

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

MARY JOSEPHINE TATHAM,
Bar No. 028792

Respondent.

PDJ 2019-9007

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 18-2547]

FILED MARCH 14, 2019

The Presiding Disciplinary Judge accepted the Agreement for Discipline by Consent filed by the parties on February 27, 2019.

Accordingly:

IT IS ORDERED Respondent, **MARY JOSEPHINE TATHAM, Bar No. 028792** is suspended for six (6) months and one (1) day for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED upon reinstatement, Ms. Tatham shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of any reinstatement hearings held.

NON-COMPLIANCE LANGUAGE

If Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in these disciplinary proceedings.

DATED this 14th day of March, 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 14th day of March, 2019, to:

Kelly J. Flood
Staff Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Mary Josephine Tatham
16623 N. 1st Lane
Phoenix, Arizona 85023
Email: maryjotatham@gmail.com
Respondent

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

MARY JOSEPHINE TATHAM,
Bar No. 028792

Respondent.

PDJ 2019-9007

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 18-2547]

FILED MARCH 14, 2019

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed on February 27, 2019. A Probable Cause Order was issued on November 20, 2018, but no formal complaint has been filed. The State Bar of Arizona is represented by Staff Bar Counsel Kelly J. Flood. Ms. Tatham is self-represented and was administratively suspended for non-payment of dues on June 26, 2018.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline....” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved....” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Ms.

¹ Unless otherwise stated, all Rule references are to the Ariz. R. Sup. Ct.

Tatham has voluntarily waived the right to an adjudicatory hearing, and waived all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Rule 53(b)(3), which requires that the State Bar provide the complainant with notice and an opportunity to object is inapplicable as the State Bar is the complainant.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Ms. Tatham admits violating Rule 54(c) (knowing violation of any rule or order of the court), Rule 54(g) (conviction of a crime), Rule 42, ER 8.4(d) (conduct prejudicial to the administration of justice), and ER 8.4(b) (commit a criminal act that reflects adversely on fitness as a lawyer). Upon acceptance of the agreement the parties have stipulated to suspension for six (6) months and one day, two (2) years of probation upon reinstatement, and the payment of costs of \$1,200.00 to the State Bar within thirty (30) days from this Order.

The misconduct is briefly summarized. Ms. Tatham pleaded guilty to one felony and one misdemeanor count, respectively: Possession or Use of Dangerous Drugs (Methamphetamine) and Interfering with Judicial Proceedings. She was sentenced to serve thirty days in jail and was placed on three years of supervised probation. The terms of her probation include substance abuse treatment and domestic violence classes.

This agreement is a grim reminder that lawyers, as with all individuals, are subject to human frailties. Whether in the sweltering heat of our summer or the bitter blast of winter in the northeast anyone can be broken. Our community brokenness should humble the proud and yet also soften the stubborn. Pain needs no welcome, it enters in and seeks to win the critical battles within. Once invited in, it refuses to be ignored. Often at the most anguishing point one learns to overcome.

That is the unseen hope of this Agreement.² Rehabilitation. Agreements bring certainty where there is uncertainty in aspects of evidence, testimony, and persuasive force. This Agreement brings that yet requires Ms. Tatham to prove to a hearing panel clearly and convincingly that she should be permitted to return to the practice of law.

The parties agree *Standard* 5.11(a) and (b), *Failure to Maintain Personal Integrity*, providing for disbarment, apply to Ms. Tatham's violations of Rules 54(c) and 54(g), and ERs 8.4(d) and 8.4(b), but provide that six (6) months and one (1) day, with two (2) years of probation, and the imposition of costs and expenses, is the presumptive mitigated sanction for her knowing misconduct.³ The parties further agree

² Ms. Tatham has owned her own law practice in the State of Michigan since 2004 and began practicing law in the State of Arizona in 2011 but has not practiced since 2017. Ms. Tatham admitted her last illegal use of marijuana to be at age forty-three, which falls within the time frame when she operated her law practice in Michigan. (Ex. C at 4-5).

