

FILED

8/13/2024

GARY L. HARRISON, Clerk

M. Forrester

Deputy

AUG 14 2024

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. D. DOUGLAS METCALF

CASE NO. CR20224401-001
CR20231703-001

COURT REPORTER: Digitally Recorded
Courtroom - 678

DATE: August 13, 2024

STATE OF ARIZONA

Jennifer M Naegle, Esq. for CES CPB 1
(CR20231703-001) and Sabrina A Lochner, Esq.
(CR20224401-001) counsel for State

BEST COPY

VS.

DAVID RIVERA (-001)
Defendant

Mark E Evans, Esq. counsel for Defendant

DATE OF BIRTH: 4/21/1981

MINUTE ENTRY

**SENTENCE OF IMPRISONMENT (CR20224401-001) / SENTENCE OF CONSECUTIVE
PROBATION (CR20224401-001, CR20231703-001)**

Defendant present, out of 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 (CR20224401-001):

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of AMENDED COUNT TWO: ATTEMPT TO POSSESS A NARCOTIC DRUG, a Class Five Felony, nondangerous, nonrepetitive offense, in violation of A.R.S. § 13-3408 committed on October 28, 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 mitigated term of SIX (6) MONTHS, commencing on August 13, 2024. The Defendant shall be given credit for ONE (1) DAY time served.

IT IS FURTHER ORDERED that the term of community supervision 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 CR20224401-001 and CR20231703-001 shall be extended to include the time on temporary release, pursuant to A.R.S. § 13-901(B).

THE COURT FINDS the following mitigating circumstances: The Defendant fully accepted responsibility to the greatest extent one can.

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.

As to Sentence of Consecutive Probation (CR20224401-001, CR20231703-001):

As to CR20224401-001:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of COUNT THREE: WEAPONS MISCONDUCT – PROHIBITED POSSESSOR, a Class Four Felony, nondangerous, nonrepetitive offense, in violation of A.R.S. § 13-3102 committed on October 28, 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 sentence of imprisonment imposed in Amended Count 2, 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 sentence imposed in Amended Count 2.

IT IS ORDERED that the Defendant shall forfeit the weapon used in the offense.

M. Forrester
Deputy Clerk

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As to CR20231703-001:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of COUNT ONE: UNLAWFUL FLIGHT FROM LAW ENFORCEMENT VEHICLE, a Class Five Felony, nondangerous, nonrepetitive offense, in violation of A.R.S. § 28-622.01 committed on December 5, 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 sentence of imprisonment imposed in CR20224401-001 Amended Count 2, 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 sentence imposed in CR20224401-001 Amended Count 2 and concurrent with the sentence imposed in CR20224401-001 Count 3..

IT IS ORDERED that the Defendant shall pay the following in both causes:

1. Probation Assessment in the amount of \$20.00.
2. Crime Penalty Assessment in the amount of \$13.00.
3. Victim Rights Enforcement Fund Fee in the amount of \$2.00.
4. Victim Rights Assessment in the amount of \$9.00.

IT IS ORDERED that the Defendant shall pay the following in CR20224401-001:

5. Monthly probation services fee at the rate of \$65.00 commencing upon release from custody.
6. State Anti-Racketeering Fund in the amount of \$2500.00.

IT IS ORDERED that the Defendant shall pay the following in CR20231703-001:

7. Peace Officer Training Assessment in the amount of \$4.00.

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.

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As to both causes:

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

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 these cause numbers only.

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 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.

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M. Forrester
Deputy Clerk

MINUTE ENTRY

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 (2); Financial Judgment and Order (2); Notice of Right to Petition for Sealing of Case Records


D. DOUGLAS METCALF /s/
(ID: 3b2c02e6-f11d-4ed3-b900-0c07353d6fc6)



- cc: Hon. D. Douglas Metcalf
- Mark E Evans, Esq.
- Sabrina A Lochner, Esq.
- Adult Probation
- Allegheny Casualty c/o Associated Bond & Insurance
- Attorney General - Victim Notification
- Azteca Bail Bonds - Tucson
- Clerk of Court - Accounting Unit
- Clerk of Court - Appeals Unit
- Clerk of Court - Criminal Unit
- County Attorney - CPB1 - CES
- County Attorney - Victim Notification
- ERM DOC (1 certified) 8/14/24 w/PSR
- Pretrial Services
- ERM Sheriff of Pima County (3 certified) 8/14/24 w/PSR

M. Forrester
Deputy Clerk