

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-377

Judge: A. Douglas LaSota

Complainant: Jack D. Litwak

ORDER

The complainant alleged a municipal court judge engaged in an ex parte communication in a criminal case.

On October 13, 2022, the judge conducted a telephonic conference on the record in a criminal case with only the defendant's attorney participating in the call. When the defendant's attorney asked about the presence of the prosecutor, the judge informed the attorney that the prosecutor was "next door," which the attorney understood to mean an adjacent room within hearing range. The prosecutor was in a different building and unaware of the telephone conference. The Commission did not find that the call fell into the administrative and scheduling exception to Rule 2.9 of the Code.

The judge's conduct violated the following provisions of the Code of Judicial Conduct:

Rule 1.2 (Promoting Confidence in the Judiciary), which states, "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Rule 2.9(A) (Ex Parte Communications), which states, "A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter . . ."

Accordingly, Apache Junction Municipal Court Judge A. Douglas LaSota is hereby publicly reprimanded for the conduct described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judicial officer's response, and this order shall be made public as required by Commission Rule 9(a).

Commission members Denise K. Aguilar and Michael J. Brown did not participate in the consideration of this matter.

Dated: August 30, 2023

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on August 30, 2023.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY**2022-377****COMPLAINT AGAINST A JUDGE****Name:** Jack Litwak**Judge's Name:** Douglas LaSota

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

At 1:56 today, October 13, 2022, I received a call on my cellphone directly from judge Douglas LaSota. The call started with the judge addressing an Arizona Rule of Criminal Procedure 9.1 request in my Notice of Appearance (Exhibit 1) filed on October 5, 2022, stating that we need to understand that the rule does not allow for a waiver of a client's appearance. He then began to talk about how he is not granting continuances in cases given directives from higher courts, that Mr. Velasquez had two prior appearances, and that the defense needs to get discovery completed and get interviews done—filing motions to compel if needed. I wanted to provide a collective update, from both the state and defense regarding the state's recent disclosures and my disclosure request that was filed 10.13.22 (Exhibit 2). At that moment I realized that there was no prosecutor present in the Courtroom and that Judge LaSota was calling me ex parte. I asked whether the state was present, and the judge responded by asking me why that mattered. I stated that I need to address whether this was an ex parte communication. He stated that the prosecutor was right next door. This led me to believe the prosecutor was in the small office right off of the courtroom, and could hear our conversation--thus making it non ex parte. I asked whether we were on the record, he stated that we were.

Judge LaSota then began to discuss setting interviews of witness. I indicated that I needed materials and time to review materials to set interviews, and that I just filed a 15.1 disclosure request with some additional requests that would be necessary for expert analysis. He began questioning me as to why certain materials were necessary and I stated that I did not feel comfortable nor was I obligated to speak to him about defense strategy but that they were necessary for interviews. I stated I would do everything I could to move expeditiously, and have done so considering I only had the case for nine days. He concluded the conversation by again lecturing me on Rule 9.1, and I stated Mr. Valenzuela would be present at future hearings and that we would set a trial or discuss disclosure issues at that point. This was an eight minute phone call.

I was floored by the phone call as I have never experienced an ex parte communication, let alone an ex parte call directly to my cellphone. I reached out to the prosecutor's office at 2:08 p.m. right when I got off the phone and Michelle, the legal assistant, stated that the prosecutor, Eric Yuva, was not at the courthouse. I left Eric a voicemail. I then spoke with ethics counsel and several other attorneys. I emailed Eric at 3:33 p.m. to reiterate what had occurred, and that I had significant ethical concerns. I spoke with the prosecutor at 3:58, and he confirmed that he was not even in the Courthouse today, that he was not present, and that the judge's call to me was in fact ex parte. See attached emails as Exhibit 3.