³ Rule 57(a)(2)(E) requires, in part, a discussion as to why a greater or lesser sanction would not be appropriate under the circumstances. The parties failed to provide a discussion regarding the application of the proposed relevant mitigating and aggravating factors; however, failure to provide this discussion does not affect the outcome in this case.

Ms. Tatham's conduct violated her duty to the legal system and the profession. The parties stipulate Ms. Tatham's conduct caused no actual harm to the legal system, the profession, or the public.

In aggravation, the parties stipulate factors 9.22(d) multiple offenses, (k) illegal conduct, including controlled substances, and (i) substantial experience in the practice of law, are present. In mitigation, factors 9.32(c) personal or emotional problems, (d) timely good faith effort to rectify consequences⁴, (e) full and free disclosure to the State Bar, (k) imposition of other penalties, and (l) remorse⁵, are present. A long-term suspension is in accordance with the *Standards*.

Now Therefore,

IT IS ORDERED accepting the Agreement and incorporating it with any supporting documents by this reference.⁶ A final judgment and order is signed this date.

DATED this 14th day of March 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

⁴ Ms. Tatham offered no evidence in support of her assertions that she attends counseling or treatment aside from that which is court ordered. It is hoped she does.

⁵ Rehabilitation is built upon action. Compelled or court ordered remedial actions are not expressive of true remorse. It is concerning that Ms. Tatham claimed she is seeking treatment for substance abuse yet admitted she does not feel the need for drug treatment. (Agreement for Discipline by Consent at 8; Ex. C at 4).

⁶ The Agreement calls for a suspension effective thirty (30) days from this order. The PDJ rejects this as Ms. Tatham is already suspended, thus the Order imposing suspension of six (6) months and one (1) day is effective immediately.

COPY of the foregoing e-mailed/mailed
on this 14th day of March 2019, to:

Kelly J. Flood
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Mary Josephine Tatham
16623 N 1st Lane
Phoenix, Arizona 85023
Email: maryjotatham@gmail.com

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: AMcQueen

Kelly J. Flood, Bar No. 019772
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
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Telephone (602) 340-7278
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

FEB 27 2019

FILED

BY



Mary Josephine Tatham, Bar No. 028792
16623 N. 1st Lane
Phoenix, Arizona 85023
Telephone (602) 330-8855
Email: maryjotatham@gmail.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A
SUSPENDED MEMBER OF THE
STATE BAR OF ARIZONA,**

**MARY JOSEPHINE TATHAM
Bar No. 028792 (a suspended
member¹)**

Respondent.

PDJ ~~2018~~ 2019-9007

State Bar File Nos. 18-2547

**AGREEMENT FOR
DISCIPLINE BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent,
Mary Josephine Tatham, who has chosen not to seek the assistance of counsel,

¹Respondent was administratively suspended for non-payment of dues on June 26, 2018.

hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on November 20, 2018, but no formal complaint has been filed in this matter. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

The State Bar is the complainant in this matter, therefore no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, ER 3.4(c), ER 8.4(b), ER 8.4(d), Rule 54(c), Rule 54(g) Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Suspension for six months and one day, and probation for two years. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

² Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk,

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on October, 13, 2011.

COUNT ONE (File no. 18-2547/ Judicial Referral

2. On July 19, 2018, Respondent was charged with three counts: (1) Possession or Use of Dangerous Drugs (Methamphetamine), a Class 4 Felony, (2) Possession of Drug Paraphernalia, a Class 6 Felony, and (3) Interfering with Judicial Proceedings, a Class 1 Misdemeanor, involving Domestic Violence.

3. The charges stemmed from an incident that occurred on July 5, 2018, where at ~11:41 pm Respondent appeared at the residence of her former boyfriend. The ex-boyfriend had previously obtained an order of protection against Respondent and called police. Police arrived and arrested Respondent. Upon searching Respondent, police found crystal methamphetamines and a glass pipe.

the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

4. If called to testify, Respondent would state that at the time of the offense, she was homeless, stranded and in distress, and she wanted to ask her ex-boyfriend to help her get to a safe place, and started knocking on his window.

