

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2014-152207-001 DT

12/04/2015

HONORABLE WARREN J. GRANVILLE

CLERK OF THE COURT

B. Navarro

Deputy

STATE OF ARIZONA

AARON HARDER

v.

BRIAN YAZZIE (001)

RICHARD RANDALL

PAULA DIXON

DOB: February 10, 1983

APO-SENTENCINGS-CCC

APPEALS-CCC

AZ DOC

D & C MATERIALS-CSC

DISPOSITION CLERK-CSC

RFR

SENTENCE - IMPRISONMENT AND PROBATION

1:37 p.m.

Courtroom 6A SCT

State's Attorney:	Aaron Harder
Defendant's Attorney:	Richard Randall
<i>Knapp</i> Counsel:	Paula Dixon
Defendant:	Present

Court Reporter, Rochelle Dobbins, is present.

A record of the proceeding is also made by audio and/or videotape.

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

The Victim's next of kin are present.

The Court has received a camera request.

The State requests that the Victim's daughter not be captured by the camera.

IT IS ORDERED granting the State's request and the Victim's daughter shall not be video or audio captured by the camera.

The Defense has a global objection to the camera request.

IT IS ORDERED allowing cameras in the courtroom for these proceedings.

Candice Gehring presents statements to the Court on behalf of the Victim.

Chris Emmons presents statements to the Court on behalf of the Victim.

Chief Sean Duggan presents statements to the Court on behalf of the Victim.

Travis Scott presents statements to the Court on behalf of the Victim.

Flor Martinez presents statements to the Court on behalf of the Victim.

Austin Sherman, the Victim's stepson, presents statements to the Court.

Jona Hrdlicka presents statements to the Court on behalf of the Victim.

Aldon Payne, the Victim's brother, presents statements to the Court.

Niki Maxwell, the Victim's sister, presents statements to the Court.

Luann Payne, the Victim's mother, presents statements to the Court.

2:49 p.m. The court stands at recess.

3:01 p.m. Court reconvenes. Respective counsel and the Defendant are present.

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Court Reporter, Rochelle Dobbins, is present.

A record of the proceeding is also made by audio and/or videotape.

The State plays a video with audio for the Court. The parties waive the Court Reporter while the video is played.

William Jim, the Defendant's cousin, presents statements to the Court.

Rosita Tate, the Defendant's aunt, presents statements to the Court

Erick Tsosie presents statements to the Court on behalf of the Defendant.

Dr. Sigmund Boloz presents statements to the Court on behalf of the Defendant.

Brent Youvella, the Defendant's cousin, presents statements to the Court.

Janell Roanhorse, the Defendant's girlfriend, presents statements to the Court.

Rosita Yazzie, the Defendant's mother, presents statements to the Court.

Angie Boloz, the Defendant's aunt, presents statements to the Court.

The Defense plays a video for the Court.

The State requests that restitution remain open.

IT IS ORDERED directing the Clerk of the Court to seal the Sudden Impact dated September 30, 2015 by Robert David Payne, not to be opened without further order of the Court.

IT IS FURTHER ORDERED directing the Clerk of the Court to seal the Neuropsychological Evaluation Report, not to be opened without further order of the Court.

FILED: Sudden Impact dated September 30, 2015 by Robert David Payne;
Neuropsychological Evaluation Report

Count(s) 1 and 2: WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of no contest.

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

OFFENSE: Count 1: SECOND DEGREE MURDER

Class 1 Felony

A.R.S. § 13-1101, 13-1104, 13-705, 28-3001, 28-3004, 28-3005, 28-3315, 13-710, 13-701, 13-702, and 13-801

Date of Offense: October 31, 2014

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

OFFENSE: Count 2: LEAVING SCENE OF A FATAL INJURY ACCIDENT

Class 2 Felony

A.R.S. § 28-661, 28-3001, 28-3304, 28-3305, 28-3315, 13-701, 13-702, and 13-801

Date of Offense: October 31, 2014

Non Dangerous - 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: 14 calendar year(s) from December 4, 2015

Presentence Incarceration Credit: 399 day(s)

Less Than Presumptive

Community Supervision: Count 1 - Waived pursuant to A.R.S. § 13-603(K), due to the term of probation in Count 2.

In the event the Defendant is released by the Department of Corrections on a temporary release basis, and a term of Community Supervision has been waived, the length of probation shall be extended to include the time of Defendant's temporary release, pursuant to A.R.S. §13-901(B).

The Court is suspending imposition or execution of sentence and, under the supervision of the Adult Probation Department (APD), placing the Defendant on probation for:

Upon physical release from prison pursuant to A.R.S. §13-603(K). Count 2: For a period of 7 years.

Conditions of probation include the following:

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Condition 6: Report to the APD within 72 hours of sentencing, absolute discharge from prison, release from incarceration, or residential treatment and continue to report as directed. Keep APD advised of progress toward case plan goals and comply with any written directive of the APD to enforce compliance with the conditions of probation. Provide DNA testing if required by law.

Condition 8: Request and obtain written permission of the APD prior to leaving the State.

Condition 15: Restitution, Fines and Fees:

PROBATION SERVICE FEE: Count 2 - \$65.00 per month.

PROBATION ASSESSMENT: Count 2 - \$20.00.

Payment to commence on a date to be determined and is due on the same day of each month thereafter until paid in full.

The Court retains jurisdiction for any future restitution hearings.

The Arizona Department of Corrections shall notify the Clerk of the Court of Maricopa County of Defendant's release from custody via e-mail cforesponse@mail.maricopa.gov. The Clerk of the Court, upon said notification, shall furnish financial information for a Criminal Restitution Order for Judicial signature for any unpaid monies to date.

Condition 16: Not consume or possess any substances containing alcohol.

Condition 19: Not have any contact with the victim(s) in any form, unless approved in writing by the APD.

Condition 22: Other: Attend a MADD Victim Impact Panel. Do not drive without a valid driver's license.

IT IS FURTHER ORDERED that Defendant shall submit to fingerprint identification processing by the Maricopa County Sheriff's Office if directed to do so by the Adult Probation Department. The Adult Probation Department shall direct any Defendant placed on probation who has not already had a State Identification Number (SID) established to submit to fingerprint processing.

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Defendant is advised pursuant to A.R.S. § 13-805 that failure to maintain contact with the Probation Department may result in the issuance of:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.
2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

IT IS ORDERED granting the Motion to Dismiss the following: Counts 3-8.

Count(s) 1: IT IS ORDERED authorizing the Maricopa County Sheriff to deliver Defendant to the Arizona Department of Corrections.

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.

Count(s) 2: IT IS FURTHER ORDERED Defendant be released from custody for this count only.

The presentence investigation report is filed under this cause number.

4:49 p.m. Matter concludes.

IT IS ORDERED that defense counsel shall preserve defendant's file for post-conviction relief purposes. If defense counsel receives notice that defendant is seeking post-conviction relief, counsel shall prepare the file for delivery to PCR counsel and shall make timely arrangements for the exchange thereof when notified. Further, upon exchange of the file, defense counsel shall file with the court a Notice of Compliance that shall, at a minimum, include date of compliance, recipient of the file, and an itemization of contents of the file. A copy of the Notice shall be provided to PCR counsel, the State and the PCR Unit.

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 WARREN J. GRANVILLE
JUDGE OF THE SUPERIOR COURT

(right index fingerprint)