficult to get Ms. Fletcher in compliance with counseling, finding a place to live, taking her medication, and any other requirements she had been asked to fulfill.**

**Ms. Fletcher had previously been in Mental Health Court but was unsuccessful. She was terminated from the specialty court and sentenced to prison. Due to the challenges created by her mental health diagnoses, as well as the prior felony conviction and previous unsuccessful completion of Mental Health Court, the mandatory sentence was prison. I was able to originally negotiate a plea agreement that called for intensive probation. Through further work and communications with the Mental Health Court coordinator and prosecutor, Ms. Fletcher was placed on supervised probation and accepted into Mental Health Court. She remains on probation and in the Mental Health Court at this time.**

c. *State v. Colton Whiteside*  
Yuma County Superior Court  
S1400CR201401213  
April 2014 through March 2015

William Katz  
[will@hallsconstruction.com](mailto:will@hallsconstruction.com)  
928-782-3072

Mr. Whiteside was a 22 year old Marine stationed at the Marine Corps Air Station in Yuma, Arizona. One night he and numerous other Marines were camping in a secluded area near Lake Mitty. This area was miles down an unpaved road. After a few miles, there was a somewhat concealed small vehicle trail to the right which led to the campsite. A little over a mile down the small vehicle trail, it opened into a large area of land as the base of a mountain came into view. It was very secluded and could not be seen until a person was very close to the actual campsite. The area was next to a canal with a steep drop-off and no embankment. There were no other campsites or people around the area, it was difficult to find. After having consumed alcohol, Mr. Whiteside and another Marine decided they each wanted to invite some girls to join them at the campsite; however, they were so far away from any cellular towers they could not get good reception to call out. Mr. Whiteside and this other young Marine decided, together, they would drive out of the area to get phone reception and both make calls. Mr. Whiteside had driven to the site so he said he would drive them closer to the main road for better coverage. Yards from the campsite, incorrectly thinking he was supposed to turn right, Mr. Whiteside drove his truck nose first into a canal. While Mr. Whiteside was able to exit the truck, the speed of the current prevented the Marines from assisting the passenger and the young man ultimately drowned. The passenger was 19 years old. Mr. Whiteside was charged with second degree murder, as well as driving under the influence of alcohol with a blood alcohol level above .15. He was facing a mandatory prison term of 10 to 25 years with no early release available.

Negotiations were difficult. The victim's parents were divorced and had different views on what Mr. Whiteside's sentence should be. The mother took the position that it was a tragic accident, and her son was complicit in what occurred. She was agreeable to probation or a very minimal prison term. She was in regular contact with Mr. Whiteside and explained he helped her with her own grieving and healing. The father took the position that any sentence was too lenient and was only agreeable to the maximum prison time. Since the witnesses were all Marines, trying to find them for interviews became futile. They had either been deployed to a new duty station or were no longer in the Marine Corps and I was unable to obtain contact information. Through persistent communication with the prosecutor regarding Mr. Whiteside's young age, the unintentional nature of the incident, Mr. Whiteside's military service and lack of criminal history, Mr. Whiteside's remorse and grief, Mr. Whiteside's suspected military related Post-Traumatic Stress Disorder,

**and the position of the victim's mother, I was able to negotiate a plea to the lesser charge of manslaughter with a significantly reduced sentence of seven (7) years in the Department of Corrections.**

**d. State v. Andrea Ducos**

**Yuma County Superior Court**

**S1400JV20140175; S1400CR201400843**

**May 2014 through May 2015**

**William Katz**

**will@hallsconstruction.com**

Ms. Ducos was a junior at a local high school. She was a straight A student who had an incredible future ahead of her. She was on the track team, held a part-time job, volunteered, and was involved in many leadership programs. One day after school she went to a house with an acquaintance. Other students at the home were playing beer pong when Ms. Ducos arrived. Ms. Ducos drank one shot of vodka and then observed the game. The kids present were taking turns driving around the block on a motorized scooter. Ms. Ducos had never driven before and did not have a driver's license. When it was her turn, she drove the scooter around the corner and saw an elderly lady in her 90's walking her dog on the sidewalk. The dog jumped, which startled Ms. Ducos and she lost control of the scooter. Ms. Ducos drove onto the sidewalk and struck the elderly woman. The victim passed away later that same day at the hospital. After a lengthy delay Ms. Ducos was charged in juvenile court with Negligent Homicide, Causing Death by Use of a Vehicle, Under 21 with Liquor in Body and No Driver's License. A Transfer Hearing was held and testimony from two separate doctors who evaluated Ms. Ducos proclaimed this was an accident and an out of character incident for Ms. Ducos. Their recommendation was juvenile court maintain jurisdiction until she turned 18 and she not be transferred to Superior Court. The judge ordered Ms. Ducos transferred to Superior Court.

Ms. Ducos was indicted on felony charges of Manslaughter, Negligent Homicide, two counts of Aggravated Assault with Dangerous Nature enhancements, and the misdemeanor charges of Under 21 with Liquor in Body and No Driver's License. Ms. Ducos was facing five (5) to fifteen (15) mandatory years in prison for each of the assault charges, and four (4) to ten (10) years' incarceration for manslaughter.

Negotiating a settlement in this matter was almost impossible. The victim's retired son was not satisfied with any negotiation attempts. He harassed the county attorney's office with constant phone calls. He routinely contacted the media and articles were printed without his allegations being confirmed. He came to court under the influence of alcohol, and testified while being under the influence. Both in and out of the courtroom, he threatened to harm the prosecutor, myself, Ms. Ducos and the Ducos family. At all times extra security was required in the courtroom and we were escorted to our vehicles each time.

Despite the victim's son not agreeing to any settlement proposed, I was able to reach a compromise wherein Ms. Ducos accepted a plea offer to Negligent Homicide. She was sentenced to a term of probation and six months in jail. Since she was not yet 18 years old, Ms. Ducos was able to remain out of custody until her 18<sup>th</sup> birthday. During this time, her teachers and the administration at the high school doubled her courses so she would be able to graduate in the Spring, even though she would be incarcerated and not able to participate in the ceremonies. Despite the criminal process and all that came with it, Ms. Ducos graduated with a grade point average close to a 4.0.

To add to the complexity of the situation, the victim's retired son claimed restitution for loss of his mother's social security income and pension payments, which she received as a survivor from when her husband passed. After numerous restitution hearings the judge agreed with the victim and ordered Ms. Ducos to pay over \$70,000 in restitution for this loss of support.

