



MARICOPA COUNTY JUSTICE COURTS
BEST PRACTICES

SUBJECT: SUBMITTAL PROCEEDINGS

EFFECTIVE: 12/11/13

- 1.0 PURPOSE: To foster excellence and best practices involving case processing, form development and control, and other operating procedures throughout the Maricopa County Justice Court system. Best Practices are recommended for voluntary acceptance by the justice courts in an effort to promote consistency and efficiency throughout the system.
- 2.0 ISSUE: When a criminal case, typically a DUI case, is “submitted on the record”, which sometimes occurs after the Court has denied a Defendant’s significant pre-trial motion, not all Justice Courts have been adequately advising Defendants of the rights they are waiving in such proceedings.
- 3.0 BEST PRACTICE:
 - 3.1 Always go through with the Defendant on the record, and complete, a “Submittal Proceeding” form, as well as a “Waiver of Trial by Jury” form.
- 4.0 RATIONALE: The Court in State v. Avila, 127 Ariz. 21, 617 P.2d 137 (1986), specified the constitutional requirements for going forward with a submittal on the record, including advising the Defendant that he was waiving the right to a jury trial. This recommended practice complies with the requirements of Avila.
- 5.0 IMPLEMENTATION: The above best practice was recommended December 11, 2013. The practice may be implemented immediately and remain effective until superseded or abolished.



Maricopa County Justice Courts, Arizona

STATE OF ARIZONA

CASE NUMBER: _____

vs.

() -
Deputy County Attorney

() -
Defendant(s) Name / Address / Phone

SUBMITTAL PROCEEDING

The defendant appears in open court and desires to submit this case for a trial by submission on a stipulated record and the court finds as follows:

1. Defendant understands the nature of the charge(s) as indicated:
 - While under the influence of intoxicating liquor/toxic vapors/drugs, 28-1381A1, a class 1 misdemeanor.
 - With an illegal alcohol concentration .08 or more, 28-1381A2, a class 1 misdemeanor.
 - While any illegal drug or its metabolite is in the defendant's body, 28-1381A3, a class 1 misdemeanor.
 - With an alcohol concentration of .04 percent or more in a commercial vehicle, 28-1381A4, a class 1 misdemeanor.
 - With an extreme illegal alcohol concentration of .15 to .19 or more, 28-1382A1, a class 1 misdemeanor.
 - With an extreme illegal alcohol concentration of .20 or more, 28-1382A2, a class 1 misdemeanor.
 - Other: _____ ARS _____ a class ___ misdemeanor.
2. The defendant understands the range of penalties for the offense(s) charged, including any alleged prior convictions.
3. The court has inquired as to the defendant's probation and parole status.
4. The defendant was advised of the following: "If you are not a citizen of the United States and are found guilty of a crime, it may affect your immigration status, A finding of guilt may result in deportation even if the charge is later dismissed. A finding of guilt could result in deportation or removal, could prevent you from ever being able to get legal status in the United States, or even prevent you from becoming a United States Citizen"
5. The defendant wishes to give up the constitutional rights of which he/she has been advised and submit the case for the judge's review and determination of guilty or not guilty based upon the stipulations of the parties.
6. The court had reviewed the written Waiver of Trial by Jury form (attached) with the defendant and finds the defendant understands all matters contained therein, and desired to waive the right to trial by jury.
7. The defendant was advised of the right to a jury trial or trial by judge, as well as the right to have the issue of guilt or innocence decided by the judge based solely upon the record submitted. Counsel has agreed on the record in the defendant's presence concerning what evidence will be submitted to the court for a decision. The defendant understands that this stated evidence is the only evidence this court will consider in deciding if the defendant is guilty or not guilty.
8. The defendant understands the following constitutional rights are given up by submitting the case to the court for decision:
 - The right to trial by jury where the defendant may have representation of counsel
 - The right to testify in the defendant's own behalf
 - The right to confront and cross-examine their witnesses against the defendant
 - The right to compulsory process for obtaining witnesses in the defendant's favor
 The defendant understands all of the foregoing rights and desires to give up these rights.
9. The court has inquired of the defendant on the record whether they have any questions of the court or counsel regarding these proceeding, and such questions, if any, have been addressed.
10. The defendant is satisfied with the services of his/her attorney.
11. The defendant understands that this trial by submission preserves the right to direct appeal.
12. The defendant's waiver of the forgoing rights is voluntary, not the result of any force, threats, or promises.
13. The court has inquired of counsel if there is anything else to be included in the record, and there is nothing.

I certify that the judge personally advised me of the matters noted above that I fully understand, agree with, and approve the finding made by the judge. I understand the constitutional rights that I give up by entering this submittal and that I still desire to submit for the judge's consideration the charge(s) as set forth above.

Date: _____ Defendant _____

On the basis of these findings, I conclude that the defendant knowingly, voluntarily, and intelligently enters a submittal to the above charge(s) and I accept the defendant's submittal.

Date: _____ Justice of the Peace _____



Maricopa County Justice Courts, Arizona

STATE OF ARIZONA

CASE NUMBER: _____

VS.

WAIVER OF TRIAL BY JURY

Defendant

Instructions: The purpose of this form is to advise you of your right to trial by jury and to allow you to give up the right if you so choose. Read the entire form carefully before signing it.

I understand that I am charged with the crime of _____

_____ which is a misdemeanor under the law of Arizona and that if I am found guilty I can be given a severe punishment, including imprisonment, in the Maricopa County Jail, a fine, or other penalty.

I understand that I am entitled to a trial by jury on these charges, and that the right to jury means the right to have my guilt or innocence decided by a group of ordinary people whose decision must be unanimous.

I understand that once I have made the decision to give up my right to jury trial, I may change my mind only with the permission of the court, and may not change it at all once the trial has actually begun.

CERTIFICATION AND WAIVER

After reading and understanding the above, I hereby give up my right to trial by jury and consent to have my guilty or innocence determined by the judge.

Date: _____
Defendant

I have explained to the defendant his right to trial by jury and consent to his waiver of it.

Date: _____
Defendant Counsel

I consent to waiver of trial by jury in this case.

Date: _____
Prosecutor

I approve of the waiver of the trial by jury in this case.

Date: _____
Justice of the Peace