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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCONINO

Cathleen Brown Nichols, Judge
Division 5
Date: July 24, 2018

Valerie Wyant, Clerk
Trish Schmidt, Deputy Clerk
Amanda Willey, Court Reporter

MINUTE ENTRY

THE STATE OF ARIZONA,)
)
)
Plaintiff,)
)
vs.)
)
ADONIS ENCINAS-VELARDE,)
[DOB: 10/28/1997])
)
Defendant.)
)

Cause No. CR 2018-00208

ACTION: Sentence of Imprisonment as to:
 Count 3 – DOC (12.5 years)
 Count 11 (Amended) – DOC (12.5 years – Flat Time)
 Count 12 – DOC (3.5 years)
 Count 17 – DOC (2.25 years)
 Count 18 - DOC (1 year)

APPEARANCES: Ammon Barker, Deputy County Attorney, is present, appearing on behalf of the State. The Defendant, is present, appearing in custody, with Counsel Kara Sagi and Counsel Steve Harvey, Deputy Public Defenders. Barbara Eickmeyer, Court Interpreter, is present. Todd Martinet, Detective with Flagstaff Police Department, is present.

2:07 p.m. Court is in session.

The Court notes that this is the time set for Sentencing in this matter. The Court advises the Parties present that It will begin with statements on behalf of the Defendant and proceed to statements on behalf of the Victims.

Pamela Green presents statements on behalf of the Defendant.

Enrique Olivarez presents statements on behalf of the Defendant.

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Jeri Radford presents statements on behalf of the Defendant.

Jesus del Sol presents statements on behalf of the Defendant.

Patricia Encinas presents statements, with the assistance of the Court Interpreter, on behalf of the Defendant.

2:31 p.m. Court is in recess.

2:34 p.m. Court reconvenes.

Levi Beebe presents statements on behalf of the Victim, Kinsey Beebe.

Courtney Taylor, Victim-Witness advocate, presents statements for Isiah Beebe, on behalf of the Victim, Kinsey Beebe.

Mary Jo McCain presents statements on behalf of the Victim, Kinsey Beebe.

Theresa Beebe presents statements on behalf of the Victim, Kinsey Beebe.

Courtney Taylor, Victim-Witness advocate, presents statements on behalf of the Victim, Amelia Abrego.

The Defendant's fingerprint is taken by the Bailiff.

The Defendant is advised of the charge(s) and the determination of guilt.

For the record, the Court has reviewed the Pre-Sentence Report, Defense Counsel's Sentencing Memorandum, and has considered all the statements made in the Courtroom today.

Counsel and Defendant present statements.

Pursuant to A.R.S. Section 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 and his right to present evidence and call his own witnesses after having been advised of these rights. The determination of guilt was based upon a plea of guilty.

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 the crime(s) of:

Count 3: KIDNAPPING - DV, a Class 2 dangerous, non-repetitive felony, in violation of A.R.S. §§ 13-1304(A)(3), 13-1301, 13-301, 13-302, 13-303, 13-3601, 13-701, 13-702, 13-704, 13-714, 13-801, 13-804, committed on or about February 28, 2018 and,

Count 11 (Amended): ATTEMPTED DRIVE BY SHOOTING, a Class 3 dangerous, non-repetitive felony, in violation of A.R.S. §§ 13-1209(A), 13-1001, 13-301, 13-302, 13-303, 13-3601, 13-701, 13-702, 13-704, 13-714, 13-801, 13-804, committed on or about February 28, 2018 and,

Count 12: ASSISTING A CRIMINAL STREET GANG, a Class 3 non-dangerous, non-repetitive felony, in violation of A.R.S. §§ 13-2321(B), 13-701, 13-702, 13-301, 13-302, 13-303, 13-801, 13-802, committed on or between February 28, 2018 and March 1, 2018, and

Count 17: DISORDERLY CONDUCT WITH A WEAPON, a Class 6 dangerous, non-repetitive felony, in violation of A.R.S. §§ 13-2904(A)(6), 13-3601, 13-301, 13-302, 13-303, 13-604, 13-607, 13-701, 13-702, 13-707, 13-801, 13-802, committed on or about February 28, 2018, and

Count 18: MISCONDUCT INVOLVING WEAPONS, a Class 6, non-dangerous, non-repetitive felony, in violation of A.R.S. §§ 13-3102(A)(7), 13-3101, 13-701, 13-702, 13-801, 13-804, committed on or about February 28, 2018.