Ms. Ducos is still employed, attends a local college, and pays her monthly restitution payments. She has never had a probation violation, and, but for the restitution, probation would not even be supervising her. Ms. Ducos has suffered, at times, debilitating guilt and remorse over her actions on that day. She tries to maintain a positive outlook and hopes to complete her college degree and begin a career.

e. State v. Ivan Humberto Salazar Ozuna  
Yuma County Superior Court  
S140CR201501239  
November 2015 through April 2016

Mary White  
Mary.White@yumacountyaz.gov  
928-817-4300

Mr. Ozuna was pulled over for a traffic violation in San Luis, Arizona. Utilizing a K-9, officers discovered over ten pounds of methamphetamine concealed in the engine compartment of the vehicle. In order to access the hidden methamphetamine, law enforcement was required to remove the front bumper, go underneath the vehicle, and break a weld that sealed the compartment. Neither the compartment nor the drugs altered the car's driving or handling, and the compartment was not readily noticeable. Mr. Ozuna was charged with felony Possession of Dangerous Drugs for Sale and felony Transportation of Drugs for Sale. The mandatory sentence for these charges is five (5) to fifteen (15) years in the Department of Corrections. Mr. Ozuna denied knowledge of the drugs, and advised he had the starter replaced in the car a week before in Mexico.

During my investigation, I learned a "tip" had been called in related to Mr. Ozuna's vehicle. Yet, no such call was mentioned in the report, no officer acknowledged receiving such "tip", and one officer opined any such tip was irrelevant due to the valid traffic stop. Prior to trial, I filed motions for disclosure and sanctions for all information regarding this "tip" and any confidential informants. Judge Maria Elena Cruz ordered the information be disclosed for an in-camera review. The Department of Homeland Security responded with one piece of paper almost entirely redacted. Following this disclosure, I was able to negotiate a dismissal of the case in its entirety through my knowledge of disclosure obligations, prosecutorial ethical obligations, and the law regarding tips and informants.

23. 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:           | <b>34 (see note 1)</b>    |
| State Courts of Record:   | <b>1,824 (see note 1)</b> |
| Municipal/Justice Courts: | <b>944 (see note 1)</b>   |
| Juvenile Court            | <b>363 (see note 1)</b>   |
| Administrative Hearings   | <b>23 (see note 1)</b>    |

**NOTE 1:** The above numbers are generated from case list reports obtained from each office at which I was employed. Each office had their own software program. Depending on how cases were classified when entered into the system determined the category in which I placed them. The State Courts of Record include all felony and felony violation of probation matters. The number of Administrative Hearings is not complete, as the various case management programs used did not include the MVD license suspension hearings in which I have participated. As stated above, there are less than 100. Additionally, these are pure case numbers and not weighted for purposes of statistics.

The approximate percentage of those cases which have been:

|           |            |
|-----------|------------|
| Civil:    | <b>1%</b>  |
| Criminal: | <b>99%</b> |

The approximate number of those cases in which you were:

|                    |            |
|--------------------|------------|
| Sole Counsel:      | <b>95%</b> |
| Chief Counsel:     | _____      |
| Associate Counsel: | <b>5%</b>  |

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: **(See note 2)**

You argued a motion described above **(See note 2)**

Filing Date: March 11, 2019  
Applicant Name: Julie Marie McDonald  
Page 15



You made a contested court appearance (other than as set forth in the above response) **(See note 2)**

You negotiated a settlement: **95%**

The court rendered judgment after trial: **1 case**

A jury rendered a verdict: **15 cases approx.**

**NOTE 2: I do not have statistics in reference to motions as the case list reports do not notate these. Some I have been able to refer to because I had the case information from my Criminal Law Specialist application and renewal applications.**

The number of cases you have taken to trial:

|                            |                   |
|----------------------------|-------------------|
| Limited jurisdiction court | <b>approx. 5</b>  |
| Superior court             | <b>approx. 15</b> |
| Federal district court     | <b>0</b>          |
| Jury                       | <b>approx. 14</b> |

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible. **The above numbers are generated from case list reports obtained from each office at which I was employed. None of these programs contained a category delineating whether or not a case went to trial. These numbers I have compiled from my Criminal Law Specialist application and renewal applications.**

24. Have you practiced in the Federal or state appellate courts? **Yes** If so, state:

The approximate number of your appeals which have been:

|           |  |
|-----------|--|
| Civil:    | <b>0</b>   |
| Criminal: | <b>5 juvenile appeals or special actions<br/>2 adult special actions</b> |
| Other:    | <b>0</b>   |



The approximate number of matters in which you appeared:

As counsel of record on the brief: 100%

Personally in oral argument: 0%

25. 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.
26. 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.

a. **State v. Morales**  
**S1400CR201800309**

**Jury Trial January 23, 2019 through January 25, 2019**

**Yuma County Superior Court**

**The Honorable Brandon Kinsey**

**Joshua Davis-Salsbury, Deputy County Attorney**

**Joshua.Davis@yumacountyaz.gov**

**928-817-4300**

**Sexual Assault per Domestic Violence**  
**Class 2 felony**

**Mr. Morales was charged with sexually assaulting his wife in 2011 while she slept. A jury found him guilty. Mr. Morales received the mandatory minimum term of 5.25 years in the Department of Corrections and was ordered to register as a sexual offender for his lifetime.**

**This case was unusual due to the manner in which events transpired. In October of 2013, the victim went to the San Luis Police Department and stated she wanted to report that her husband sexually assaulted her, while she slept, in 2011. She advised law enforcement she did not have time to make a report at that time, but would return. She did not return until December of 2013, at which time she consented to a recorded interview. She states sometime between January and April of 2011, her husband sexually assaulted her in her sleep. She reports she awoke to**

**Filing Date: March 11, 2019**  
**Applicant Name: Julie Marie McDonald**  
**Page 17**

find her husband, Mr. Morales, on top of her. No details were provided as to what exactly occurred, and no follow-up was conducted by law enforcement.

At an unknown time in 2014 the victim returned to the San Luis Police Department and provided what she claimed was a partial recording of her husband admitting to sexually assaulting her. No report was taken, and the Detective failed to secure the audio, having determined it was not useable as evidence. No follow-up was conducted by law enforcement. The victim filed for divorce that same year. During the course of the divorce proceedings, the child the victim claimed was a result of, and proof of, the sexual assault by Mr. Morales in 2011, was determined through DNA testing not to have been fathered by him.

In October of 2017, the victim returned to the San Luis Police Department, provided the partial phone recording again, and provided a more detailed statement. The victim's sister and mother were interviewed. No other follow-up was conducted. The case was forwarded to the Yuma County Attorney's Office for review and charges were filed.