5. Respondent pleaded guilty to Possession of Drug Paraphernalia, a Class 6 Felony, Undesignated, and Interfering with Judicial Proceedings, a Class 1 Misdemeanor involving domestic violence, and was sentenced on August 20, 2018. Respondent will serve 30 days in jail starting December 17, 2018, and is placed on three years of supervised probation. Her terms of probation include substance abuse treatment and domestic violence classes.

6. A copy of the Maricopa County Superior Court Adult Probation Department's Presentence Investigation is attached hereto as Exhibit C.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ER 8.4(b), ER 8.4(d), Rule 54(c), Rule 54(g).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss allegations regarding ER 3.4(c), Rule 42, Ariz. R. Sup. Ct.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Suspension for a period of six months and one day, and probation for two years.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance

with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 5.1 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 5.11(a) provides that disbarment is generally appropriate when the lawyer engages in serious criminal conduct a necessary element of which includes interference with the administration of justice, or 5.11(b) addresses disbarment for conduct that seriously adversely reflects on the lawyer's fitness to practice. Here, Respondent violated an order or protection, and was found in possession of drugs and drug paraphernalia.

The duty violated

As described above, Respondent's conduct violated her duties to maintain personal integrity, and to the court system, and to the public.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent's conduct was intentional and that her conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to the legal system, the profession, and the public.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is disbarment. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(d) multiple offenses

Standard 9.22(i) substantial experience in the practice of law (admitted in 2011)

Standard 9.22(k) illegal conduct, including controlled substances

In mitigation:

Standard 9.32(c) personal or emotional problems

Standard 9.32(d) timely good faith effort to rectify consequences

Standard 9.32(e) full and free disclosure to the State Bar

Standard 9.32(k) imposition of other penalties

Standard 9.32(l) remorse.

Respondent is seeking treatment for substance abuse and counseling for domestic violence. She attends weekly individual counseling for personal emotional issues that led to the incident. She also attends weekly court-ordered anger management classes. She must attend 32 weeks of the anger management classes, after which court-ordered substance abuse treatment will begin, as determined by her probation officer. She is subject to daily random drug tests. She now has a stable place to live and has obtained a job in food service. She has expressed remorse and a desire move forward in a healthy, positive direction.

Discussion

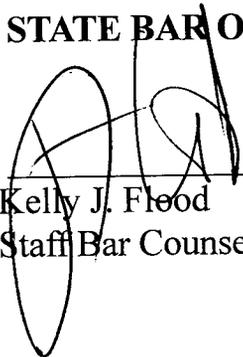
The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction should be mitigated to a suspension of six months and one day, with two years of probation, and the imposition of costs and expenses.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Suspension for six months and one day, and probation for two years, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 27th ^{February} day of January, 2019.

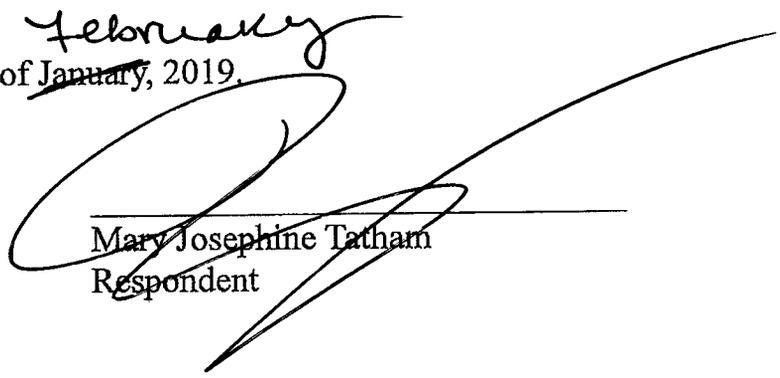
STATE BAR OF ARIZONA



Kelly J. Flood
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. [I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.]

DATED this 17th ~~January~~ ^{February} day of ~~January~~, 2019.


Mary Josephine Tatham
Respondent

Approved as to form and content


Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 27th day of ~~January~~ ^{February}, 2019.