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of the stated crime(s), that upon due consideration of all the facts, law and circumstances relevant here, 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.

THE COURT FURTHER FINDS that there are circumstances sufficiently substantial to call for a Presumptive term as follows:

The Court finds the following Aggravating circumstances:

1. The Victims in this matter have suffered very serious emotional harm.
2. The presence of an accomplice.
3. There was the threat of infliction of very serious physical injury with respect to Count 11 (Amended) and Count 12.

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The Court finds the following Mitigating circumstances:

1. The Defendant's relatively young age when the offenses were committed.
2. The Defendant's capacity, due to his high level of intoxication, to appreciate the wrongfulness of his conduct, was significantly impaired although not so impaired as to constitute a defense to the charges.
3. The Defendant was under duress when he committed the offense listed as Count 11 (Amended).
4. The Defendant cooperated with law enforcement and contacted them voluntarily.
5. The Defendant has community and family support.
6. The Defendant is generally remorseful.
7. The Defendant has no prior felony convictions or any prior convictions whatsoever.

AS PUNISHMENT, IT IS ORDERED that the Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

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STATE v. ADONIS ENCINAS-VELARDE

DOB: October 28, 1997

OFFENSE: Count 3: KIDNAPPING - DV

FELONY CLASS: 2

**IN VIOLATION OF A.R.S. SECTIONS: 13-1304(A)(3), 13-1301, 13-301, 13-302, 13-303,
13-3601, 13-701, 13-702, 13-704, 13-714, 13-801, 13-804**

DATE OF OFFENSE: on or about February 28, 2018

SENTENCE: Defendant to be imprisoned in the Arizona Department of Corrections for more than the Presumptive, but less than the Maximum term of Twelve and one-half (12.5) years.

The Defendant shall serve no less than 85% of the term imposed by the Court before being eligible for release, except as otherwise permitted by law. The Defendant shall serve one (1) day for every seven (7) days of the sentence imposed under the supervision of the Community Supervision Program, to be served consecutively to the actual period of imprisonment.

This offense is:

1. Dangerous pursuant to A.R.S. 13-704
2. Non-Repetitive

This sentence is to run **concurrent with the sentences imposed on Count 11 (Amended), Count 12, Count 17, and Count 18.**

This sentence is to date from **July 24, 2018.** The Defendant is to be given **credit for one hundred and forty-six (146) days** of pre-sentence incarceration.

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STATE v. ADONIS ENCINAS-VELARDE

DOB: October 28, 1997

OFFENSE: Count 11 (Amended): ATTEMPTED DRIVE BY SHOOTING

FELONY CLASS: 3

**IN VIOLATION OF A.R.S. SECTIONS: 13-1209(A), 13-1001, 13-301, 13-302, 13-303,
13-3601, 13-701, 13-702, 13-704, 13-714, 13-801, 13-804**

DATE OF OFFENSE: on or about February 28, 2018

SENTENCE: Defendant to be imprisoned in the Arizona Department of Corrections for the Presumptive term of Twelve and one-half (12.5) years.

The Defendant shall serve day for day of the term imposed by the Court before being eligible for release, except as otherwise permitted by law.

This offense is:

1. Dangerous pursuant to A.R.S. 13-704
2. With gang allegation pursuant to A.R.S. 13-714
3. Non-Repetitive

This sentence is to run **concurrent with the sentences imposed on Count 3, Count 12, Count 17, and Count 18.**

This sentence is to date from **July 24, 2018**. The Defendant is to be given **credit for one hundred and forty-six (146)** days of pre-sentence incarceration.

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STATE v. ADONIS ENCINAS-VELARDE

DOB: October 28, 1997

OFFENSE: Count 12: ASSISTING A CRIMINAL STREET GANG

FELONY CLASS: 3

IN VIOLATION OF A.R.S. SECTIONS: 13-2321(B), 13-701, 13-702, 13-301, 13-302, 13-303,
13-801, 13-802

DATE OF OFFENSE: On or between February 28, 2018 and March 1, 2018

SENTENCE: Defendant to be imprisoned in the Arizona Department of Corrections for the **Presumptive term of Three and one-half (3.5) years.**

The Defendant shall serve no less than 85% of the term imposed by the Court before being eligible for release, except as otherwise permitted by law. The Defendant shall serve one (1) day for every seven (7) days of the sentence imposed under the supervision of the Community Supervision Program, to be served consecutively to the actual period of imprisonment.