The issues at trial involved the partial recording which I argued lacked reliability, foundation, chain of custody, the victim's credibility, and the lack of investigation. The jury deliberated for approximately five hours and returned a verdict of guilty. I provided the court with over 30 character letters on behalf of Mr. Morales, significant information from the divorce proceedings, as well as a Memorandum setting forth mitigating factors and calling into question, based on family law court documents, certain claims made by the victim. As a result, Mr. Morales received the least prison sentence allowed by law.

**b. State v. Ortega**  
**S1400CR201401399**

**July 2015 through January 2016**

**Yuma County Superior Court**

**The Honorable Lisa Bleich**

**Thomas Varela, Deputy County Attorney**  
**Thomas.Varela@yumacountyaz.gov**  
**928-817-4300**

**Aggravated Assault**  
**Class 2 felony with two prior felony convictions alleged for enhancement**

**Mr. Ortega was charged with one count of aggravated assault on a corrections officer. The judge found him guilty, following a bench trial.**

**Mr. Ortega was an inmate at the Arizona Department of Corrections, Yuma Complex, and was accused of assaulting a corrections officer. His defense was that he did not commit the assault. Mr. Ortega was adamant the only reason he was being charged for the assault was because he had made numerous complaints about corrections officers disrespecting religious artifacts in the possession of inmates. At the time, Mr. Ortega was the keeper of several Native American items used during inmate religious ceremonies, and he believed corrections officers damaged those items during a search of his cell. However, the officers did not admit to doing so, and Mr. Ortega found this disrespectful to him and his faith.**

**The night before the trial, the prosecutor received approximately 40 pages of disclosure the Department of Corrections investigator had located within internal files kept at the Yuma Complex of the Department of Corrections. While Mr. Ortega was found guilty, I was successful in arguing preclusion of numerous reports and statements due to lack of disclosure.**

**c. State v. Mullican**  
**CR2005-27**

**Jury Trial March, 2006**

**Cochise County Superior Court**

**The Honorable Thomas E. Collins ( Retired)**

**Gerald Till, Deputy County Attorney (Retired)**  
**C/O Cochise County Attorney's Office**  
**PO Drawer CA**  
**Bisbee, AZ 85603**  
**520-432-8700**

**Sexual Abuse of a Minor (x3)**  
**Class 3 felony, Dangerous Crimes Against Children Enhancement**

**Interfering with Judicial Proceedings**  
**Class 1 Misdemeanor**

**Mr. Mullican was charged with serious offenses for having sexual relations with a young girl and violating an order of protection through his continued contact with her. A jury found him guilty of two counts of sexual abuse of a minor and one count of interfering with judicial proceedings. He was acquitted on one of the counts of sexual abuse of a minor.**

**The mandatory prison sentence for sexual abuse of a minor was 13 to 27 years per count and per law each count must run consecutive to the other counts. Mr. Mullican was facing a mandatory prison term of 39 to 81 years if found guilty on all three felony counts. Despite being aware of the mandatory prison sentence he would face if found guilty, Mr. Mullican felt it was important for his side of the story to be told through the victim. While the victim was underage, she did not live at home. She had previously been the victim of molestation by her father, who was found not guilty at a previous trial. She subsequently moved in with Mr. Mullican, rather than remain with her father, and Mr. Mullican took care of her. Mr. Mullican provided for necessities, a place to live, and believed the age difference of 10 years should not matter because they were, essentially, a couple. While the victim did support the statements pertaining to Mr. Mullican's care for her, the jury ultimately found the age difference violated the law. At sentencing, I filed a motion pursuant to A.R.S. § 13-603(L) seeking to allow Mr. Mullican to petition for clemency within 90 days of his sentence. While the court sentenced Mr. Mullican to the minimum sentences, since the law required the sentences to run consecutive, the result was a 26 year prison term. The court made a record that based on the specific facts of Mr.**

**Mullican's case, the sentence was excessive, and, but for the mandatory sentencing laws, the court would not have ordered the sentence it did.**

**d. State v. Eggers**  
**CR2003-1056**

**Jury Trial August 16, 2005 through August 25, 2005**

**Cochise County Superior Court**

**The Honorable Stephen M. Desens (Retired)**

**Michael Politi, Co-Counsel**  
**michael.politi@yumacountyaz.gov**  
**928-217-4650**

**Doyle Johnston, Deputy County Attorney (Retired)**  
**C/O Cochise County Attorney's Office**  
**PO Drawer CA**  
**Bisbee, AZ 85603**  
**520-432-8700**

**Frank Collins, Esq. (Prosecutor)**  
**http://www.collins-properties.net**  
**480-821-7248**

**First Degree Premeditated Murder (x2)**  
**Class 1 felony**

**Mr. Eggers was charged with two counts of first degree murder for the killing of his parents. A jury found him guilty of both counts.**

**The case was charged while the juvenile death penalty was still available. While this case was pending, Roper v. Simmons, 543 US 551 (2005), was decided. However, the other cases involving juveniles being sentenced as adults had not yet been decided by the United States Supreme Court. Mr. Eggers was newly sixteen (16) years of age when he was charged with the murder of his parents, who were both Arizona State Department of Corrections Officers. This case posed interesting challenges both legally and in the ability to investigate. Mr. Eggers was now an orphan, and he and his parents had been estranged from all extended family for years. Only one paternal aunt and one paternal grandmother could be located to speak to the defense team, and their information was limited to less than ten (10) pictures of Mr. Eggers from elementary school. Mr. Eggers had never been to the dentist, he did not know who his doctors were, and could not provide any information due to his young age. Any potential paperwork or documentation regarding Mr. Eggers and his life was in the residence, which was occupied by the**

brothers and cousin, and the defense team was denied access.

Numerous motions were filed during the course of this case seeking, among other things, to determine if other juvenile family members could be interviewed, seeking suppression of Mr. Eggers' confession, and seeking suppression of the search warrant. While both suppression motions were denied by the trial court, the Court of Appeals, Division 2, later ruled the motions should have been granted, but determined the error was harmless. Mr. Eggers was found guilty of both murders, and sentenced to two consecutive life terms in prison without the possibility of parole.

e. State v. Torres  
CR2002-525

Jury Trial April 15, 2003 through April 21, 2013

Cochise County Superior Court

The Honorable Thomas E. Collins (Retired)  
C/O Cochise County Superior Court  
PO Box CK  
Bisbee, AZ 85603  
520-432-8600

Bruce Houston, Co-Counsel (Retired)  
C/O Cochise County Legal Defender  
PO Box 1858  
Bisbee, AZ 85603  
520-432-8900

Vincent Festa, Deputy County Attorney (Deceased, 2019)

Candyce Pardee, Esq. (Prosecutor)  
[cbp@udallshumway.com](mailto:cbp@udallshumway.com)  
520-515-2720 or 520-678-3108

First Degree Premeditated Murder  
Class 1 Felony

Mr. Torres was charged with one count of first degree murder for the death of a man he believed sexually assaulted his (Torres') wife. A jury found him guilty, and he was sentenced to 25 years in prison with the possibility of parole.

