

WALLEN COUNTY CLERK  
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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF COCONINO**

Mark R. Moran, Presiding Judge  
Division 3  
Date: October 2, 2018

Valerie Wyant, Clerk  
Shanun Bass, Deputy Clerk  
Jonna Baker, Court Reporter

**MINUTE ENTRY**

STATE OF ARIZONA	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>Cause No. CR 2017-00838</b>
	)	<b>CR 2018-00291</b>
	)	
<b>KAYSON JEFFREY RUSSELL,</b>	)	
[DOB: 02/27/1998]	)	
	)	
Defendant.	)	
	)	

**ACTION:** As to CR 2017-00838: Sentence of Intensive Probation: Three (3) Years  
As to CR 2018-00291: Sentence of Intensive Probation: Three (3) Years

**APPEARANCES:** Ammon Barker, Deputy County Attorney, is present, appearing on behalf of the State. The Defendant is present, appearing in custody, with Counsel, Joseph Carver, Deputy Legal Defender.

2:05 p.m. Court is in session.

Upon Court inquiry, counsel are ready to proceed with sentencing.

The Defendant's fingerprint is taken by the Bailiff.

The Defendant is advised of the charges and the determination of guilt.

For the record, the Court has reviewed the Pre-Sentence Report, the Sentencing Memorandum, the Addendum to the Sentencing Memorandum, the Rule 26.5 Evaluation, letters submitted on behalf of the Defendant, as well as both Court files.

Saraphina James, the Victim's Mother, presents statements on behalf of the Victim.

Chennoa Russell, the Defendant's Aunt, presents statements on behalf of the Defendant.

Kara Begay, the Defendant's Mother, presents statements on behalf of the Defendant.

Jeffrey Russell, the Defendant's Father, presents statements on behalf of the Defendant.

Carmryn James, the Defendant's sister, presents statements on behalf of the Defendant.

Counsel 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 crimes of:

**As to CR 2017-00838:**

**Count 1 (Amended): NEGLIGENT HOMICIDE**, a class 4 felony offense, non-dangerous and non-repetitive, in violation of A.R.S. §§ 13-1102(A), 13-301, 13-302, 13-303, 13-701, 13-702, 13-801, 13-804, committed on or about September 7, 2017 and,

**As to CR 2018-00291:**

**Count 1 (Amended): ATTEMPTED POSSESSION OF MARIJUANA FOR SALE**, a class 5 felony offense, non-dangerous and non-repetitive, in violation of A.R.S. §§ 13-3405(A)(2), (B)(4), 13-1001, 13-701, 13-702, 13-801, committed on or about May 8, 2017.

**As to CR 2017-00838:**

The Court finds the following Aggravating circumstances:

1. The presence of an accomplice
2. The Victim's family suffered great emotional harm as a result of the offense
3. The Defendant violated his conditions of Pretrial release

The Court finds the following Mitigating circumstances:

1. The Defendant's young age
2. The Defendant has no prior felony convictions
3. The Defendant's capacity to appreciate the wrongfulness of his conduct was significantly impaired by ingestion of illegal substances, but not so much to constitute a defense
4. The Defendant is remorseful
5. The Defendant has strong family and community support
6. The Defendant suffers from depression and anxiety disorders

The Court notes that pursuant to A.R.S. §13-701 (E)(4), the Court finds that the Defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

**IT IS ORDERED** suspending imposition of sentence and placing the Defendant on **Intensive Probation** for the term of **three (3) years**, commencing **October 2, 2018**, under the supervision of the Adult Probation Department of this Court, in accordance with the formal Judgment and Order suspending sentence and the standard terms and conditions of probation signed by the Court.

**As to CR 2018-00291:**

The Court finds the following Aggravating circumstance:

1. The offense was committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value

The Court finds the following Mitigating circumstances:

1. The Defendant's young age
2. The Defendant has no prior felony convictions
3. The Defendant's capacity to appreciate the wrongfulness of his conduct was significantly impaired by ingestion of illegal substances, but not so much to constitute a defense
4. The Defendant is remorseful
5. The Defendant has strong family and community support
6. The Defendant suffers from depression and anxiety disorders

**IT IS ORDERED** suspending imposition of sentence and placing the Defendant on **Intensive Probation** for the term of **three (3) years**, commencing **October 2, 2018**, under the supervision of the Adult Probation Department of this Court, in accordance with the formal Judgment and Order suspending sentence and the standard terms and conditions of probation signed by the Court.

**AS ADDITIONAL TERMS OF PROBATION:**

**IT IS ORDERED** imposing Terms 1-16 of the Uniform Conditions of Supervised Probation.

**ORDERED** the Defendant shall not consume or possess any substance containing alcohol.

**ORDERED** the Defendant shall not enter any bars.

**ORDERED** the Defendant shall actively participate and cooperate in any program of counseling or assistance as determined by the Adult Probation Department.

**ORDERED** imposing Term 20, the Deferred Incarceration Sanction, of One Hundred and Twenty (120) days in the county jail and or sixty (60) community restitution hours, as directed by the Adult Probation Department and upon approval by the Court.

**ORDERED** the Defendant shall have no contact with the Co-Defendants.

**ORDERED** the Defendant shall obtain his GED.

**ORDERED** the Defendant shall seek treatment for mental health issues.

**ORDERED** the Defendant shall comply with the special conditions of Intensive Probation.

**ORDERED** the Defendant shall complete substance abuse counseling.

The Defendant shall pay the following fines, fees and/or assessments:

**RESTITUTION**

**ORDERED** that the Defendant shall make and pay restitution to the victim of this crime, for the victim's economic loss, through the Clerk of the Superior Court of Coconino County in the total amount of **\$4,354.92**; said amount shall be paid joint and severally with the Co- Defendants.

**SUPERVISION FEE**

**ORDERED** the Defendant shall pay a monthly probation services fee to the Clerk of the Superior Court at the rate of **\$75.00** per month during the term of probation.

**COST OF DEFENSE**

**ORDERED** that the Defendant shall pay **\$400.00** toward the cost of his attorney. Said cost to be paid at a rate to be determined by the Adult Probation Department.

**TIME PAYMENT FEE**

**ORDERED** that the Defendant shall pay a time payment fee in the amount of **\$20.00**. Should the Defendant pay all penalties, fine and/or assessments in full this date, said fee is not applicable.

**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 the Probation Department of this Court, unless Ordered otherwise.

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

**ORDERED** exonerating any bond.

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

**ORDERED** the sentences in Cause Numbers CR 2017-00838 and CR 2018-00291 shall run concurrently.

**As to CR 2017-00838**, the Defendant shall be given credit for **one hundred sixty-eight (168)** days of presentence incarceration credit.

**As to CR 2018-00291**, the Defendant shall be given credit for **ninety-six (96)** days of presentence incarceration credit.

**ORDERED** the Defendant shall be released from custody forthwith to begin his probation sentence.

Defense Counsel moves to seal the Rule 26.5 Evaluation; there being no objection, **IT IS SO ORDERED.**

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

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

3:13 p.m. Court is adjourned.

[ ]



[ Fingerprint ]



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**Mark R. Moran**  
Presiding Judge of the Superior Court  
Division 3

cc: County Attorney  
Legal Defender  
Adult Probation  
Sheriff's Department  
Financial Clerk