

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2011-109061-001 DT

08/01/2013

HON. DAWN M. BERGIN

CLERK OF THE COURT
B. Navarro
Deputy

STATE OF ARIZONA

AARON HARDER

v.

BARRY THOMAS JORDAN (001)

JOE SAIENNI

APO-PLEAS-CCC

MINUTE ENTRY

On July 19, 2013, the Defendant knowingly waived his constitutional right to a jury trial and the parties stipulated to the submission of this case, including the Defendant's guilty except insane defense, to the Court for a determination of the Defendant's guilt or innocence.

On February 19, 2011, the Defendant, while driving at an excessive rate of speed, ran a red light and caused a fatal four-vehicle accident. One of the vehicles was driven by Melia Shumaker. Her children, Destiny Kimball, age 10, and Riley Beckwith, age 15, were passengers in her vehicle. Destiny Kimball was ejected from the vehicle and died at the scene. Riley Beckwith suffered severe brain injury and Melia Shumaker suffered various physical injuries, including rib fractures and bilateral pneumothoraces. A second vehicle was driven by Sandra Fisher. Ms. Fisher had no passengers and did not suffer any physical injuries. A third car was driven by Simona Navazo. Ms. Navazo had no passengers and suffered soft tissue injury.

On February 28, 2011, the Defendant was indicted on one count of second degree murder for the death of Destiny Kimball; two counts of aggravated assault for the physical injuries caused to Riley Beckwith and Melia Shumaker, and two counts of endangerment for Sandra Fisher and Simona Navazo. The State alleged that all of the offenses were dangerous because they involved the use of a dangerous instrument—the Defendant's motor vehicle.

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In making its findings and orders, the Court has carefully reviewed the following materials (admitted as Exhibit 1 at the hearing on July 19, 2013):

1. The Indictment
2. Phoenix Police Department Reports (Bates Nos. 1-87; 274-290; 309-317; 358)
3. Other Law Enforcement Materials (Bates Nos. 193-213; 318-346)
4. Emergency Services Materials (Bates No. 214-245; 356; 357)
5. Arizona Crash Report (Bates Nos. 291-308)
6. Collision Reconstruction Notes (Bates Nos. 246-261A; 347-355)
7. Phoenix Police Department Photos
8. Video Recording of Interview with Defendant
9. Audio Recordings of Scottsdale Police Department 911 Calls
10. Phoenix Police Department Vehicle Inspection Photos
11. Audio Recordings of Phoenix Police Department 911 Calls
12. Audio Recording of Interview with Victim Simona Navazo
13. Target Store Video
14. Scottsdale Police Department Red Light Camera Video
15. Medical Examiner's Report for Victim Destiny Kimball (Bates Nos. 358-368)
16. John C. Lincoln Hospital Records for Victim Riley Beckwith (Bates Nos. 370-459)
17. Scottsdale Healthcare Osborn Hospital Records for Victim Melia Shumaker (Bates Nos. 460-574)

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18. Expert Psychological Evaluations:

- 8/26/12 Mental Health Evaluation of the Defendant by Deborah Desprois, Ph.D.
- 4/26/13 Mental Health Evaluation of the Defendant by James D. Seward Ph.D.
- 5/14/12 Psychological Evaluation of the Defendant by Janeen DeMarte, Ph.D.

19. Evaluations from Rule 11 Proceedings:

- 4/17/09 Psychological Evaluation by John J. Toma, Ph.D.
- 5/5/09 Report by Dr. Carl J. Patrasso
- 5/13/09 Report by Dr. Joel E. Parker
- 6/29/09 Competency Evaluation by Steven C. Hirdes
- 10/20/10 Report by Dr. Julia Ramirez
- 10/19/10 Competency Evaluation by Jack L. Potts, M.D.
- 1/9/12 Competency Report by Bruce Hamstra, Ed.D.
- 6/26/11 Report by Dr. Debra E. Davis-Johnson, Ph.D.
- 7/6/11 Competency Evaluation by D.J. Gaughan, Ph.D.

Based on all of the evidence presented to the Court,

THE COURT FINDS that the State has proved beyond a reasonable doubt each element of each charge in the Indictment.

THE COURT FURTHER FINDS that the State has proved beyond a reasonable doubt that all of the offenses are dangerous offenses pursuant to A.R.S. §§ 13-105(13) and 13-704 because they involved the use of the Defendant's vehicle, a dangerous instrument under Arizona law.

THE COURT FURTHER FINDS that the Defendant has proved by clear and convincing evidence that at the time of the commission of the offenses, he was afflicted with a mental disease or defect of such severity that he did not know the criminal acts he committed were wrong.

As to this finding, the Court found Drs. Seward's and DeMarte's mental health evaluations compelling.

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THE COURT THEREFORE FINDS the Defendant guilty except insane of all charges in the Indictment.

THE COURT FURTHER FINDS that the Defendant committed the following acts:

Count 1: Second degree murder: under circumstances manifesting extreme indifference to human life, the Defendant recklessly operated his motor vehicle in a manner that caused the death of Destiny Kimball.

Count 2: Aggravated assault: the Defendant recklessly operated his motor vehicle in a manner that caused physical injury to Riley Beckwith.

Count 3: Aggravated assault: the Defendant recklessly operated his motor vehicle in a manner that caused physical injury to Melia Shumaker.

Count 4: Endangerment: the Defendant recklessly operated his motor vehicle in a manner that endangered Sandra Fisher with a substantial risk of imminent death.

Count 5: Endangerment: the Defendant recklessly operated his motor vehicle in a manner that endangered Simona Navazo with a substantial risk of imminent death.

THE COURT FURTHER FINDS that each of the above acts involved death, physical injury or a substantial threat of death or physical injury to another.

THE COURT FURTHER FINDS that if the Defendant had not been found insane, he would have been convicted of the charges in the indictment.

The Court will determine the amount of time the Defendant will remain under the jurisdiction of the Psychiatric Security Review Board at the time of sentencing on **August 30, 2013 at 2:30 p.m. (time allotted: 1 hour)** in this Division.

NOTE: The attorneys have previously advised the Court that they waive the preparation of a presentence report.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.