Mr. Torres believed the victim in this matter had assaulted and raped his (Torres') wife in their home. He had heard the sexual assault occurred through acquaintances and confronted his wife with the information. She admitted the sexual assault had taken place. When Mr. Torres saw the victim in public, Mr. Torres chased him on foot through a Circle K parking lot and fired a gun at the victim numerous times. The victim died at the scene from the gunshot wounds. The entire incident was recorded on the Circle K store cameras. The victim had a long criminal history and was someone known to Mr. Torres. The defense team could never confirm whether Mr. Torres was correct in his believe that the victim sexually assaulted his wife, or whether Mr. Torres' wife had a consensual relationship with the victim. At trial, the defense team argued for a lesser included offense of second degree murder, as Mr. Torres had acted in the heat of passion due to his beliefs



**regarding the sexual assault. The jury rejected that argument and found Mr. Torres guilty of first degree murder.**

27. 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.).

**Yuma Municipal Court**

**Judge Pro Tempore**

**2015 to Present**

**This position does not have a regular schedule. I serve on an as-needed basis. I conduct misdemeanor hearings by video for in-custody defendants and in person for those out of custody or transported to the court from the jail. My duties involve bond review hearings, arraignments, change of pleas, sentencings, civil traffic trials, misdemeanor criminal trials, restitution hearings, orders to show cause hearings, as well as applications and hearings for Orders of Protection and Injunctions Against Harassment.**

28. 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.

**I do not have a list of the cases over which I have presided at the Yuma Municipal Court. They are misdemeanors or civil traffic offenses, and fairly routine in nature. I have never ruled on any substantive motions such as motions to suppress or to preclude evidence. I have never presided over a misdemeanor jury trial. I appear in this court as a Judge Pro Tempore less than 10 times a year, usually for a half-day calendar. I have been employed with Yuma Municipal Court on an as needed basis since 2015.**

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

While I have concentrated my practice in criminal defense, I have always tried to seek out those who can enrich my knowledge and my experience. In law school I assisted an attorney who had an array of serious felony cases. During that period of time, the primary focus was a three (3) month trial with two defendants. (State of California v. Marquell Smith.) Not only did I prepare numerous motions for the case, I also sat at counsel table and helped throughout the trial. The case involved over one hundred (100) counts of burglary, armed robbery, sexual exploitation, assault, pimping, pandering and first degree murder. It involved gang members, an informant, and a range of witnesses from all walks of life. The issues in the case were vast, including, but not limited to, DNA, photogrammetry, identification, and gang affiliation. I was involved in every aspect of that case except cross-examining the witnesses, as I was not yet licensed.

I made it a goal to become a criminal law specialist and was diligent in this pursuit, applying as soon as I was eligible. My specialization was renewed this year for the second time. I have participated in a death penalty trial, and represent juveniles charged in adult court, both of which are nuanced and challenging. I also am a representative for the AzCOPS Union and AzCPOA Union which represents law enforcement members and corrections officers who are being investigated for internal procedural violations, possible criminal charges, suspensions, terminations, as well as officer involved shootings. These cases often times are a hybrid of civil and employment law with potential criminal offense issues.

Working in a county office, a private firm, and now being a solo practitioner, has introduced me to business issues, management styles, and a variety of individuals in different professions and backgrounds, whom I would not otherwise have met.

The variety of my experience has taught me is to listen carefully, work efficiently, and have patience. Most importantly it has taught me to not be afraid to seek out those with more experiences than I do and learn from them. In return, I take the time to impart any knowledge or experiences I may have to those who seek answers or advice from me.

|   |
|---|
| <b>BUSINESS AND FINANCIAL INFORMATION</b> |
|---|

30. 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 14? **No** If so, give details, including dates.
31. 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? \_\_\_\_\_ If not, explain your decision.
32. Have you filed your state and federal income tax returns for all years you were legally required to file them? **Yes** If not, explain.
33. Have you paid all state, federal and local taxes when due? **Yes** If not, explain.
34. Are there currently any judgments or tax liens outstanding against you? **No** If so, explain.
35. 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.
36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce? **No** If so, identify the nature of the case, your role, the court, and the ultimate disposition.
37. 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.
38. 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

39. 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.

40. 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.

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

**Not applicable**

42. 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.

**Not applicable**

43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42.

**Not applicable**

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

**Not applicable**

45. 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.

46. 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.
47. 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.
48. 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.
49. 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**

50. Have you published or posted any legal or non-legal books or articles? **Yes** If so, list with the citations and dates.

**Article published in the American Ethnic Studies Encyclopedia – a historical analysis of the Dred Scott v. Sandford case. (I do not have the official cite for this publication.)**

**Article published in *The Defender Magazine*, Spring 2006, “Juveniles Being Sentenced in Adult Court”**

51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? **Yes** If not, explain.
52. 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.

**From 2003 through 2008 I taught the following courses in-person and on-line for the University of Phoenix:**

**Bachelor of Science in Criminal Justice Administration:**

**Criminal Law  
Criminal Procedure  
Criminal Organizations  
Research Statistics  
Criminology**

**Masters of Science/Administration of Security and Justice:**

**Introduction to Graduate Study in Criminal Justice and Security  
Criminological Theory**

**In 2008, I presented a lecture at the annual Arizona Public Defender’s Conference on representing juvenile defendants in adult court.**

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

**National Association of Criminal Defense Lawyers (NACDL)  
Member since 2000 to Present**

**Arizona Attorneys for Criminal Justice  
Approximately 2001 to 2007**

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? **Yes**

**I served one year (2011-2012) on the Arizona Supreme Court Judicial Panel. I was unable to participate in any disciplinary hearings during that term.**

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.

**I do not, and have not, held any offices with a bar association or bar committee.**

**I actively provide pro bono services, both as a criminal defense attorney and a victim representative, in situations such as misdemeanors, applying for restoration of civil rights, restoration of gun rights, misdemeanor and felony conviction set asides, victim rights representative, motions to terminate probation early, and pre-charging matters in which charges have not yet been filed.**

**I also guest lecture in college criminal justice programs. This allows me to provide perspective and insight from someone actively working in the criminal justice system. Students are always eager to learn about the actual mechanisms of criminal justice that may not be covered in their curriculum.**



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

I am currently a prospective member of the Daughters of the American Revolution, Yuma Chapter. Incorporated by the United States Congress in 1896, to date more than 950,000 women have been members. The goals of this non-profit, volunteer organization are to promote historic preservation, education, and patriotism.

