

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2012-000255-001 DT

09/10/2012

COMMISSIONER MYRA HARRIS

CLERK OF THE COURT
K. Waldner
Deputy

STATE OF ARIZONA

TAMIKA CHEATHAM

v.

DAVID LEE GRAY (001)

DAVID LEE GRAY
1600 GLENARM PL #2206
DENVER CO 80202

GLENDALE MUNICIPAL COURT
REMAND DESK-LCA-CCC

RECORD APPEAL RULING / REMAND

Lower Court Case No. TR2011-016242.

Defendant-Appellant David Lee Gray (Defendant) appeals the Glendale Municipal Court's determination that he was responsible for (1) failing to provide evidence of financial responsibility and (2) driving with suspended license plates. Defendant contends the trial court erred. For the reasons stated below, the court affirms the trial court's judgment.

I. FACTUAL BACKGROUND.

On July 29, 2011, Defendant was cited for two offenses: (1) driving with suspended license plates and (2) failing to provide proof of insurance. After several requests for continuances and a notice that Defendant wanted to appear in person, the trial court held a hearing on December 30, 2011.

At the beginning of the hearing, Defendant said he just wanted to tell his story.¹ The trial court explained the proceedings—including (1) that the rules of evidence did not apply—except for relevancy and privileged communication—and (2) the need for the State to prove its case by a preponderance of the evidence.² The trial court also explained the proceeding was a civil and not a criminal proceeding.³

Officer Robert Solomon testified⁴ and said he spotted Defendant's car while the officer was driving and noticed the plates had an expiration date for 2011.⁵ He added he entered the plates into his mobile computer which could access Motor Vehicle records and learned the plates expired in November, 2011, and also indicated a mandatory insurance suspension.⁶ He said he

¹ Audio recording, hearing, December 30, 2011, at 0.06.

² *Id.* at 1:16-40.

³ *Id.* at 1:40-50.

⁴ *Id.* at 3:05.

⁵ *Id.* at 3:05-27.

⁶ *Id.* at 3:28-38.

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pulled the vehicle over and identified Defendant as the driver of the vehicle.⁷ He stated that although he asked Defendant for proof of insurance, Defendant could not provide the proof so he cited Defendant.⁸ Defendant asked if there was a moving violation and Officer Solomon confirmed there had been no moving violation.⁹

Defendant stated he was diagnosed with early onset Alzheimer's; had been undergoing cancer treatments; and had not been driving for months.¹⁰ Defendant said (1) he received a mailed notice saying his car did not have insurance; (2) he would not have insurance because he no longer drove; (3) he did not totally understand the notice because he is not always "totally clearheaded"; (4) he called the number on the notice; and (5) he was told he needed to go and get the necessary form to resolve the problem.¹¹ He testified he asked if he could solve the problem online but was told he could not, and—when he stated the only way he could get the form would be to drive the car—the person told him to be "really careful."¹² Defendant added he was just going to drive to get the form and then return.¹³ He testified (1) he does not normally drive—his daughter usually drives him; (2) he has not had any accidents; and (3) he seemed coherent that day.¹⁴ He stated that after he was cited he returned home without going to take care of the form and has not driven his car since that day.¹⁵

The trial court asked Defendant why he had not taken care of the insurance issue in the almost 6 months since he was issued the ticket and Defendant responded he did not believe he needed to do anything because he was no longer driving.¹⁶ Defendant asked the trial court if the trial court was saying he—Defendant—should have obtained insurance and the trial court responded affirmatively.¹⁷ Defendant added he thought someone should tell "these people" not to give bad advice but specifically stated: "I'm ultimately responsible for what I do."¹⁸

The trial court commented (1) Defendant obtained some bad advice¹⁹ and (2) had Defendant actually seen the judge who handled the hearing, the judge would have told him to get some insurance.²⁰ The trial court added that it was aware Defendant saw a different judge but the trial court was not privy to what the other judge might have said.²¹ The trial court informed Defendant

⁷ *Id.* at 3:38–51.

⁸ *Id.* at 3:51–4:07.

⁹ *Id.* at 4:28–34.

¹⁰ *Id.* at 5:05–20.

¹¹ *Id.* at 5:29–6:19.

¹² *Id.* at 6:20–6:35.

¹³ *Id.* at 6:35–7:00.

¹⁴ *Id.* at 7:02–31.

¹⁵ *Id.* at 7:33–55.

¹⁶ *Id.* at 8:00–51.

¹⁷ *Id.* at 9:15.

