

**FILED**

6-18-24

JUN 19 2024

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GARY L. HARRISON, Clerk

*L. Wiktorek*  
Deputy

10

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. D. DOUGLAS METCALF

CASE NO. CR20224401-002

COURT REPORTER: Liz Lumia  
Courtroom - 678

DATE: June 17, 2024

STATE OF ARIZONA

Sabrina A Lochner, Esq.  
counsel for State

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VS.

FRANCISCO FABIAN ABRIL (-002)  
Defendant

Jenna L Johnson, Esq. and  
Kathryn L James, Esq.  
counsel for Defendant

DATE OF BIRTH: 12/1/1987

**MINUTE ENTRY**

**SENTENCE OF IMPRISONMENT/CONSECUTIVE PROBATION**

Defendant present, in custody.

The Defendant is advised of the charges and the determination of guilt, and all parties are given the opportunity to make recommendations/statements to the Court.

Pursuant to A.R.S. § 13-607, the Court finds as follows:

WAIVER OF TRIAL--The Defendant knowingly, intelligently, and voluntarily waived his right to a trial with or without a jury, his right to confront and cross-examine witnesses, his right to testify or remain silent, his right to present evidence and call his own witnesses, and his right to review after having been advised of these rights. The determination of guilt was based upon a plea of guilty.

Upon due consideration of all the facts, law and circumstances relevant here, and having found no legal cause to delay rendition of judgment and pronouncement of sentence, the Court enters the following judgment and sentence:

As to Sentence of Imprisonment:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of AMENDED COUNT TEN: SOLICITATION TO POSSESS A DANGEROUS DRUG FOR SALE, a Class Four Felony, nondangerous, repetitive offense, in violation of A.R.S. §§ 13-1002, 13-3407, 13-703 committed on October 29, 2022.

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THE COURT FINDS that suspension of sentence and a term of probation are not appropriate and that a sentence of imprisonment with the Department of Corrections is appropriate.

AS PUNISHMENT, IT IS ORDERED that the Defendant be incarcerated in the Arizona Department of Corrections for a presumptive term of FOUR POINT FIVE (4.5) YEARS, commencing on June 17, 2024. The Defendant shall be given credit for FIVE HUNDRED NINETY-SEVEN (597) DAYS time served.

THE COURT FINDS that the Defendant was previously convicted of Attempted Aggravated Assault With A Deadly/Dangerous Instrument, a class 4 felony, Pima County Superior Court CR20164753-001, committed on or about October 15, 2016, disposition date of February 27, 2017.

IT IS FURTHER ORDERED that the term of community supervision in Amended Count Ten is waived, pursuant to A.R.S. § 13-603(K). In the event the Defendant is released by the Department of Corrections on a temporary release pursuant to A.R.S. § 31-233, the length of probation in Count Seventeen shall be extended to include the time on temporary release, pursuant to A.R.S. § 13-901(B).

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of AMENDED COUNT FORTY: ATTEMPTED ILLEGAL CONTROL OF ENTERPRISE, a Class Four Felony, nondangerous, repetitive offense, in violation of A.R.S. §§ 13-1001, 13-2312B, 13-703 committed on September 1, 2022 through October 29, 2022.

THE COURT FINDS that suspension of sentence and a term of probation are not appropriate and that a sentence of imprisonment with the Department of Corrections is appropriate.

AS PUNISHMENT, IT IS ORDERED that the Defendant be incarcerated in the Arizona Department of Corrections for a presumptive term of FOUR POINT FIVE (4.5) YEARS, commencing on June 17, 2024. The Defendant shall be given credit for FIVE HUNDRED NINETY-SEVEN (597) DAYS time served.

THE COURT FINDS that the Defendant was previously convicted of Attempted Aggravated Assault With A Deadly/Dangerous Instrument, a class 4 felony, Pima County Superior Court CR20164753-001, committed on or about October 15, 2016, disposition date of February 27, 2017.

IT IS FURTHER ORDERED that the term of community supervision in Amended Count Forty is waived, pursuant to A.R.S. § 13-603(K). In the event the Defendant is released by the Department of Corrections on a temporary release pursuant to A.R.S. § 31-233, the length of probation in Count Seventeen shall be extended to include the time on temporary release, pursuant to A.R.S. § 13-901(B).

IT IS ORDERED that this sentence shall be concurrent with the sentence of imprisonment imposed in Amended Count Ten.

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As to Consecutive Sentence of Probation:

THE COURT FINDS that the Defendant will be helped once released from prison and re-integrated into society through the use of the Adult Probation Department.

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of COUNT SEVENTEEN: WEAPONS MISCONDUCT – PROHIBITED POSSESSOR, a Class Four Felony, nondangerous, nonrepetitive offense, in violation of A.R.S. § 13-3102 committed on October 29, 2022.

THE COURT FINDS that the Defendant is eligible for probation. The specific reasons for the granting of probation are stated by the Court on the record.

