

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2011-163114-001 DT

04/09/2013

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT  
J. Eaton  
Deputy

STATE OF ARIZONA

ANDREA L KEVER

v.

J MICHAEL JULIUS (001)

RICHARD D COFFINGER

REMAND DESK-LCA-CCC  
UNIVERSITY LAKES JUSTICE COURT

MINUTE ENTRY

**Lower Court Case Number TR 2011-163114.**

Defendant-Appellant J. Michael Julius (Defendant) has filed a Motion To Clarify Remand Order asking this Court to clarify which sentencing order of the trial court it affirmed. A review of the file in this matter shows the following.

Defendant was convicted in the University Lakes Justice Court of driving under the influence and driving under the extreme influence. On July 12, 2012, the trial court imposed sentence on Defendant, but forgot to impose the mandatory fines. Apparently later realizing its mistake, on September 17, 2012, the trial court issued a Minute Entry wherein it purported to impose the required fines. Defendant asks this Court to clarify whether it affirmed the July 12, 2012, sentence the trial court imposed in open court, or whether it affirmed the September 17, 2012, sentence the trial court purported to impose by Minute Entry. The criminal rules provide as follows:

**Rule 24.3. Modification of sentence.** The court may correct any unlawful sentence or one imposed in an unlawful manner within 60 days of the entry of judgment and sentence but before the defendant's appeal, if any, is perfected. . . .

Rule 24.3, ARIZ. R. CRIM. P. The time limits for post-trial motions are jurisdictional. *State v. Bryant*, 219 Ariz. 514, 200 P.3d 1011, ¶¶ 8-14 (Ct. App. 2008) (28 days after trial court terminated defendant's probation and ordered his DNA profile expunged from Arizona's DNA identification system, state filed motion under Rule 24.3 for trial court to reconsider its order; 115 days after expungement order, trial court granted state's motion; because trial court did not rule on state's motion within 60 days from date of expungement order, trial court no longer had jurisdiction to modify sentence; court therefore vacated trial court's order).

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In the present case, the trial court's jurisdiction to correct an unlawful sentence lasted for only 60 days from the date of the original sentence, thus, the trial court had jurisdiction only until September 10, 2012, to correct any unlawful sentence. The trial court thus had no jurisdiction on September 17, 2012, to correct any unlawful sentence. The sentence the trial court attempted to impose on that date therefore was a nullity.

**IT IS THEREFORE ORDERED** affirming the sentence imposed on July 12, 2012, by the University Lakes Justice Court.

**IT IS FURTHER ORDERED** remanding this matter to the University Lakes Justice Court for all further appropriate proceedings.

**IT IS FURTHER ORDERED** signing this minute entry as a formal Order of the Court.

/s/ Crane McClennen

THE HON. CRANE MCCLENNEN  
JUDGE OF THE SUPERIOR COURT

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