Copy of the foregoing emailed
this 27th day of ~~January~~, 2019, to:
February

The Honorable William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/emailed
this 27th day of ~~January~~, 2019, to:
February

Mary Josephine Tatham
16623 N. 1st Lane
Phoenix, Arizona 85023
Telephone (602) 330-8855
Email: maryjotatham@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 27th day of ~~January~~, 2019, to:
February

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

by: *Margaret Goode*
KJF/mg

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a suspended Member of the State Bar of Arizona,
Mary Josephine Tatham, Bar No. 028792, Respondent

File No. 18-2547

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$1,200.00

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A
SUSPENDED MEMBER OF
THE STATE BAR OF ARIZONA,**

**MARY JOSEPHINE. TATHAM
Bar No. 028792**

Respondent.

PDJ

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 18-2547]

The Presiding Disciplinary Judge, having reviewed the Agreement for Discipline by Consent filed on , pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED that Respondent, **Mary Josephine Tatham**, is suspended for six months and one day for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order or _____.

IT IS FURTHER ORDERED upon reinstatement, Respondent shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of

reinstatement hearings held.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 within thirty (30) days from the date of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of January, 2019

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of January, 2019.

Copies of the foregoing mailed/emailed
this _____ day of January, 2019, to:

Mary Josephine Tatham
16623 N. 1st Lane
Phoenix, Arizona 85023
Telephone (602) 330-8855
Email: maryjotatham@gmail.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of January, 2019, to:

Kelly J Flood
Staff Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of January, 2019 to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: _____
KJF/mg

EXHIBIT C

The Superior Court of Arizona in Maricopa County
Adult Probation Department

Chief Probation Officer Barbara A. Broderick

PRESENTENCE INVESTIGATION

State of Arizona v. **Mary Tatham, CR2018133457-001**

Superior Court Criminal Division SEC05

Sentencing Date: **August 20, 2018**

<u>Sentencing Judge:</u>	Terri Clarke	<u>Prosecutor:</u>	Beth Schneider
<u>PSI Officer:</u>	Tania Newman-Juarez	<u>Defense Counsel:</u>	Jessica Spargo

CR2018133457-001

Present Offense

The following information was summarized from Maricopa County Sheriff's Office Departmental Report #18020036:

On July 5, 2018, the defendant violated an order of protection when she went to Wayne Shipman's apartment and woke him by tapping on his bedroom window (count 3). He called MCSO and went outside to confront her. Responding officers found Mr. Shipman and the defendant outside in front of the house. Mr. Shipman told the officers that he knew the defendant from a previous intimate relationship. They broke up and due to her behavior afterwards, he sought the order of protection. She assaulted him a few months prior and was arrested. He stated no matter what he does, the defendant will not leave him alone. She used multiple phone numbers to contact him, all of which he blocked. He told police he did not wish to prosecute.

The defendant was contacted and arrested. A search of her person revealed a container with two grams of methamphetamine and a pipe (count 1, dismissed count 2). The defendant denied smoking the methamphetamine and advised the officers she understood the terms of the protection order as she was an attorney licensed to practice in Arizona and Michigan.

Statutory Offense Requirements

Per A.R.S. 13-901(H)(4), the offense in count 1 represents a strike under Proposition 200 and probation is not mandatory due to the involvement of methamphetamine.

Victim Statement(s)

Wayne Shipman indicated he is extremely frustrated as the defendant has not stopped and continues to contact him. They were good friends for ten years, but he has seen her decline. She has gone so far as to purchase a Groupon then cancelling it which shows up on his merchant records. She has parked outside of his home, and called him approximately eight times from jail. He now has to pay \$26.00 per month for phone blocking services. The defendant has cost him personally and professionally. He lost business due to her phone calls. She would call multiple times and use up his voice mail space. He was then told by customers they could not reach him and took their business elsewhere. He changed all of his business phone numbers since then. He is not requesting restitution and does not want to see her receive any jail time, but he believes she needs mental health treatment and he hopes she gets the help she needs. Mostly, he wants her to leave him alone.