¹⁸ *Id.* at 9:42.

¹⁹ *Id.* at 10:20–25.

²⁰ *Id.* at 11:00–30.

²¹ *Id.* at 10:32–11:00.

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it was required to assess the mandatory fines but had Defendant obtained insurance and taken care of his plates, the fine would have been considerably less.²² Although Defendant asserted he was unable to come to court at an earlier time because he was getting treatment elsewhere, the trial court found Defendant responsible for the violations. Defendant asked the trial court if there was anything he could do and the trial court responded, “Not at this point.”²³

Defendant filed a timely appeal. This Court has jurisdiction pursuant to ARIZONA CONSTITUTION Art. 6, § 16, and A.R.S. § 12–124(A).

II. ISSUES:

A. Did Defendant Properly Present His Issues On Appeal.

Defendant failed to properly present his issues on appeal. Appeals from a justice or municipal court determination are governed by Rule 33 of the Rules of Procedure in Civil traffic and Civil Boating Violation Cases which mandates the form for a proper appellate memorandum. Rule 33(d) states:

(d) Appellate memoranda shall be typed or printed on white, opaque, letter-size paper, double spaced, and shall not exceed 15 pages, excluding exhibits. The memorandum shall set forth a factual and legal basis for appropriate judicial relief.

Defendant failed to include (1) any citation to the record or (2) citations to legal authority to support his arguments. Instead, Defendant argued the trial court failed to advise him of the proper steps to take to achieve his requested result. He did not provide legal authority supporting his contention. He needed to do so. Merely mentioning a claim is insufficient. “In Arizona, opening briefs must present significant arguments, supported by authority, setting forth an appellant’s position on the issues raised. Failure to argue a claim usually constitutes abandonment and waiver of that claim.” *State v. Carver*, 160 Ariz. 167, 175, 771 P.2d 1382, 1390 (1989). The appellate court is “not required to assume the duties of an advocate and search voluminous records and exhibits to substantiate a party’s claim,” *Adams v. Valley National Bank*, 139 Ariz. 340, 343, 678 P.2d 525, 528 (Ct. App. 1984). Furthermore, unless there is fundamental error, allegations that lack specificity or reference to the record usually do not warrant consideration on appeal. *State v. Cookus*, 115 Ariz. 99, 104, 563 P.2d 898, 903 (1977). Here, Defendant did not demonstrate fundamental error.

B. Did The Trial Court Err By Failing To Provide Defendant With Guidance About Actions Defendant “Could” Have Taken.

Defendant asserted the court system failed him by not advising him about how to proceed with his case after he was cited and referred to the trial court’s comments that the trial court might have instructed Defendant on his options if Defendant had spoken with the particular

²² *Id.* at 11:00–53.

²³ *Id.* at 14:28–41.

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hearing officer before he had his hearing. While the hearing officer may have described potential options for dealing with the lack of insurance, coming to court is not the only way Defendant could have learned about this law. The face of his citation included a reference to A.R.S. § 28–4135. This serves as a warning of the statute Defendant was cited for violating.

While it may be a desirable social benefit to provide potential defendants—and/or the public—with free legal counsel to help negotiate potential legal pitfalls, this is not a benefit our Legislature has chosen to offer. Indigent defendants have a right to counsel in criminal cases. A.R.S. Const. Art. 2 § 24. However, and as the trial court explained, Defendant was charged with a civil offense. In Arizona, there is no right to free counsel in civil cases. *Powell v. State*, 19 Ariz. App. 377, 378, 507 P.2d 989, 990 (1973). Moreover, while this Court can appreciate Defendant’s efforts to seek advice from court employees, these court employees are precluded—by law—from providing advice. The Code of Conduct For Judicial Employees—Section 2.6²⁴—limits the type of assistance that can be offered. While judicial employees may offer legal information, they cannot offer legal assistance. The type of information they can offer depends on the particular type of question the employee may be asked as well as the employee’s knowledge. These employees are not employed to provide legal assistance and must avoid the

²⁴ ULE 2.6. *Assistance to Litigants*.

