

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-154132-001 DT

04/18/2012

HONORABLE CARI A. HARRISON

CLERK OF THE COURT
V. Morales
Deputy

STATE OF ARIZONA

LOUIS FRANK CAPUTO III

v.

GARY LYNN FOSHEE (001)
DOB: 06/17/1956

CHARLES K SHELL

APO-SENTENCE IMPRISON-CCC
APPEALS-CCC
AZ DOC
DISPOSITION CLERK-CSC

SENTENCE OF IMPRISONMENT

LET THE RECORD REFLECT that prior to calling this matter on the record, Court and counsel met and conferred, informally, in chambers.

10:20 a.m.

Courtroom 1204 - Central Court Building

State's Attorney:	Lou Caputo
Defendant's Attorney:	Charles Shell
Defendant:	Present
Court Reporter:	Terry Masciola

LET THE RECORD REFLECT the victim's next of kin is present.

Terry Cunningham, victim, addresses the Court.

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Timothy Sherer, victim, addresses the Court.

Ronald John Kunkel, victim's stepdad, addresses the Court.

Lindsay Shrimp, victim's fiancé, addresses the Court.

State's counsel reads a letter on behalf of Wayne Jenkins, victim's father.

Regina Jenkins, victim's mother, addresses the Court.

Stacy Heath, Defendant's daughter, addresses the Court.

Rob McLeod, addresses the Court.

Ivan Heath addresses the Court.

Jill Degan, Defendant's daughter, addresses the Court.

Jeff Foshee, Defendant's brother, addresses the Court.

10:59 a.m. Court stands at recess.

11:52 a.m. Court reconvenes with respective counsel and the Defendant present.

Court Reporter, Terry Masciola, is present.

Jeff Foshee continues addressing the Court.

Steven Arledge addresses the Court.

Count(s) 1, 2, and 3: The Defendant was found guilty after a trial by jury.

IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

OFFENSE: Count 1 Manslaughter

Class 2 Dangerous Felony

A.R.S. § 13-1101, 13-1103, 28-3001, 28-3004, 28-3005, 28-3315, 13-701, 13-702, and

13-801

Date of Offense: August 15, 2009

Dangerous pursuant to A.R.S. § 13-704 - Non Repetitive

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812 OFFENSE: Count 2 Endangerment
Class 6 Dangerous Felony
A.R.S. § 13-1201, 28-3001, 28-3004, 28-3005, 28-3315, 13-701, 13-702, 13-801, and 13-

Date of Offense: August 15, 2009
Dangerous pursuant to A.R.S. § 13-704 - Non Repetitive

812 OFFENSE: Count 3 Endangerment
Class 6 Dangerous Felony
A.R.S. § 13-1201, 28-3001, 28-3004, 28-3005, 28-3315, 13-701, 13-702, 13-801, and 13-

Date of Offense: August 15, 2009
Dangerous pursuant to A.R.S. § 13-704 - Non Repetitive

AS PUNISHMENT, IT IS ORDERED Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

Count 1: 10.5 year(s) from April 18, 2012
Presentence Incarceration Credit: 76 day(s)
Presumptive
Sentence is concurrent with counts 2 and 3 of this matter.

Count 2: 6 year(s) from April 18, 2012
Presentence Incarceration Credit: 76 day(s)
Presumptive
Sentence is concurrent with counts 1 and 3 of this matter.

Count 3: 6 year(s) from April 18, 2012
Presentence Incarceration Credit: 76 day(s)
Presumptive
Sentence is concurrent with counts 1 and 2 of this matter.

Restitution shall remain open for a period of 90 days; Defendant waives his/her presence.

Community Supervision: Counts 1, 2, and 3 - Imposed pursuant to A.R.S. § 13-603(I).

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes and pay the applicable fee for the cost of that testing in accordance with A.R.S. § 13-610.

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IT IS ORDERED authorizing the Sheriff of Maricopa County to deliver the Defendant to the Arizona Department of Corrections to carry out the term of imprisonment set forth herein.

IT IS ORDERED the Clerk of the Superior Court remit to the Arizona Department of Corrections a copy of this Order or the Order of Confinement together with all presentence reports, probation violation reports, and medical and psychological reports that are not sealed in this cause relating to the Defendant.

The Defendant having previously filed a Motion to Determine Indigence on February 24, 2012, and was granted on March 28, 2012, therefore,

THE COURT FINDS that this motion is moot.

12:27 p.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Orders 2010–117 and 2011–10 to determine their mandatory participation in eFiling through AZTurboCourt.

ISSUED: Order of Confinement - Certified Copy to DOC via MCSO

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Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ HONORABLE CARI A. HARRISON
JUDGE OF THE SUPERIOR COURT

(right index fingerprint)