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IN THE ARIZONA SUPREME COURT

ANDRE LEE JUWAUN MAESTAS,)	CA-CV _____
)	
Petitioner,)	
vs.)	Maricopa County Superior Court No.
)	CR2014-127252-001
)	
THE HONORABLE DEAN M. FINK,)	Court of Appeals Case No.
Judge of the Superior Court for the State)	1 CA-SA 14-0245
of Arizona, County of Maricopa,)	
)	
Respondent/Judge,)	MOTION TO STAY TRIAL
and)	COURT PROCEEDINGS
)	PENDING PETITION FOR
STATE OF ARIZONA,)	REVIEW
)	
Real Party in Interest.)	
)	
)	

Petitioner, through counsel, hereby requests that the Court stay the proceedings in matter pending the outcome of his “Petition for Review of a Special Action Decision of the Court of Appeals” pursuant to Rule 5, Ariz. R. P. Spec. Act. Petitioner filed with the trial court a Request to Stay Trial Court Proceedings Pending Supreme Court Petition for Review on December 17, 2014. Judge Dean Fink issued a Minute Entry denying the Request on December 30, 2014 (attached), stating that “the Court takes note

that the Defendant may request that the Arizona Supreme Court issue a stay of this matter”.

A stay of proceedings is necessary in order to allow sufficient time to for this Court to determine whether to grant review and to issue a decision on the merits. A stay is also appropriate because the issue raised in the Petition for Review is Defendant’s primary defense. Trial in this matter is set for February 17th, 2015. Petitioner’s immunity claim as set forth in his Petition for Review is his only defense to the charges in the underlying matter. Petitioner ought not to have to undergo the rigors of trial, felony conviction and sentence if he is correct that he is immune from prosecution and penalty and a trial would be, therefore, be unlawful.

Moreover, Petitioner is a full time student at ASU and the Arizona Student Handbook establishes that a student can be expelled from school and evicted from student housing for engaging in the “[u]nauthorized use, sale, possession, or distribution of any controlled substance or illegal drug or possession of drug paraphernalia that would violate the law” (Arizona State University Policy Number 5-308: “Arizona Student Code of Conduct”, section (F)(16), attached). Furthermore, federal law provides that a student who has been convicted of an offense under any federal or state law involving the possession of marijuana during a period of enrollment for which the student was receiving financial aid shall not be

eligible to receive any federal or institutional grant, loan, or work assistance for one year (20 U.S.C. §1091(r)(1)). The AMMA provides that a registered patient is immune from arrest and prosecution.

Also pertinent to the Court's consideration is Defendant's financial hardship. While there has been no formal finding of indecency, Petitioner is a 19 year old full time student who lacks financial resources. Defense Counsel is representing Defendant pro bono. Trial would constitute a substantial financial hardship that is unnecessary if Petitioner is correct that he is immune from prosecution and is granted relief by the this Court.

For the foregoing reasons, Defendant respectfully requests that the Court grant this Request to Stay.

DATED: (electronically filed) January 9, 2015, by:

/ s /

Thomas W. Dean
Attorney for Petitioner