Daughters of the American Revolution, is a volunteer organization for women who can trace their lineage directly to an ancestor who served in the American Revolution. The documentation must include copies of all birth certificates, death certificates, marriage certificates, and any other documentation requested to show the direct lineage. I have completed documentation for nine generations starting with myself and dating back to the Patriot who served.

The Yuma Chapter is very small and only meets from October to April. I am hoping that by becoming a member I can promote awareness of the organization so younger women become involved and learn about their history. I intend to begin working with other local historical preservation societies to coordinate cemetery clean-ups, as well as volunteer with local veteran's associations to coordinate services. I am researching creating an oral history program with those who have served our country. As I have witnessed older generations within my family pass away over the last few years, I have done a great deal of reflection on not only have I lost a family member, but also all the knowledge, stories, and history they had to share. I would like to create a program in which older generations can pass that knowledge and personal experiences on to the younger generations. This intimate and personal exchange of information and ideas is invaluable, not only to the younger generation but also to those who wish to share their own history and leave a part of themselves behind. Others should know what it was like for the older generations serving in World War II, Korea and Vietnam, or living through the Great Depression. History should not be forgotten and this is one way to make it come alive and to remind people, or perhaps make them aware for the first time, what others have sacrificed in order for us to live in a free society, and have the opportunities we do today.

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

None



56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates. **Not applicable**

Have you ever been removed or resigned from office before your term expired? \_\_\_\_ If so, explain. **Not applicable**

Have you voted in all general elections held during the last 10 years? **Yes** If not, explain.

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

**Outside of practicing law, I am an avid reader and enjoy all genres of books, particularly biographies and autobiographies. I am currently enrolled in a 200 hour training program to become a certified yoga instructor, with a training focus on providing yoga instruction to those who have experienced mental and/or physical trauma. It is important to broaden my knowledge and experiences beyond what I encounter in my career. I enjoy complicated jigsaw puzzles, and providing a good loving home to some very spoiled rescue dogs.**

**HEALTH**

58. 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

59. Provide any information about yourself (your heritage, background, life experiences, etc.) that you would like the Governor to consider.

When I was in the eighth grade, my school career counselor told me I could not be a lawyer. He gave two reasons: (1) I was not analytical enough, and (2) I was a girl. That moment stuck with me throughout my life. It has served, and continues to serve to motivate me in my life and my career. It taught me to be sensitive to the dreams and feelings of others, and that everyone should be encouraged to follow their heart and strive to meet their goals. Being perceived as unable to accomplish a goal, because of one's gender, has made me more conscious of not drawing conclusions about others upon sight.

I believe I have a great deal to offer the bench. I have been steadily employed for 30 years. I worked through college and law school. I know the value of an education, because I have had to pay for it through student loans and hard work. I also know the experiences gained by working alongside people with different backgrounds and histories. I have been employed by local government, and started my own small business. I am familiar with corporation commission documents, the many kinds of insurance needed for small businesses, as well as the taxes and licenses required to maintain a small business. I believe my experience will allow me to relate on some level to the variety of people who find themselves in a courtroom.

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

I have a very strong work ethic, and a curious mind. I seek answers to questions and pursue knowledge on issues and legal matters I have not experienced. I do this while still maintaining a dedicated criminal defense practice. One area I focus on is the representation of juveniles charged in adult court. While this is in an area in which I have practiced and have experience, it is always evolving and the legal issues are nuanced and complicated. These cases always result in the interaction of multiple fields beyond the law. People do not realize that 15 years ago those who committed a crime before the age of 18 could receive the death penalty and be executed. I find the different aspects of these cases fascinating. While the person is not legally an adult, the law considers them one in limited matters. This representation allows me to speak with and learn from people in various areas of expertise, such as neuropsychology, childhood development, education, as well as investigations into family histories and parenting. In these cases it is often critical to determine where the child went off track and if there is something that could have been done to prevent it, and if there is a way to prevent another child from taking the

Filing Date: March 11, 2019

Applicant Name: Julie Marie McDonald

Page 35

same path. These cases present me with the opportunity to change not only one child's life, but also the future of other children in the system. Is it nature versus nurture? I do not have the answer, but applying that question to each individual case has resulted in some interesting discussions with colleagues and those who work with juveniles.

61. 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.

62. Attach a brief statement explaining why you are seeking this position.

**See Attachment A**

63. 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 to the public.

**See Attachment B**

64. 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 to the public.

**As stated above, my role as a Judge Pro Tempore at Yuma Municipal Court is not one that involves written orders, findings or opinions. All rulings have pre-printed forms that are simply completed and signed.**

65. 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.

**-- INSERT PAGE BREAK HERE TO START SECTION II  
(CONFIDENTIAL INFORMATION) ON NEW PAGE --**

**ATTACHMENT A**  
**(PERSONAL STATEMENT)**

## ATTACHMENT A

I was raised in a blue-collar family. My father was a mill-worker with the same company for 40 years. My mother worked in food services management in the local school district. They both instilled in me a strong work ethic, as well as loyalty and kindness to others.

College was something no one in my family had achieved. We were taught to work from the time we were able. I babysat neighborhood children from a young age. I earned my own money, which taught me to appreciate what my parents provided and the things I provided for myself. My first official job was at Dairy Queen and began the day after my 16<sup>th</sup> birthday. I worked the counter and the drive through, handed money, made all ice cream items on the menu, closed the store at night, and anything else that was asked of me. I worked there almost every day after school and weekends until I graduated from high school.

After high school, I worked full-time in the personal insurance industry while attending community college at night. Once I made the decision to attend a university full-time, I maintained a part-time job throughout. In law school I took advantage of work-study and later a part-time position with a solo practitioner for my second and third years of law school. While studying for the Bar Exam I worked part-time at the Cochise County Legal Defender's Office as a clerk. Each night after work, I made the four (4) hour round trip drive to my bar study classes in Tucson.

I was accepted into two universities to which I applied, the University of Washington and Arizona State University. I was unable to attend Arizona State University because my parents simply did not make enough money to send me to an out of state school while also, essentially, maintaining a small second household. I lived at home and commuted approximately three hours each day to my undergraduate classes at the University of Washington. While I maintained part-time employment, it did not provide enough income for me to live on my own and attend college full-time. However, my employment helped with the expenses of a lengthy drive and everyday living expenses.