The Superior Court of Arizona in Maricopa County
Adult Probation Department
Chief Probation Officer Barbara A. Broderick
State of Arizona v. Mary Tatham, CR2018133457-001

Defendant Statement

During a follow-up interview, the defendant indicated she went to a former boyfriend's house to ask for help getting a ride home. He had an order of protection against her and called the police. She was arrested and searched. She was charged with possession of dangerous drugs, drug paraphernalia, and interfering with judicial proceedings. It was a very isolated incident and an aberration of her behavior. She has had no contact with him since her arrest. She believes probation would be most effective as she does not have a previous offense, and she believes she will no have a problem complying with the terms of probation.

Interested Parties Statements

Deputy County Attorney Beth Schneider submitted a written recommendation which was reviewed and is attached for the Court's consideration.

The defendant was released from custody under the supervision of Pretrial Services on July 6, 2018. Pretrial Officer G. Howard submitted a written report which was reviewed and is attached for the Court's consideration.

Risk/Needs Assessment

The Field Reassessment Offender Screening Tool (FROST) or Offender Screening Tool (OST) uses a detailed interview and scoring system to determine an offender's risk to re-offend and identifies the risk factors (domains) of their life that would benefit from intervention. There are nine domains grouped by their impact on the offender's overall risk level. Scores of 60% or higher (50% for mental health domain) in each individual domain contribute the most to the offender's total risk level, whereas lower scores may contribute moderately or not at all. The identified risk factors provide the Court and other agencies information to match supervision and treatment interventions that will address an offender's greatest risk factors, potentially reducing their risk to re-offend. The FROST or OST has been validated for statewide use on Arizona's adult population and has been approved by the Administrative Office of the Courts.

**OVERALL RISK/NEEDS LEVEL
(Male Risk/Needs Range)**

		12	
Low (0-5)	Medium-Low (6-10)	Medium-High (11-17)	High (18-42)

The Superior Court of Arizona in Maricopa County
Adult Probation Department
Chief Probation Officer Barbara A. Broderick
State of Arizona v. Mary Tatham, CR2018133457-001

DOMAINS THAT DO NOT CONTRIBUTE TO OVERALL RISK/NEED LEVEL

DOMAIN		SUMMARY
Alcohol		
0/3	0%	<ul style="list-style-type: none"> - First consumed alcohol at age thirteen. - Does not typically consume alcohol. - Had a problem in the eighties or nineties but participated in intervention in 1994; believed treatment helped.

DOMAINS THAT MAY CONTRIBUTE TO OVERALL RISK/NEED LEVEL

DOMAIN		SUMMARY
Criminal Behavior		
1/9	11%	<ul style="list-style-type: none"> - No known prior criminal history. - Present offenses are a felony and a misdemeanor. - Present offense involved a victim.
Family and Social Relationships		
2/8	25%	<ul style="list-style-type: none"> - Raised by biological parents; both deceased. - Two siblings; has no relationship with them. - Divorced three years; not in a relationship. - Ex-husband was verbally and physically abusive to her; police were involved once or twice. - Has two children with whom she reported positive relationships. - Peer relationships described as positive; has a pro-social relationship in a friend who she has known for twenty-four years.
Attitude		

The Superior Court of Arizona in Maricopa County
Adult Probation Department
Chief Probation Officer Barbara A. Broderick
State of Arizona v. Mary Tatham, CR2018133457-001