A judicial employee shall assist litigants to access the courts by providing prompt and courteous customer service and accurate information consistent with the employee's responsibilities and knowledge and the court's resources and procedures while remaining neutral and impartial and avoiding the unauthorized practice of law. Employees are authorized to provide the following assistance:

- (A) Explain how to accomplish various actions within the court system and provide information about court procedures, without recommending a particular course of action;
- (B) Answer questions about court policies and procedures, without disclosing confidential or restricted information as provided in Rule 3.2;
- (C) Explain legal terms, without providing legal interpretations by applying legal terms and concepts to specific facts;
- (D) Provide forms and answer procedural questions about how to complete court papers and forms with factual information by the court customer, without recommending what words to put on the forms;
- (E) Provide public case information, without providing confidential case information as provided in Rule 2.5;
- (F) Provide information on various procedural options, without giving an opinion about what remedies to seek or which option is best;
- (G) Cite statutes, court rules or ordinances a judicial employee knows in order to perform the employee's job, without performing legal research for court customers;
- (H) When asked to recommend a legal professional such as an attorney, a legal document preparer, or process server, refer the customer to a resource like a directory or referral service, without recommending a specific legal professional; and
- (I) Provide scheduling and other information about a case, without prejudicing another party in the case or providing information to or from a judge that is impermissible ex parte (one party) communication about a case.

COMMENT

For fuller explanation see the Guide to Court Customer Assistance: Legal Advice--Legal Information Guidelines for Arizona Court Personnel, Administrative Office of the Courts, Court Services Division, 2007 upon which this rule is based.

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unauthorized practice of law. In addition, “The Guide to Court Customer Assistance: Legal Advice--Legal Information Guidelines for Arizona Court Personnel, Administrative Office of the Courts, Court Services Division, 2007” provides guidance about the type of information court personnel may release. This guide was developed to educate court personnel as well as the public about the type of assistance court personnel may provide while insuring the courts meet their primary responsibility of remaining neutral and impartial. Court personnel must also be aware that they may not engage in the unauthorized practice of law.

C. Did The Trial Court Abuse Its Discretion By Failing To Grant Defendant His Requested Continuances And By Finding Him Responsible For The Offenses.

Standard of Review.

Appellate courts review trial court decisions in the light most favorable to sustaining the trial court’s action. All reasonable inferences will be made to support the trial court’s decision. *Triangle Constr. v. City of Phoenix*, 149 Ariz. 486, 720 P.2d 87 (Ct. App. 1985). The appellate court does not re-weigh the evidence to see if it would reach the same conclusion as the original trier-of-fact. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). Instead, the appellate court must determine if the trial court could find sufficient evidence to support its decision.

Sufficiency of the Evidence

Defendant asserted the trial court abused its discretion by refusing his last request for a continuance and by finding him responsible for the offenses. Whether to grant or deny a continuance is within the discretion of the trial court. *State v. Hein*, 138 Ariz. 360, 674 P.2d 1358 (1983). The Arizona Supreme Court said:

It is also axiomatic that a motion for a continuance is directed to the discretion of the trial court, and that court's ruling will not be disturbed absent a clear abuse of discretion. *State v. Sullivan*, 130 Ariz. 213, 215, 635 P.2d 501, 503 (1981). The trial court is accorded this discretion because it is the only unbiased party in a position to observe the proceeding. *State v. Jackson*, 112 Ariz. 149, 154, 539 P.2d 906, 911 (1975). Thus, the trial court is the only party in a position to judge the inconvenience of a continuance to the litigants, counsel, witnesses, and the court, and further is the only party in a position to determine whether there are “extraordinary circumstances” warranting a continuance and whether “delay is indispensable to the interests of justice.” 17 A.R.S. Rules of Criminal Procedure, rule 8.5(b)

State v. Hein, id., 138 Ariz. at 368, 674 P.2d at 1366. Because the trial court must balance the countervailing needs of the efficient running of the court with the need to accommodate reasonable requests for litigants, this is a matter which trial courts control absent any indication of improper purpose. Here there was no indication that the trial court treated Defendant

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differently from others similarly situated. In making this ruling, this Court is not unmindful that Defendant is experiencing serious health issues. From the trial court record, it is apparent the trial court also considered Defendant's troubles as the trial court granted several of Defendant's requests. Indeed, it was almost 6 months between the time Defendant was cited and the time this matter went to a hearing. This Court does not find the trial court acted improperly in denying Defendant's last request for a continuance and Defendant failed to show any improper act or purpose on the trial court's part. Similarly, the trial court could find Defendant responsible for the charged offenses because Defendant admitted to both driving on a suspended plate and to failing to maintain the mandated car insurance. Because Defendant admitted to these acts, there was sufficient evidence to support the trial court's determination.