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Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
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COMPLAINT AGAINST A JUDGE

Name: Jack Litwak

Judge's Name: Douglas LaSota

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

I had two major concerns regarding the judge's conduct. First, that the judge violated judicial canon 2.9 regarding ex parte communications by initiating ex parte communications with undersigned counsel about a pending matter. The judge was addressing substantive matters during the communication by attempting to force me to disclose why certain discovery materials were necessary for the preparation of defense of my client. I felt so uncomfortable by the court's inquisition that I was forced to voice that I did not have an obligation to disclose defense strategy to the judge. I felt, based on the tone of conversation and substantive contents, that the judge was attempting to bully the defense outside of the presence of the state and force me to complete interviews or try the case without necessary documents and preparation since the judge's questions regarding relevant materials were accompanied with his position about continuances. The discussion regarding pertinent evidence in the case, and the judge's urging to schedule interviews without the necessary materials is substantially substantive as this is a criminal case and the contents of the conversation pertain to the defendant's defense and right to due process. The judge discussed substantive moves that the defense would need to take to comply with the judge's preference for not continuing cases by telling defense counsel that motions to compel may need to be filed. A communication like this, and the response when asked whether the state was present, also violates judicial canon 1.2 as it erodes public confidence in the office.

In addition to the violation of the judicial canon above, undersigned counsel is most concerned with the implications this behavior demonstrates on his client's right to due process and the rights of every other person accused of crimes who is brought before this judge. Going so far as to call defense counsel ex parte, then when questioned about whether the state was present infer that he was present, demonstrates that the judge will go to any means to achieve his motive of forcing cases to trial or through interviews without the benefit of all materials necessary to provide a complete and adequate defense under the Sixth amendment.

I have never experienced behavior like this from any judge, and have appeared in courts all throughout the state. I had never appeared before this judge, have had no experiences or dealings in any setting with this judge at any point other than this call during this case-which I have only had for nine days.

EXHIBIT 1

1 **LITWAK LAW GROUP PLLC**
1 North 1st Street, Suite 716
2 Phoenix, Arizona 85004
845-558-1448 (telephone)
3 **Jack Daniel Litwak, Bar No. 032153**
Jlitwak@litwaklawgroup.com
4 Attorney for Defendant

5
6 IN THE APACHE JUNCTION MUNICIPAL COURT IN THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF MARICOPA

8 STATE OF ARIZONA,	)	Case Number: TR2022000466
)	
9 Plaintiff,	)	NOTICE OF APPEARANCE
)	
10 vs.)	
)	
11 SALVADOR GOMORA VELASQUEZ,	)	(Honorable Douglas Lasota)
)	
12 Defendant.)	

13 Jack D. Litwak and the firm of Litwak Law Group, PLLC hereby enters his
14 appearance on behalf of Salvador Velasquez ("Mr. Velasquez"), for all further
15 proceedings through the filing of a Notice of Appeal, if required. Pursuant to Rule 9.1,
16 Arizona Rules of Criminal Procedure, Mr. Velasquez hereby waives his personal
17 appearance.
18
19
20

21 RESPECTFULLY SUBMITTED this 5th day of October, 2022.

22 **LITWAK LAW GROUP PLLC**

23 By Jack Daniel Litwak
24
25

1 ORIGINAL/COPIES of the foregoing Emailed/mailed
2 this 5th day of October, 2022, to:

3 APACHE JUNCTION MUNICIPAL COURT
4 300 East Superstition Blvd
5 Apache Junction, AZ 85219
6 1149@courts.az.gov

7 Eric Yuva
8 APACHE JUNCTION PROSECUTOR'S OFFICE
9 300 East Superstition Blvd
10 Apache Junction, AZ 85219
11 ajcityprosecutor@apachejunctionaz.gov

12 By JDL

EXHIBIT 2

LITWAK LAW GROUP PLLC
1 North 1st Street, Suite 716
Phoenix, Arizona 85004
845-558-1448 (telephone)
Jack Daniel Litwak, Bar No. 032153
Jlitwak@litwaklawgroup.com
Attorney for Defendant

IN THE APACHE JUNCTION MUNICIPAL COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,	)	Case Number: TR2022000466
)	
Plaintiff,)	
	)	DEFENDANT'S RULE 15.1
vs.	)	SUPPLEMENTAL REQUEST FOR
	)	SPECIFIC DISCLOSURE
SALVADOR GOMORA VELASQUEZ,)	
	)	(Honorable Douglas Lasota)
Defendant.)	