2/7	29%	<ul style="list-style-type: none"> - Did not express attitudes supporting a criminal-lifestyle, but has some attitudes non-conforming to social norms. - Believes her conviction was fair. - Conviction causes her to want to make positive changes in her life; get her own place and seek to get her legal license reinstated. Acknowledged she may need assistance to do so. - Expressed some lack of respect towards authority figures.
Drug Abuse		
1/3	33%	<ul style="list-style-type: none"> - Smoked marijuana daily beginning at the age thirteen; smoked for thirty years. Last smoked marijuana illegally at age forty-three. Possesses a valid Medical Marijuana Card. See Confidential Section. - Experimented with LSD/PCP and mushrooms at ages seventeen and twenty-two, respectively. - Inhaled cocaine on a weekly basis for six months at the age of twenty. - Inhaled methamphetamine sporadically beginning at age twenty-six for one year. - Does not currently use illegal drugs. Does not feel the need for treatment. - Did not use methamphetamine around the time of the incident; but present offense involved methamphetamine.
Education		
1/3	33%	<ul style="list-style-type: none"> - Earned high school diploma in 1993. Earned a Bachelor's degree in Legal Advocacy, and earned Juris Doctorate Degree in 1999. - Suspended for one day in high school for falsely writing a note for a classmate.
Vocational/Financial		

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2/5	40%	<ul style="list-style-type: none"> - Unemployed. - Vocational skills as a caretaker, in construction, and as an attorney. - Was licensed to practice in Arizona and Michigan. Current license suspended (verified). See attached Licensing Board Notification. - Has not practiced since 2017 due to injury from car accident; had her own practice in Michigan since 2004. - Not able to meet financial obligations; living off earnings from Michigan law firm.
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Residence

1/2	50%	<ul style="list-style-type: none"> - Resides with aunt and uncle in Phoenix; two weeks. Prior to this, with a friend in Mesa; two months. - Would like to obtain her own residence someday. - Residence unstable.
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DOMAINS THAT SIGNIFICANTLY CONTRIBUTE TO OVERALL RISK/NEED LEVEL

DOMAIN	SUMMARY	
Mental Health		
2/2	100%	- See Confidential Section.

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Additional Assessment and Screenings

Addendums for Programs	Meets Program Criteria	Recommended	Additional Screening Comments
Drug Court	No	No	- Resides outside of approved zip codes. - Risk score.
DUI Court	No	No	- Nature of offense.
DV	Yes	Yes	- Nature of offense.
IPS	No	No	- Medium-high overall risk score.
JTOP	No	No	- Age at time of arrest.
Mental Health	No	No	- See Confidential Section.
Sex Offender	No	No	- No history of sexual offending.
Veterans Court	No	No	- No military experience.

Financial Assessments

The defendant is unemployed and living off residual income from a previous law practice. She appears employable and should be held responsible for all Court-assessed fines and fees. Although a drug fine is not mandatory for the paraphernalia offense in count 1, the stipulated fine of \$750.00 plus an 83 percent surcharge will be recommended as a sanction to impress upon the defendant the seriousness of her criminal actions and drug use. The domestic violence offense in count 3 will require the Address Confidentiality Program fee of \$50.00 and Family Offense Assessment fee of \$50.00. Reimbursement for attorney fees will not be recommended as the Court has found the defendant to be indigent.

Per the stipulations of the plea agreement, the defendant shall pay restitution for all economic loss to all victims for all counts resulting from Maricopa County Sheriff's Office DR18020036 not to exceed an amount of \$5,000.00; however, Wayne Shipman is not requesting restitution.

Identification Status

The defendant provided her Arizona Driver License to verify her identity.

Discussion and Evaluation

The fifty-three year old defendant faces sentencing on her first misdemeanor and felony convictions after violating a protection order and being found in possession of methamphetamine and drug paraphernalia, respectively. Wayne Shipman indicated the defendant has harassed him continuously for several months, each time violating the protection order. He does not want the victim incarcerated but wants the defendant to leave him alone and perhaps receive mental health treatment.

Standard case assessment indicated the defendant is a medium-high risk to re-offend with the mental health domain significantly contributing to her overall risk. Multiple other domains may also contribute to her risk, particularly vocation and drug abuse, and should be addressed. Although the defendant does not feel she has a problem with drugs, she may benefit from drug education and intervention. Her mental health should be monitored and further assessed so it may be treated accordingly should any needs arise.

Given the defendant's lack of criminal history and risk score, she appears to be a good candidate for community supervision and may benefit from the support and programs offered while being supervised. However, given the nature of the present offense and the need for no victim contact, supervised probation with domestic violence conditions will be recommended. Further, the Computer Usage addendum is recommended in support of the requirements that the defendant shall not contact, or attempt to contact, the victim or the family of the victim in person, through mail or electronic or telephonic means.