The trial court had the authority to decide the facts. Absent compelling proof as to how the trial court erred, this Court must sustain the trial court's factual determination. The trial court had the opportunity to see the parties and witnesses and to evaluate their testimony. The Defendant admitted he committed the charged offenses.

An abuse of discretion occurs where the record fails to provide substantial support for the trial court's decision. Where, as here, the record reflects the Defendant committed the charged offense, the appellate court is limited to considering if there was sufficient evidence to support the trial court's decision. In *Walter v. Kendig*, 107 Ariz. 510, 513, 489 P.2d 849, 852 (1971) the Arizona Supreme Court quoted with approval from an earlier Arizona case, *In re Welisch*, 18 Ariz. 517, 521–22, 163 P. 264, 265–66 (1917) a definition of judicial discretion.²⁵

“Discretion” of court is a liberty or privilege allowed to a judge, within the confines of right and justice, to decide an act in accordance with what is fair, equitable, and wholesome, as determined by the peculiar circumstances of the case, and as discerned by his personal wisdom and experience, guided by the spirit, principles, and analogies of the law, to be exercised in accordance with a wise, as distinguished from a mere arbitrary, use of power, and under the law.

This Court finds the trial court did not abuse its discretion. However pressing the other demands of Plaintiff's life may be—or may have been—he is still responsible for complying with the law.

A.R.S. §§ 28–4135 and 4139

Undoubtedly this is a harsh result. It is unfortunate Defendant—an ill man who was obviously trying to do the right thing—was assessed a fine in excess of \$1,400.00 for a short term indiscretion where he believed he was complying with the requirements needed to obtain a new license. However, the assessed fine is the fine the Legislature imposed for violations of this ilk. The trial court had no choice but to assess the fine because the statutory scheme mandates the action the trial court took. The Arizona Court of Appeals explained the policy behind A.R.S. 28–4135 in *Farmers Ins. Co. of Arizona v. Young*, 195 Ariz. 22, 985 P.2d 507 (Ct. App. 1998) and stated:

²⁵ The Arizona Supreme Court in *In re Welisch* quoted from *Words and Phrases*, 2d, vo. 2. Page 4.
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The legislature enunciated the public policy by its enactment of the Financial Responsibility Act “in response to social and economic problems arising from the increasing casualty rate on Arizona streets and highways. Its primary purpose is the protection of the traveling public from financial hardship resulting from the operation of motor vehicles by financially irresponsible persons.” *Midland*, 179 Ariz. at 171-72, 876 P.2d at 1206-07 (citations omitted). “The best indication of legislatively enacted public policy and legislative intent is the language of the enactment itself.” *Arizona Property and Cas. Ins. Guar. Fund v. Ueki*, 150 Ariz. 451, 456, 724 P.2d 70, 75 (App.1986). See also *Wagenseller v. Scottsdale Memorial Hosp.*, 147 Ariz. 370, 710 P.2d 1025 (1985).

Farmers Ins. Co. of Arizona v. Young, id., 195 Ariz. at 26, 985 P.2d at 511. While Defendant did not cause a specific social or economic problem by driving, his conduct still falls within the area the Legislature intended to regulate. If he had been involved in an accident, he would have had no coverage and could have created financial hardship to the travelling public. A.R.S. § 28-4135 requires automobile insurance on the vehicle. Thus, whoever might have been operating Defendant’s vehicle would be violating the law if the motor vehicle was not covered either by an automobile liability policy, a certificate of self-insurance or an alternate means of coverage. See A.R.S. § 28-4135 (A). Defendant was cited for violating A.R.S. § 28-4135 (C) which states:

Failure to produce evidence of financial responsibility on the request of a law enforcement officer investigating a motor vehicle accident or an alleged violation of a motor vehicle law of this state or a traffic ordinance of a city or town is a civil traffic violation that is punishable as prescribed in this section.

The next section of the statute cautions that the citation shall be dismissed if the person who was given the citation produces evidence of insurance before the date and time of the hearing. This formed the basis for the trial court’s comment that had Defendant spoken with the hearing officer or judge prior to the scheduled hearing, he would have been told to get the insurance and thus avoid the penalty the trial court otherwise needed to impose. The statute says:

D. A citation issued for violating subsection B or C of this section shall be dismissed if the person to whom the citation was issued produces evidence to the appropriate court officer on or before the date and time specified on the citation for court appearance and in a manner specified by the court, including the certification of evidence by mail, of either of the following:

1. The financial responsibility requirements prescribed in this section were met for the motor vehicle at the date and time the citation was issued.
2. A motor vehicle or automobile liability policy that meets the financial responsibility requirements of this state and that insured the person and the motor vehicle the person was operating at the time the person received the citation regardless of whether or not the motor vehicle was named in the policy.

