

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-145409-001 DT

05/13/2010

COMMISSIONER PAMELA D. SVOBODA

CLERK OF THE COURT
D. Courtemanche
Deputy

STATE OF ARIZONA

CASEY WALTERS

v.

MAX RAMIRO GARCIA (001)

MICHAEL A LEAL

APO-PLEAS-CCC
FINANCIAL SERVICES-CCC
VICTIM SERVICES DIV-CA-CCC

TRIAL MINUTE ENTRY
DAY EIGHT

State's Attorney: Casey Walters
Defendant's Attorney: Michael Leal
Defendant: Present
Court Reporter: Yvonne De La Torre

10:44 a.m. Trial to jury continues from 05/12/2010.

The jury is not present.

LET THE RECORD REFLECT Defense counsel appears telephonically for the purposes of juror questions. Defense counsel waives the Defendant's presence for juror questions.

The Court is in receipt of a question from the jury during deliberations. A written response is delivered by the bailiff to the jury in the deliberation room.

10:46 a.m. Court stands at recess.

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1:55 p.m. Court reconvenes with counsel for the State present. Defense counsel appears telephonically and waives the Defendant's presence.

Court Reporter, Yvonne De La Torre, is present.

The jury is not present.

The Court is in receipt of a question from the jury during deliberations. A written response is delivered by the bailiff to the jury in the deliberation room.

1:58 p.m. Court stands at recess.

2:49 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is not present.

The Court is in receipt of a question from the jury during deliberations. A written response is delivered by the bailiff to the jury in the deliberation room.

2:57 p.m. Court stands at recess.

3:17 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is all present in the jury box and by their Foreperson return into Court their verdict, which is read and recorded by the Clerk and is as follows:

Count 1

We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant, Max Ramiro Garcia, as to Count 1: Negligent Homicide (Lesser Offense),
Guilty

Juror Number: 3

We, the Jury further find that the offense of Negligent Homicide is a dangerous offense.

Juror Number: 3

Count 2

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We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant, Max Ramiro Garcia, as to Count 2: Endangerment (substantial risk of death or serious physical injury):

Guilty

Juror Number: 3

We, the Jury further find that the offense of Endangerment is a dangerous offense.

Juror Number: 3

Count 3

We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant, Max Ramiro Garcia, as to Count 3: Leaving the Scene of a Fatal Injury Accident,

Guilty

Juror Number: 3

We, the Jury further find beyond a reasonable doubt on the allegation the Defendant caused the accident:

Not proved the Defendant caused the accident.

Juror Number: 3

The jury is polled at the request of counsel for the Defendant. Each juror replies that this is his/her true verdict.

FILED: Verdicts.

3:24 pm. The jury is excused from the courtroom. Court remains in session.

Court and counsel discuss the State's allegation of aggravating factors.

3:38 p.m. Court stands at recess.

3:51 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is not present.

The aggravating factors verdict form is approved by respective counsel.

3:55 p.m. The jury is present in the courtroom.

The Non-Capital Blakely Instructions are read to the jury by the Court.

FILED: Non-Capital Blakely Instructions

Argument is presented.

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4:03 p.m. The jury is excused from the courtroom to deliberate on the aggravating factors. Court remains in session.

IT IS ORDERED State's exhibit 86 shall be released to the State at the conclusion of the trial, to be replaced by State's exhibit 13.

4:36 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is not present.

Court and counsel are informed by the bailiff that the jury is deadlocked on the aggravating factors.

The impasse instructions are approved by respective counsel.

4:38 p.m. Court stands at recess.

4:44 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is present.

The impasse instructions are read to the jury by the Court.

4:46 p.m. The jury is excused from the courtroom. Court stands at recess.

4:53 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is not present.

The Court is in receipt of a question from the jury during deliberations on aggravating factors. A written response is delivered by the bailiff to the jury in the deliberation room.

4:57 p.m. Court stands at recess.

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5:02 p.m. Court reconvenes with respective counsel present. The Defendant is present.

Court Reporter, Yvonne De La Torre, is present.

The jury is present.

The jury having informed the Court of a deadlock as to the aggravating factors,

IT IS ORDERED declaring a mistrial as to the aggravating factors phase of the trial.

5:04 p.m. The jury is thanked by the Court and excused from further consideration of this cause. Court remains in session.

IT IS ORDERED setting time for sentencing on 06/17/2010 at 8:30 a.m. in this division.

Defendant waives applicable time limits.

IT IS FURTHER ORDERED that the Adult Probation Office shall conduct a presentence investigation and submit a report to this division prior to sentencing.

ISSUED: Request for Presentence Report.

IT IS FURTHER ORDERED revoking the Defendant's release conditions and remanding him/her to the custody of the Sheriff pending sentencing.

Defendant is held non-bondable pursuant to Rule 7.2 (b).

ISSUED: Order of Confinement.

IT IS FURTHER ORDERED exonerating any bond previously posted in this matter.

ISSUED: Order Exonerating Bond.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked or written designee. Counsel/party or written designee shall have the right to re-file relevant exhibits as needed in support of any appeal or post-conviction relief. Re-filed exhibits must be accompanied by a Notice of Re-filing Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all re-filed exhibits.

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IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Forms

5:04 p.m. Trial concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>