This offense is:

1. Non-Dangerous
2. Non-Repetitive

This sentence is to run **concurrent with the sentences imposed on Count 3, Count 11 (Amended), Count 17, and Count 18.**

This sentence is to date from **July 24, 2018.** The Defendant is to be given **credit for one hundred and forty-six (146)** days of pre-sentence incarceration.

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STATE v. ADONIS ENCINAS-VELARDE

DOB: October 28, 1997

OFFENSE: Count 17: DISORDERLY CONDUCT WITH A WEAPON

FELONY CLASS: 6

IN VIOLATION OF A.R.S. SECTIONS: 13-2904(A)(6), 13-3601, 13-301, 13-302, 13-303,
13-604, 13-607, 13-701, 13-702, 13-704, 13-707, 13-801,
13-802

DATE OF OFFENSE: on or about February 28, 2018

SENTENCE: Defendant to be imprisoned in the Arizona Department of Corrections for the **Presumptive term of Two and one-quarter (2.25) years.**

The Defendant shall serve no less than 85% of the term imposed by the Court before being eligible for release, except as otherwise permitted by law. The Defendant shall serve one (1) day for every seven (7) days of the sentence imposed under the supervision of the Community Supervision Program, to be served consecutively to the actual period of imprisonment.

This offense is:

1. Dangerous pursuant to A.R.S. 13-704
2. Non-Repetitive

This sentence is to run **concurrent with the sentences imposed on Count 3, Count 11 (Amended), Count 12, and Count 18.**

This sentence is to date from **July 24, 2018.** The Defendant is to be given **credit for one hundred and forty-six (146)** days of pre-sentence incarceration.

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STATE v. ADONIS ENCINAS-VELARDE

DOB: October 28, 1997

OFFENSE: Count 18: MISCONDUCT INVOLVING WEAPONS

FELONY CLASS: 6

**IN VIOLATION OF A.R.S. SECTIONS: 13-3102(A)(7), 13-3101, 13-701, 13-702, 13-801,
13-804**

DATE OF OFFENSE: on or about February 28, 2018

SENTENCE: Defendant to be imprisoned in the Arizona Department of Corrections for the Presumptive term of One (1) year.

The Defendant shall serve no less than 85% of the term imposed by the Court before being eligible for release, except as otherwise permitted by law. The Defendant shall serve one (1) day for every seven (7) days of the sentence imposed under the supervision of the Community Supervision Program, to be served consecutively to the actual period of imprisonment.

This offense is:

1. Non-Dangerous
2. Non-Repetitive

This sentence is to run **concurrent with the sentences imposed on Count 3, Count 11 (Amended), Count 12, and Count 17.**

This sentence is to date from **July 24, 2018**. The Defendant is to be given **credit for one hundred and forty-six (146)** days of pre-sentence incarceration.

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RESTITUTION

ORDERED allowing the State sixty (60) days to request a Restitution Hearing or file a Stipulation regarding Restitution, if neither are filed, the Court will deem any further request for restitution as being waived.

COST OF DEFENSE

ORDERED the Defendant shall make and pay reimbursement through the Clerk of the Superior Court of Coconino County for his Cost of Defense in the total amount of **\$400.00**.

TIME PAYMENT FEE

ORDERED that the Defendant shall pay a time payment fee in the amount of **\$20.00**, if restitution is ordered at a later date and it is not paid in full on the date ordered.

FURTHER ORDERED that the above stated financial obligations shall be paid through the Clerk of the Superior Court at a rate to be determined by them, unless **Ordered otherwise**.

The Defendant is advised concerning his rights of review after conviction and written notice of the rights is provided.

ORDERED any matters set forth in the Plea Agreement as being dismissed are dismissed.

ORDERED authorizing the Sheriff of Coconino 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 therein.

ORDERED that the Clerk of the Court shall remit to the Department of Corrections a copy of this Order together with all pre-sentence reports, probation violation reports, medical and psychological reports relating to this cause.

FILED: Notice of Rights of Review after Conviction, signed by Defendant.

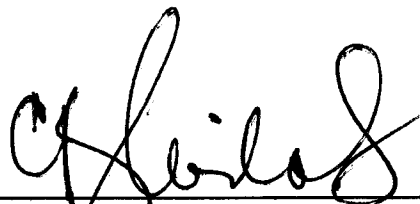
ISSUED: Order of Confinement.

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Cathleen Brown Nichols
Judge of the Superior Court
Division 5

cc: County Attorney
Defense Counsel
Sheriff's Department
DOC (2)
Defendant
✓ Financial Clerk