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The minimum penalty for violating A.R.S. §28–4135 is (1) a \$500.00 fine plus—for a three-month period—the suspension of (2) the driver license of the person and (3) license plates for the involved motor vehicle. A.R.S. § 28–4135 (E). The trial court did no more than follow the law when it assessed this fine.

Similarly, A.R.S. §28–4139 mandates a financial penalty for displaying a suspended license plate. That law states:

- A. Display of a license plate on a motor vehicle if the registration or license plate has been suspended pursuant to this article shall subject the person involved to a civil penalty of not less than two hundred fifty dollars.
- B. The court shall impose the penalty pursuant to this section in addition to any other penalties imposed pursuant to this article.
- C. Suspended license plates shall be confiscated at the time of citation, and all penalties imposed pursuant to this section shall be paid to the general fund of the state agency or political subdivision of the citing officer.
- D. The department shall provide information on suspended license plates to law enforcement agencies.

Because Defendant admitted he committed the charged offenses, the trial court was required to subject him to the assessed penalty and did not err by doing this.

D. Was Defendant Improperly “Disadvantaged” Because He Is Not An Attorney.

Defendant’s next claim is that he was at a disadvantage because he represented himself and that he has been told this by “different members associated with the legal and court system.”²⁶ In Arizona, a litigant’s *pro se* appearance does not excuse his failure to conform to mandated rules in a civil case. When individuals represent themselves, those persons are held to the same standard as a lawyer. In *In re Marriage of Williams*, 219 Ariz. 546, 200 P.3d 1043 ¶ 13 (Ct. App. 2008) the Arizona Court of Appeals held:

Parties who choose to represent themselves “are entitled to no more consideration than if they had been represented by counsel” and are held to the same standards as attorneys with respect to “familiarity with required procedures and . . . notice of statutes and local rules.” A party’s ignorance of the law is not an excuse for failing to comply with it.

[Citations omitted.] Similarly, in *Higgins v. Higgins*, 194 Ariz. 266, 279, 981 P.2d 134, 138 (Ct. App. 1999) the Court ruled:

One who represents herself in civil litigation is given the same consideration on appeal as one who has been represented by counsel. She is held to the same

²⁶ Appellant’s Memorandum, Section D.
Docket Code 512

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familiarity with court procedures and the same notice of statutes, rules, and legal principles as is expected of a lawyer.

[Citations omitted.] Accord, *Kelly v. NationsBanc. Mortg. Corp.*, 199 Ariz. 284, ¶ 16, 17 P.3d 790 ¶ 16 (Ct. App. 2001). Defendant is not entitled to any special consideration because he is not an attorney. He presented no evidence indicating the trial court treated him differently from any other litigant. Indeed, the crux of his complaint appears to be that the trial court should have shown him some special consideration because he was representing himself. This trial court is precluded from extending any special consideration to pro se litigants.

Defendant also claims he was at a disadvantage because the trial court did not appoint legal representation for him. Defendant was charged with a civil offense. He has no right to appointed counsel in a civil case and the trial court lacked the ability to provide him with appointed counsel. As stated in *Leonard v. Eyman*, 1 Ariz. App. 593, 594, 405 P.2d 903, 904 (Ct. App. 1965)—a case involving a petition for habeas corpus—“There is no right to appointment of counsel in a civil proceeding in the State of Arizona.” Accord, *Powell v. State*, 19 Ariz. App. 377, 378, 507 P.2d 989, 990 (Ct. App. 1973)—another habeas corpus case—and *State v. Hovatter*, 144 Ariz. 430, 698 P.2d 225 (Ct. App. 1975) where the Court of Appeals held indigent defendants had no due process right to appointed counsel in civil actions under either the Consumer Fraud Act of the Racketeering Act. The Court of Appeals said:

A due process analysis begins from the presumption that an indigent’s right to appointed counsel is recognized only where the litigant may lose his physical liberty if he loses the litigation. *Lassiter v. Dept. of Soc. Serv.*, 452 U.S. 18, 101 S. Ct. 2153, 68 L. Ed.2d 640 (1981). The presumption is weighed against the three elements set out in *Matthews v. Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L.Ed.2d 18, 33 (1976); the nature of the private interests at stake, the interest of the state, and the risk that the procedures used will lead to erroneous decisions. See also *Maricopa County Juvenile Action JD-561*, 131 Ariz. 25, 638 P.2d 92 (1981). Each of these elements, individually weighed, are [sic] then set against the presumption. Unless the individual’s interests are strong, the state’s interests weak, and the risk of error high, it cannot be said that due process requires the appointment of counsel. *Lassiter*, 452 U.S. at 32, 101 S. Ct. at 2162, 68 L. Ed.2d at 652.