There are not a great deal of goals you can set as a criminal defense attorney, because you never know what cases you will receive or how they will be resolved. You cannot vow to achieve a case dismissal a month. The one goal I did achieve as soon as I was able was obtaining my Criminal Law Specialization from the Arizona State Bar. I have now been a certified specialist for twelve (12) years. This requires me to take specialized classes each year for my continuing education and allows me to delve deeper into topics than I normally would have the opportunity to do. It also sets out requirements I must maintain in order to be recertified every five (5) years.

Being appointed to the bench is the next goal in my career. It will allow me to continue to expand my knowledge in areas of the law which I am not familiar. It's a new challenge that I welcome with enthusiasm. Like my specialization, it adds a different layer of requirements and nuances that must be learned and followed. Hopefully, it will also allow me to branch out into committees and panels and give me a voice for the rural county that has been so good to me.

I am not someone who endorses the idea the law is a guideline. The law is a set of rules. As a criminal defense attorney, I must counsel my clients in all aspects of their case(s), from arraignment to possible sentences. My analysis of every case is always dictated by the law. The law determines what is appropriate in each situation and that is what a client's decision needs to be based on. This is an especially difficult concept for parents of children charged as adults to understand. Whether it is arson, murder or any number of serious charges, parents, understandably, look to the fact that their child is under 18 years of age, or is still learning to navigate the world. You can repeat the adage "do the adult crime, get the adult time," but they cannot accept that. In most cases they find it inherently unfair when a 16 year old gets the same sentence, or more depending on the situation, than a 30 year old. Comparing and contrasting the facts between cases and explaining why the result occurred, does not usually result in acceptance of the outcome. Regardless, the explanation must remain the same – this is what the law says has to happen with this set of facts.

The United States has three separate branches of government, each with its own specific functions and limitations. The Separation of Powers doctrine prohibits all three branches from encroaching on the functions of the others. This separation is critical to a properly functioning government. With each branch acting as a check and a balance on the other branches citizens can be assured the government is not acting unilaterally, illegally, and always in the best interest of the people. The role of the Judicial Branch, and thus a judge, is to follow and interpret the law. A judge's authority is created and limited by statute and does not include making new law. The power to create new laws lies with the Legislative Branch, and judges must adhere to those laws when issuing legal decisions. Court rulings should always be based on what the law is, not what a judge thinks the law should be. The law is static, and is not to be manipulated for or by personal beliefs. It has boundaries and restrictions. It exceeds a judge's authority to extend those boundaries or loosen those restrictions. It is important for judges to maintain consistency in rulings by following what the Legislature, or prior Courts, has deemed appropriate. This consistency ensures that all parties appearing before a Court are on equal footing, each knowing the law and how it will be applied. In practice, I rely on judges to uphold the law and follow it as it is written. If judges do not follow the parameters, the system fails.

If a party feels wronged after receiving a judge's decision, the legal system has mechanisms to allow the aggrieved to address those concerns. Parties can appeal to the appellate courts, speak with those who enacted the law, or campaign to get the law changed. Judges do not always make the popular decision, and I have seen judges struggle with some of the decisions they had had to make. I have questioned and struggled with rulings in cases in which I have been involved. However, I respect the judge followed the applicable law. If as a judge you do not want to follow the laws as written, or base your rulings on your personal beliefs, then the rule of law fails. The system and everyone involved suffers.



**ATTACHMENT B  
(WRITING SAMPLES)**

**WRITING SAMPLE 1:**

**State v. Eggers - CR200301056**  
**Motion to Suppress Search Warrant**

**PRIVACY OF THE HOME IS FUNDAMENTAL**

“Any invasion into the privacy of the home must be given careful scrutiny.” State v. Fisher (1984) 141 Ariz. 227, 686 P.2d 750, 760, *Cert. denied* 469 U.S. 1066. (United States Constitution, Amendment 14; Arizona State Constitution Article 2, Sections 3, 4, and 8.) This right is a fundamental constitutional right. State v. Watson, (2000 – App. Div. 1), 198 Ariz. 48 P. 9, 6 P.3d. 752.

**DETECTIVE RITCHIE DID NOT PRESENT SUFFICIENT FACTS IN HER AFFIDAVIT TO OBTAIN A SEARCH WARRANT FOR THE EGGERS' RESIDENCE FOR ITEMS RELATING TO A HOMICIDE.**

Detective Ritchie's AFFIDAVIT FOR SEARCH WARRANT (Exhibit A) is the only information on which Judge Herbolich could rely to determine whether probable cause that a crime had been committed and evidence thereof was to be found at the home. That Affidavit, however, is incomplete to support a finding of such probable cause.

Detective Ritchie's facts to establish grounds for the search warrant are as follows:

“On 12/8/2003 Brad Egger left his place of employment for lunch and never returned. His computer, keys and other items were left at his work station at the Douglas Prison Complex. Further, his wife Delyn Eggers, did not show for her shift, on 12/8/2003. On Sunday, Zachary Egger, had told his employer that his parents were transferred to Florence. Upon checking with the prison, it was learned that this information is not correct. Zachary has been missing since Tuesday and has not been seen since. The pick-up truck belonging to the couple, a blue 2002 Chevy, AZ 379HPA had crossed into Mexico on 12/9/2003 at approximately 2005 hours. Another check was done with an older son residing in Tucson, he also stated that he has no knowledge of his parents transferring to another DOC facility. To this date no one has heard of either Brad or Delyn Egger, and their whereabouts or physical condition are undetermined at this time. Further, a second car registered to Delyn Egger, a 1983 Diplomat 4 door brown and copper, AZ 344GXY is also missing from the property. There is no information that this vehicle had crossed into Mexico. Brad and Delyn Egger are believed to be victims of foul play.” (Typed verbatim from Exhibit A.)

This statement is woefully inadequate to secure a search warrant for a homicide. ARS § 13-3914(B) states: "The affidavit or affidavits must set forth the facts tending to establish the grounds of the application or probable cause for believing the grounds exist."

State v. Spears, (1996) 184 Ariz. 277 discusses the level of evidence needed to establish probable cause:

"Probable cause to conduct a search exists when 'a reasonably prudent person, based upon the facts known by the officer, would be justified in concluding that the items sought are connected with criminal activity and that they would be found at the place to be searched.'" Id., quoting State v. Carter, (1985) 145 Ariz. At 110, 700 P.2d at 497.

