

SUPREME COURT OF ARIZONA

STATE OF ARIZONA,) Arizona Supreme Court
) No. CR-18-0035-PR
 Respondent,)
) Court of Appeals
 v.) Division One
) No. 1 CA-CR 16-0630 PRPC
 KENDRICK BARROW,)
) Maricopa County
 Petitioner.) Superior Court
) No. CR2014-001644-001
)
 _____)

FILED 09/06/2018

DECISION ORDER

The Court denies review of the issues raised in the petition for review. Because our review of the record reveals a sentencing error resulting from the court of appeals' decision modifying petitioner's sentences, we grant review sua sponte to address that issue.

The court of appeals decided that the sentences on Counts 2 and 3 must run concurrently and modified petitioner's sentences accordingly. The court left untouched the trial court's ruling that petitioner's sentences on Counts 1, 4, and 5 run concurrently with Count 2 and consecutively to Count 3. But because Counts 2 and 3 now run concurrently, it is not possible for petitioner to serve these sentences. Therefore, we remand the case for resentencing. See *State v. Young*, 106 Ariz. 589, 591 (1971) (remanding for correction of "impossible" sentence). On remand the trial court must heed the Court of Appeals' ruling that the sentences on Counts 2 and 3 run concurrently with each other. It is left to the trial court's discretion whether the sentences on Counts 2 and 3, as a pair, run concurrently or consecutively to the remaining counts. Accordingly,

IT IS ORDERED granting review sua sponte and remanding the matter to the trial court for resentencing.

IT IS FURTHER ORDERED denying the petition for review.

DATED this 6th day of September, 2018.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

Joseph T Maziarz

Andrea L Kever

Dawnese Hustad

Kendrick Barrow, ADOC 301503, Arizona State Prison, Florence - North
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Hon. Paul J. McMurdie

Hon. Janet Barton

Hon. Sam Myers

Hon. Erin Otis

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Hon. Chris DeRose

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