IT IS ORDERED suspending imposition of sentence and placing the Defendant on probation for a period of THREE (3) YEARS, commencing on completion of the sentences of imprisonment imposed in Amended Count Ten and Amended Count Forty, under the supervision of the Adult Probation Department of this Court, in accordance with the formal Judgment and Order signed by the Court suspending sentence and imposing terms of probation.

IT IS ORDERED that this sentence shall be consecutive to the sentences of imprisonment imposed in Amended Count Ten and in Amended Count Forty.

IT IS ORDERED that the Defendant complete FORTY (40) hours of approved community restitution as directed.

IT IS ORDERED that pursuant to the Plea Agreement, all firearms shall be forfeited.

IT IS ORDERED that the Defendant abide by all conditions of probation as set forth in the Uniform Conditions of Supervised Probation.

IT IS ORDERED that the Defendant shall pay the following:

1. Time Payment Fee in the amount of \$20.00.
2. Monthly probation services fee at the rate of \$65.00.
3. Attorney's fees in the amount of \$400.00.
4. State Anti-Racketeering Fund in the amount of \$2,500.00, with a surcharge at 68% in the amount of \$1,700.00.
5. Clean Elections Fund in the amount of \$275.00.
6. Probation Assessment in the amount of \$20.00.
7. Crime Penalty Assessment in the amount of \$13.00.
8. Victim Rights Enforcement Fund Fee in the amount of \$2.00.

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9. Victim Rights Assessment in the amount of \$9.00.

10. Indigent Administrative Assessment Fee in the amount of \$25.00.

The Court retains jurisdiction over the issue of restitution in this matter which shall remain open for a period of NINETY (90) DAYS.

The Court retains jurisdiction of the case for purposes of ordering, modifying and enforcing the manner in which court-ordered payments are made until paid in full or until the Defendant's sentence expires, such payment to include but not limited to:

A restitution order in favor of any person entitled to such; along with fines, costs, incarceration costs, fees, surcharges or assessments imposed.

The written terms and conditions of probation are handed to the Defendant for explanation, acceptance, and signature. The Defendant is advised concerning the consequences of failure to abide by the conditions of probation.

IT IS ORDERED that any outstanding bond that has not been previously referred for a bond forfeiture proceeding is hereby exonerated.

IT IS ORDERED, pursuant to the plea, that all remaining counts and allegations shall be dismissed as to this cause number only.

IT IS ORDERED remanding the Defendant to the custody of the Sheriff of Pima County, authorizing the Sheriff of Pima County to transport the Defendant to the Arizona Department of Corrections, and authorizing the Department of Corrections to carry out the condition of imprisonment.

IT IS FURTHER ORDERED that the Clerk of the Court shall remit to the Department of Corrections a copy of this order, together with all presentence reports, probation violation reports, medical and psychological reports relating to the Defendant and involving this cause.

The Defendant is advised of his Notice of Rights of Review and Notice of Right to Apply to Have Conviction Set Aside, signs and receives a copy of same.

The Defendant is further advised that upon completion of probation or absolute discharge from imprisonment for this offense, if he has not been previously convicted of a felony offense and he has paid all ordered restitution, his civil rights shall automatically be restored. The Defendant has been advised that does not apply to the restoration of firearm rights if you have been convicted of a dangerous offense under A.R.S. § 13-704 or a serious offense under A.R.S. § 13-706.

The Defendant is further advised that upon final discharge, if he has been previously convicted of a

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felony offense in this or another state, or has not paid all ordered restitution, he may still apply to have his civil rights restored. The Defendant has been advised that this section does not apply to the restoration of firearm rights if he were convicted of a dangerous offense under A.R.S. § 13-704 or a serious offense under A.R.S. § 13-706.

The Defendant is advised of his right to petition the court to seal the records of his arrest, conviction and sentence and is referred to A.R.S. § 13-911 for additional information.

The Defendant signs and receives a written notice of his rights and the procedures he must follow to exercise them.

Let the record reflect that the Defendant's fingerprint is permanently affixed to the signature page of this sentencing order in open court.

FILED IN COURT: Commitment Order; Presentence Report; Notice of Rights of Review; Notice of Right to Apply to Have Conviction Set Aside; Notice of Rights After Conviction and Procedure; Uniform Conditions of Supervised Probation; Financial Judgment and Order; Notice of Right to Petition for Sealing of Case Records



*D. Douglas Metcalf* |sl|  
**D. DOUGLAS METCALF**  
(ID: 3c7dbe1b-f25c-4af5-a4df-b5e9ca18ff58)

- cc: Hon. D. Douglas Metcalf
- Jenna L Johnson, Esq.
- Kathryn L James, Esq.
- Sabrina A Lochner, Esq.
- Adult Probation
- Clerk of Court - Accounting Unit
- Clerk of Court - Appeals Unit
- Clerk of Court - Criminal Unit
- County Attorney - Victim Notification
- HD DOC (1 certified) 6/19/24 w/PSR
- Pretrial Services
- HD Sheriff of Pima County (3 certified) 6/19/24 w/PSR

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