What Detective Ritchie had at this time is nothing more than a missing person's report. There was no evidence of foul play; there was no evidence of homicide; there was no evidence of anything except that two people were missing. There is evidence of the Eggers' truck going into Mexico, but nothing to show who was driving the vehicle. There is also a statement in the search warrant that another car was missing from the property. The Eggers' entire family, paternal and maternal, all live in California. Bradley Eggers', Sr.'s mother has been going through cancer treatments off and on for two years. There were no facts available to Detective Ritchie or conveyed to Judge Herbolich which would warrant the leap to probable cause for homicide.

As stated above, Joshua gave deputies consent to search the residence for his parents (i.e.: take a look around to see if they were there). This does not give them carte blanche to search the residence later with an infirm search warrant.

There is also a statement that Zachary had been missing since Tuesday, yet on the way to get the search warrant, Detective Ritchie was aware that Zachary was at Douglas High School talking to police officers. There is no amendment to this portion of the facts, and it is unknown if she even made the judge aware of this.

Courts in evaluating the lawfulness of search warrants must look to the circumstances that existed at the time the warrant was issued to determine the sufficiency of the warrant, not at events thereafter. State v. Bartanen, (1979) 121 Ariz. 454, 457, 591 P.2d 546, 549.

**THE AFFIDAVIT CONTAINED NO LIST OF ITEMS SOUGHT TO BE SEIZED, MAKING IT UNCONSTITUTIONALLY VAGUE.**

Search “warrants must particularly describe the things to be seized...” Dalia v. United States (1979) 441 U.S. 238, 255. Because the Search Warrant was unconstitutionally vague, any items discovered during its execution must be suppressed.

In State v. Spears, Id. one of the reasons the search warrant was valid is because of the particularity used to describe the items they were seeking:

“When they requested the warrant, the deputies **knew** that Jeanette was dead, they had linked defendant to Jeanette through her diary and a plane ticket, defendant had been driving Jeanette’s truck, and the murder weapon was missing, as was an AK-47 that had belonged to Jeanette. These circumstances were sufficient, absent defendant’s allegation that he possessed title, to support the finding of probable cause to search defendant’s apartment.” (Emphasis added.)

The items Detective Ritchie listed in the search warrant to be seized are “Anything pertaining to the crime of (homicide).” There is not even a list attached. There was no evidence at the time that Brad, Sr. and Delyn Eggers were anything but missing persons. There was no evidence they were dead, no evidence of a murder weapon, nor any evidence of Zachary even committing a homicide. In fact, on the search warrant return Detective Gerencser listed “Missing Persons” as the crime they were using the search warrant for. (See Exhibit B.) The Detectives used this warrant to go on a fishing expedition. Not only did they have no evidence that a homicide had even occurred, they then submit a woefully inadequate search warrant giving them carte blanche to look for whatever they want in the residence. By not listing any items in particular the Detectives could then search in the smallest places to the largest places – because who knows where evidence of a search warrant could be found. This is a blatant attempt to circumvent the Constitution and short cut the processes that are in

place to protect people from such invasions.

**THE SEARCH WARRANT ITSELF IS STATUTORILY AND CONSTITUTIONALLY INFIRM**

Additionally, the search warrant itself, does not list what public offense was being committed. There is no reference to the affidavit itself. Neither the affidavit or the search warrant itself provide any type of list of items to be seized. A plain reading of this document allows the officers to take anything they wanted since there was nothing limiting their search.

ARS § 13-3915(c) provides the requirements that need be in a search warrant in order for it to be valid:

“Proof by affidavit having been this day made before me by (naming every person whose affidavit has been taken) there is probable cause for believing that (stating the grounds of the application) according to § 13-3912, you are therefore commanded in the daytime (or in the night, as the case may be, according to § 13-3917) to make a search of (naming persons, buildings, premises or vehicles, describing each with reasonable particularity) for the following property, persons or things: (describing such with reasonable particularity), and if you find such or any part thereof, to retain in your custody subject to § 13-3920.”

In the warrant signed by Judge Herbolich, there are two major flaws. The first is that there are no grounds stated for the application. The affidavit is not referred to nor restated in the search warrant itself. All the search warrant says is “which person(s), property or things were (are being) used as a means for committing a public offense.” (See Exhibit C.) (ARS § 13-3916 states in subparagraph 4 the necessity of probable cause for a particular public offense.) It does not say what type of public offense was committed, whether it is still being committed or any details related to this so called “public offense”. A missing persons report is not a public offense.

The second major flaw in the warrant is that the items to be seized are supposed to be described with particularity. (ARS § 13-3913.) In the warrant, not only are no items listed, but it also does not refer back to the affidavit. Even if the conclusion can be drawn that the affidavit was a part of the warrant itself, the affidavit asks to search for “Anything pertaining to the crime of (homicide)”. (See Exhibit A.) The affidavit itself does

not even list what items the Detectives are searching for.

In State v. Dragos, (1973 – App. Div. I) 20 Ariz. App. 14, 509 P.2d 1051, a similar defect in the property list sought to be seized was held to make the search warrant fatally defective. The Court of Appeals in that case cited the Fourth Amendment and the statutory precursor to ARS § 13-3915.

## **WRITING SAMPLE 2**

**State v. Ivan Salazar-Ozuna – S1400CR201501239**

**Motion to Disclose Source of Information**

### **Contents of the HSI Report:**

The contents of the HSI report are essentially a re-cap of the San Luis Police Department reports. The only noticeable difference is that the HSI report refers to a subject known as “Camilo” with an unknown last name requesting assistance in the delivery of methamphetamine. (B164.) No other information is provided. Later in the report it states, “On October 24, 2015, HSI Yuma received from a source of information (SOI) indicating that a subject known only as CAMILO “LNU”, (redacted), unknown quantity of methamphetamine that had been smuggled through the San Luis, Arizona Port of Entry.” (B165.) The report goes on to state that this SOI met with HSI agents at 12:20 hours stating that the vehicle suspected of carrying the drugs was waiting at the Walmart shopping center in San Luis, Arizona. The next paragraph states in full: “During surveillance, HSI agents observed the (redacted) a blue Chevrolet Malibu bearing Mexico plates SO/462-SZA-5 (redacted).” The rest of the report summarizes the traffic stop, the discovery of the methamphetamine and the fact that the Defendant in this matter had a new starter put in the car approximately one week prior to this stop and stated he had no knowledge of the contraband found in the vehicle.

The redactions discussed above are not short redactions. Common redactions are a victim’s address or identifying information, names of minor children, and other sensitive information. These redactions are longer than something so simple and potentially involve pertinent information.