Recommendations

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Count 001:

It is respectfully recommended that the defendant be granted 2.00 Years Supervised Probation to begin August 20, 2018.

Abide by the following additional conditions:

- Condition #19 I will not have any contact with the victim(s) in any form, unless approved in writing by the APD.
- Condition #21 I will abide by the attached special conditions of probation:
- Domestic Violence
 - Computer Usage

Count 003:

It is respectfully recommended that the defendant be granted 2.00 Years Supervised Probation to begin August 20, 2018.

Abide by the following additional conditions:

- Condition #21 I will abide by the attached special conditions of probation:
- Domestic Violence
 - Computer Usage

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Presentence Incarceration

CR2018133457-001

Count 001:

Incarcerated	To	Reason	Days
7/6/2018	7/7/2018	Presentence	2
Total Days:			2

Count 003:

Incarcerated	To	Reason	Days
7/6/2018	7/7/2018	Presentence	2
Total Days:			2

Respectfully submitted by:

Tania Newman-Juarez, Adult Probation Officer
Cell: (602) 619-5475
August 15, 2018
<mailto:tjuarez@apd.maricopa.gov>
Pete Sanborn, Supervisor
Phone: (602) 619-3008

RECOMMENDATION AS TO SENTENCE

TO: Assigned Adult Probation Officer
FROM: Beth A Schneider, Deputy County Attorney, CBPE-Southeast Valley
RE: **Mary Josephine Tatham, CR2018-133457-001**

Charges Pled To:

CR2018-133457-001 **Count 1:** Possession Of Drug Paraphernalia, a class 6 Undesignated Felony

CR2018-133457-001 **Count 3:** Interfering With Judicial Proceedings, a class 1 Misdemeanor - Domestic Violence

Stipulation: Defendant shall serve the following sentence:

Count 1: The defendant shall be placed on supervised probation. The defendant shall pay a fine of \$750 plus an 83% surcharge, for a total fine of \$1,372.50. The defendant shall pay any and all costs associated with DNA testing required pursuant to A.R.S. §13-610. This offense may not be designated a misdemeanor unless and until the defendant successfully completes probation. The Defendant shall perform 100 hours of community service.

Count 3: Defendant shall be placed on supervised probation. Defendant shall complete a domestic violence offender treatment program as required by A.R.S. § 13-3601.01. Defendant shall not be eligible for deferred prosecution. The Defendant must pay a \$50 Assessment to the Address Confidentiality Fund pursuant to A.R.S. §12-116.05. The Defendant must pay a \$50 Family Offense Assessment pursuant to A.R.S. §12-116.06.

Defendant shall pay restitution for all economic loss to all victims and/or their insurance companies, and/or Maricopa County Attorney's Office Victims Compensation Bureau, for all counts and/or events, including dismissed, amended and/or uncharged counts or events, resulting from Maricopa County Sheriff's Office DR 18020036 and any supplements, in an amount not to exceed \$5000, regardless of whether the loss was caused by the defendant or any accomplice.

Criminal History: No prior felony convictions

Recommendation:

Supervised Probation: 2 years concurrent for both counts

Reasons: This is a serious offense and Defendant has clearly had a severe turn of events in her life to cause her to abuse drugs and violate court orders. Extended probation should assist the Defendant in returning to a drug-free, crime-free life.

Facts:

On 07/05/2018 around 2341 hours, MCSO Deputies responded to 341 N Signal Butte in Mesa to a complaint of a violation of an order of protection. During the investigation Mary Tatham was arrested for violating an active and valid order of protection. (Defendant and victim had a previous relationship that was sexual in nature and lasted approximately 6 months until victim broke up Defendant in March 2018.) Subsequently, during a search incident to arrest a crystalline substance was found in Mary's possession along with a glass cylindrical pipe with burn residue. The crystalline substance tested positive for the presence of methamphetamine

Total Restitution: Please see PSR