The Court of Appeals continued and ruled that a civil penalty of \$5,000.00 did not create an overriding interest mandating an appointment of counsel and said it found no precedent requiring the appointment of counsel where a civil penalty might be imposed. *Corbin, id.*, 144 Ariz. at 431, 698 P.2d at 226. However desirable it might be for self-represented litigants to have access to counsel, our Legislature has not funded or created a program providing for free counsel in civil cases. Consequently, the trial court lacked the ability to provide him with counsel. Defendant has not shown that the trial court treated him any differently than it treated other pro se litigants.

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However sympathetic the trial court—and this Court—may be to Defendant’s plight, the trial court lacked to ability to grant Defendant’s request for counsel.

E. Did Defendant Err By Having A Family Member Prepare His Appellate Memorandum.

Defendant apparently—according to his conclusion—had his son prepare his appellate memorandum. Unless his son is licensed to practice law in Arizona, he—and his son—erred. A litigant may represent himself or may hire a licensed attorney to represent his interests. A litigant may not—without violating the strictures of the unauthorized practice of law statutes—engage an unlicensed person to represent him. The Rules of the Supreme Court of Arizona, Rule 31 (B) defines the unauthorized practice of law as:

Unauthorized practice of law” includes but is not limited to:

(1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 38(a);

Here, possibly unintentionally, Defendant violated another Arizona law. This Court does not know the extent to which Defendant and/or his son participated in the preparation of the appellate memorandum. However, in *Encinas v. Mangum*, 203 Ariz. 357, 54 P.3d 826 (Ct. App. 2002), the Arizona Court of Appeals determined that allowing the son of a woman to participate in trial by asking questions was the unauthorized practice of law. A familial relationship does not justify allowing a non-attorney to represent another. To the extent Defendant’s son authored the legal memorandum, this is impermissible conduct. As was stated in *Encinas, id.*, 203 Ariz. At 359, ¶ 10 54 P.3d at 828, ¶10:

Suarez may represent herself. Suarez may hire a lawyer. The fact that she may not be able to afford a lawyer in this civil action does not violate due process. *See State ex rel. Corbin v. Hovatter*, 144 Ariz. 430, 431, 698 P.2d 225, 226 (App.1985) (an indigent's right to appointed counsel is recognized only where the litigant may lose his physical liberty if he loses the litigation (citing *Lassiter v. Dep't of Soc. Serv.*, 452 U.S. 18, 101 S. Ct. 2153, 68 L.Ed.2d 640 (1981))); *In re Kory L.*, 194 Ariz. 215, 217-18, 979 P.2d 543, 545-46 (App.1999) (same).

This Court notes Defendant apparently signed the legal memorandum. This Court does not know what meaning Defendant ascribed to when the Conclusion of his memorandum included the phrase “his health has deteriorated even further during this process, which is attested to by his son who has written this document.” Because this Court has no information about (1) the extent to which Defendant represented himself; (2) if his son is licensed to practice law in Arizona; and (3) if he impermissibly had his son act as his attorney; this Court shall take no further action about this issue other than to warn Defendant that an unlicensed person may not practice law in Arizona.

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This Court recognizes Defendant testified about his precarious health condition. This Court also understands Defendant's—and his family's—wishes to “clear his record so he can continue his treatments in peace and leave an upstanding legacy.” Unfortunately, this Court cannot grant the relief Defendant seeks. For whatever peace it may afford Defendant, this Court reminds him the charges were for civil offenses and not criminal acts and the opprobrium that attaches to criminal charges does not occur with civil offenses. However, this Court does not find the trial court erred. Therefore, the trial court's decision stands.

III. CONCLUSION.

Based on the foregoing, this Court concludes the Glendale Municipal Court did not err.

IT IS THEREFORE ORDERED affirming the judgment of the Glendale Municipal Court.

IT IS FURTHER ORDERED remanding this matter to the Glendale Municipal Court for all further appropriate proceedings.

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

/s/ Myra Harris

THE HON. MYRA HARRIS
Judicial Officer of the Superior Court

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