### **The identity of the SOI should be disclosed because they are not a Confidential Informant:**

A source of information is **not** the same as a confidential informant. If it is the position of HSI, as they state throughout their report, that the person giving them the information is labeled as an SOI then this

person is simply an undisclosed witness. There are no privileges that protect the identity of an SOI. This person is equivalent to an everyday witness whose information should be disclosed and made available for an interview.

**If HSI claims the SOI is a confidential informant their identity still must be disclosed:**

In reading the HSI report it is clear there is at least one if not two "Sources of Information" (SOI). It is unclear if Camilo is an SOI, but obviously there is another person giving information, since they discuss this person knows methamphetamine was crossed over the border, and that this person met with HSI agents in the Walmart parking lot before the traffic stop.

The redacted areas of the report bring into question what the SOI's role was in this situation besides providing information. It could be inferred that in paragraph six (B165) the source of information does something that the HSI agents observed. If this SOI talked to the Defendant, made contact with the Defendant, looked in the car, or any actions whatsoever this turns him into a material witness, which pursuant to case law, his name must be disclosed to the defense. It should be noted that HSI states that they met with the SOI at approximately 2:20 p.m. The Defendant was not stopped for almost two more hours – what were HSI and the SOI doing in the meantime?

The use of informants to investigate and prosecute is fraught with peril...By definition, criminal informants are cut from untrustworthy cloth and must be managed and carefully watched by the government and the courts to prevent them from falsely accusing the innocent, from manufacturing evidence against those under suspicion of crime, and from lying under oath in the courtroom. *United States v. Bernal-Obeso*, 989 F.2d 331 (9<sup>th</sup> Cir. 1993).

Any informant is pertinent and relevant to this matter. They may be alleged direct witnesses to the action, or are privy to information to the investigation...if not the state investigation than possible the defense investigation. When an informant is used, the state may opt not to disclose that person's identity, pursuant to informant privilege.



“The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law enforcement officials and, by preserving their anonymity, encourages them to perform that obligation.” *Roviaro v. United States*, 353 U.S. 53, 59, 77 S.Ct. 623, 627 (1957).

However, this privilege is not impenetrable. The privilege of the informant and the state must be balanced against the defendant’s right to prepare his defense. *State v. Tisnado*, 105 Ariz. 23, 24, 458 P.2d 957, 958 (1969). “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**.” *Roviaro* at 60-61, 77 S.Ct. at 628 (emphasis added).

In seeking disclosure of the identity of the confidential informant, the defendant’s “burden extends only to a showing that in view of the evidence, the informer would be a material witness on the issue of guilt and non-disclosure of his identity would deprive the defendant of a fair trial.” *State v. Castro*, 13 Ariz.App. 240, 242, 475 P.2d 725, 727 (Ct. App. 1970). Arizona has “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 (Ct. App. 1971). In *State v. Goodwin*, 106 Ariz. 252, 253, 475 P.2d 236, 237 (1970), the Arizona Supreme Court agrees with the position of the Appellate Court as stated above, and quotes language from the California case of *Pablo v. Garcia*:

When it appears from the evidence, however, that the informer is also a material witness on the issue of guilt, his identity is relevant and may be helpful to the defendant. Nondisclosure would deprive him of a fair trial. Thus, when it appears from the evidence that the informer is a material witness on the issue of guilt and the accused seeks disclosure on cross-examination, the People must either disclose his identity or incur a dismissal. 67 Cal.2d 830, 64 Cal.Rptr. 110, 434 P.2d 366, 370 (1967).

Arizona Rules of Criminal Procedure Rule 15.4(b)(2) states:

Disclosure of the existence of an informant or of the identity of an informant who will not be called to testify shall not be required where disclosure would result in substantial risk to the informant or to the informant's operational effectiveness, provided the failure to disclose **will not infringe the constitutional rights of the accused.** (Emphasis added.)

In the instant matter, the SOI is potentially involved in a way that makes him a material witness. Just because the SOI is being used by HSI does in no means lessen his role in participating in a state prosecution. Interviewing the agent(s) involved in this matter is not a substitute for what the SOI said and did in connection to this case. The *Roviaro* Court found the informant's identity and testimony material and the lower court committed prejudicial error by not requiring disclosure. *Id.* at 64-65, 77 S.Ct. 629-30. The Court explained,

Unless petitioner [defendant] waived his constitutional right not to take the stand in his own defense, John Doe [informant] was his one material witness. Petitioner's opportunity to cross-examine Police Officer Bryson [trunk] and Federal Narcotics Agent Durham [tail] was hardly a substitute for an opportunity to examine the man who had been nearest to him and took part in the transaction. Doe had helped to set up the criminal occurrence and played a prominent part in it. His testimony might have disclosed an entrapment. He might have thrown doubt on petitioner's identity or on the identity of the package . . . The desirability of calling John Doe as a witness, or at least interviewing him in preparation for trial, was a matter for the accused rather than the Government to decide. Finally, the Government's use against petitioner of his conversation with John Doe while riding in Doe's car particularly emphasizes the unfairness of the nondisclosure in this case. The only person, other than the petitioner himself, who could controvert, explain [sic] or amplify Bryson's report of this important conversation was John Doe . . . This is a case where the Government's informer was the sole participant, other than the accused, in the transaction charged. *Id.*

It is unknown based on one redacted report whether or not the SOI took part in the transaction, set up the criminal occurrence, played a prominent part, or is the only other participant. The SOI could reveal entrapment and/or could cast doubt on the identification of the driver of the vehicle. Until the Defendant is stopped by the San Luis Police Department, the Defendant's name is never mentioned – only the description

of the vehicle. How do we know that the Defendant was not a “blind mule” or simply set up to take the drugs across the border? There are no disclosed recordings, videos, or interviews with the SOI. The SOI is the only person who can contest the state’s premise that the Defendant was obviously aware of the contraband in his vehicle, since he was the driver. Like in *Roviaro*, the SOI is a material witness and disclosure of his/her identity, and the ability to research and interview this person, is critical to the Defendant having a fair trial.<sup>1</sup>

The additional information requested in this motion regarding any informant is necessary to adequately determine the informant(s) motive, involvement and credibility. This information would exist in the various levels of files maintained by HSI and possibly other law enforcement agencies. If such information exists, the Defendant has no access to it, and the only way to 1) learn if it exists and 2) obtain such information is for this court to order further orders to disclose such material in furtherance of Brady v. Maryland. ARCrP 15.1(g) also states that if a defendant has a substantial need in preparation of his case for additional material, and if the defendant is unable to obtain the information without undue hardship, the court may order any person to make the information available to him.

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<sup>1</sup> The same argument applies to “Camilo” because it is unclear from the report whether or not “Camilo” is also a source of information or how he/she is actually involved in this situation.