

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. JAMES E MARNER

CASE NO. CR20212919-001

COURT REPORTER: David Christy
Courtroom - 675

DATE: April 01, 2022

STATE OF ARIZONA

Todd C. Lawson, Esq. for Maribel Goodman, Esq.
counsel for State

VS.

KYLE ANTHONY CLARK (-001)
Defendant

Paul J Gattone, Esq. counsel for Defendant

MINUTE ENTRY

DONALD HEARING/CHANGE OF PLEA/PRETRIAL CONFERENCE

Defendant present, in custody.

Defendant is sworn.

Pursuant to State v. Donald,

The Court questions the Defendant regarding his understanding of the terms and conditions of the plea offer and the possible consequences should the Defendant be convicted on all charges.

THE COURT FINDS that the Defendant has been adequately advised of the plea offer and knowingly, intelligently and voluntarily rejects the plea offer.

Based on the foregoing,

IT IS ORDERED that the Jury Trial on August 29, 2022, at 10:30 AM, is AFFIRMED. EIGHT (8) jurors; estimated length – THREE (3) days.

cc: Hon. James E Marner
Paul J Gattone, Esq.
Todd C. Lawson, Esq.
Pretrial Services

W. Robinson
Deputy Clerk

NEW EXHIBIT SUBMISSION PROCEDURES BEGINNING MARCH 7, 2022

1. For telephonic hearings, exhibits should be submitted one week prior to the hearing date, regardless of number.
2. For in-person hearings, exhibits should be submitted one week prior to the hearing if over fifteen (15) exhibits will be submitted.
3. Exhibits must be stapled, or paper clipped, if multiple pages.
4. We **DO NOT** accept emailed exhibits. All exhibits must be submitted in person to the 8th floor drop box, or mailed (USPS, FedEx, UPS) to Pima County Clerk of Superior Court, attn: Brenda Ramirez, 110 West Congress, Suite 131A, Tucson, AZ 85701.
5. The Clerk of Court **will no longer** remove exhibits from a previous hearing and re-mark said exhibits for a future hearing.
6. **All new hearings will require submission of new exhibits.**
7. If a hearing is continued to another date due to insufficient time to complete the hearing, those exhibits will be carried over to the next hearing date.
8. All non-admitted exhibits will be released back to the parties at the end of the hearing. If a party is appearing telephonically or by TEAMS, they will have two (2) weeks from the hearing date to pick up the non-admitted exhibits, or the exhibits will be destroyed. The parties may contact the Exhibits Unit at (520) 724-3290, to retrieve their exhibits.

Information regarding Clerk of Court marking procedures

1. Petitioner/Plaintiff's exhibits are marked using numbers.
2. Respondent/Defendant's exhibits are marked using letters. If there are more than 26 exhibits, the next 26 would be marked as AA through AZ, then BA through BZ, etc.
3. We do not utilize subsections. (We will not mark exhibits as 1A, 1B, etc.)
4. We **do not** skip numbers/letters, or reserve space. Exhibits will be marked sequentially.
5. In Civil or Criminal cases, each photograph is considered as a separate exhibit, unless it is included as part of a report.
6. Audio or Video evidence may be placed on a CD or USB drive. If each audio or video segment is to be considered as a separate exhibit, it must be on a separate CD or USB drive.
7. Once exhibits have been identified in a minute entry, they cannot be altered or added to. A new exhibit would need to be submitted.

If you need further assistance, please contact (520) 724-8279, or (520) 724-8293.

W. Robinson
Deputy Clerk

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FILED

05/31/2023

GARY L. HARRISON, Clerk

E. Leyva

Deputy

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. JAMES E MARNER

CASE NO. CR20212919-001

COURT REPORTER: Barbara Short
Courtroom - 675

DATE: May 25, 2023

STATE OF ARIZONA

Todd C. Lawson, Esq. counsel for State
(Appearing Telephonically)

VS.

KYLE ANTHONY CLARK (-001)
Defendant

Paul J Gattone, Esq. counsel for Defendant

DATE OF BIRTH: 10/5/1985

MINUTE ENTRY

SENTENCE OF IMPRISONMENT

Defendant present, in custody.

The Defendant is advised of the charge 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:

JURY VERDICT--The determination of guilt was based upon a verdict of guilty after a jury trial.

Upon due consideration of the offense, and the facts, law and circumstances involved in this case, and having found no legal cause to delay rendition of judgment and pronouncement of sentence, the Court enters the following judgment and sentence:

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of COUNT TWO: ILLEGAL VOTING, a Class Five Felony, nondangerous, nonrepetitive offense, in violation of A.R.S. §§ 16-1016.1, 13-703 committed on October 22, 2020 through November 3, 2020.

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 THREE POINT FIVE (3.5) YEARS, commencing on May 25, 2023. The Defendant shall be given credit for SIX HUNDRED FIFTY-EIGHT (658) DAYS time served.

IT IS FURTHER ORDERED that the Defendant shall serve a term of community supervision in accordance with A.R.S. § 13-603(I).

E. Leyva

Deputy Clerk

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THE COURT FINDS the following mitigating circumstances: the Defendant's remorse, the Defendant's overall *mens rea* in the matter, and the nature of the offense.

IT IS ORDERED that this sentence shall be concurrent with the sentence imposed in CR20200762-001 and CR20200254-001.

IT IS ORDERED remanding the Defendant to the custody of the Sheriff of Pima County, authorizing the Sheriff of Pima County to deliver the Defendant to the custody of the Arizona Department of Corrections, and authorizing the Department of Corrections to carry out the term of imprisonment set forth herein.

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

IT IS ORDERED that the Defendant shall pay the following:

1. Victim Rights Enforcement Fund Fee in the amount of \$2.00.
2. Victim Rights Assessment in the amount of \$9.00.
3. All other fines, fees, and assessments are waived.

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.

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

The Defendant is advised of his Notice of Right to Appeal 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

E. Leyva
Deputy Clerk

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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 Right to Appeal; Notice of Right to Apply to Have Conviction Set Aside; Notice of Rights After Conviction and Procedure; Notice of Right to Petition for Sealing of Case Records




HON. JAMES MARNER
(ID: 30b81f09-bda7-4012-a502-c31b2d650146)

cc: Hon. James E Marner
Paul J Gattone, Esq.
Todd C. Lawson, Esq.
Adult Probation
Clerk of Court - Accounting Unit
Clerk of Court - Appeals Unit
Clerk of Court - Criminal Unit
County Attorney - Victim Notification
Sgt DOC (1 certified) *WPSE* 6/1/23
Pretrial Services
Sgt Sheriff of Pima County (3 certified) *WPSE* 6/1/23

E. Leyva
Deputy Clerk