Counsel for the Defendant moves this court to order that the prosecutor make the following material and information within the prosecutor's control available for examination and reproduction. The Defense further requests disclosure of these items within 30 days of arraignment per Arizona Rule of Criminal Procedure 15.1 "and 1.1". "and the decision of the United States Supreme Court in *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

Pursuant to A.R.C.P 15.5(e) the State shall clearly identify any and all redactions made to any videos and recordings contemporaneous with disclosing said video/recordings and provide the legal basis upon which the redactions are made. The defense asks that the prosecutor make available the following evidence or materials:

1. Extended blood packet.
2. Dash Camera Footage.
3. The names, agencies and addresses of all police officers or government employees who investigated this case.

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4. The names, addresses and phone numbers, in as much as this request does not violate the Victim's Rights Laws, of all civilian witnesses.
5. The name, address, and phone number of any Expert Witness that the State may call at trial, including:
 - a. A list and description of any and all chemical and/or scientific tests or experiments about which the State's expert will testify;
 - b. A list of any and all publications relied upon by the State's expert witness;
 - c. Whether the State's Expert Witness will render an opinion concerning the supposed Blood Alcohol level of "Universal Impairment."
6. All police or agency reports created in connection with this case including accident reports, if any.
7. Computer Aided Dispatch (CAD) printouts, without redactions barring Victim Rights Concerns.
8. Police handwritten notes. See *Carrillo v. County of Los Angeles*, 798 F.3d 1210, 1215 (9th Cir. 2015))
9. Recorded witness interviews.
10. All formal and informal notifications of suspected Brady violations of each officer involved in this case.
11. All witness prior convictions.
12. Scene Photographs.
13. All books, papers, documents, photographs, sound or video recordings, tangible objects, and other exhibits which are intended for use by the State as evidence at the trial or were obtained from or belong to the Defendant Salvador Velasquez.
14. A copy of the Admin per se/Implied Consent Affidavit, if one exists.
15. Any and all photographs, diagrams, videos, audiotapes created with respect to this case.
16. Whether there was any type of special operation in effect on the date of the arrest, including, but not limited to: roadblocks, sobriety checkpoints, saturation patrols, zero-tolerance patrols, DUI Task Force Operations, Operation Safe Streets, etc. And, if there was such an operation in effect:
 - a. Any official or unofficial reports stemming from the operation;

- b. Any descriptions, instructions or rules involved, whether made public or not;
 - c. Statistics on the number of stops, investigations and arrests made;
 - d. The names of all participants in the operation;
 - e. Payroll records for the officers who participated in the operation.
17. The names of any Field Sobriety Tests that were given as well as the results of such tests if they are not listed in the disclosed police reports.
 18. If one or more HGN tests were administered:
 - a. The HGN logs of the person(s) who administered the test;
 - b. The date such person(s) was first qualified for the HGN;
 - c. The date and location such person(s) attended HGN training;
 - d. The score of the person(s) on his or her HGN test;
 - e. The results of the HGN administered to the defendant.
 19. All material now known to the State, or which may become known, or which through due diligence may be learned by the State, which is exculpatory in nature or favorable to the defendant or which may lead to exculpatory material.
 20. Any other evidence obtained by observation of police witnesses intended to be used against Defendant at trial that is not part of a written police report furnished to defense counsel.
 21. All ADOT/MVD records regarding the defendant.
 22. A list of any prior felony convictions of the Defendant that the State plans to introduce at trial.
 23. Any and all documents signed by, read to or offered to the defendant, as part of the police contact including, but not limited to, waivers of preserved chemical samples, breath/blood advisory forms and independent test option forms.
 24. The Gas Chromatograph of Titration Results for the Stock Solution and the Simulator Solution as required by Arizona Administrative Code R9-14-404(A)(5)
- This Demand is made pursuant to Rule 15.1(e) of the Arizona Rules of Criminal Procedure. The requested materials have a direct bearing on the guilt or innocence of the Defendant. *Scales v. City Court of Mesa*, 122 Ariz. 231, 594 P.2d (1979); *Baca v Smith*, 124 Ariz. 353, 604 P.2d 617 (1980); *Garcia v. District court*, 21st Jud. Dist., Colo., 589 P.2 924 (1979); and *People v. Hitch*, 12 Cal.3d 641, 117 Cal.Rpt. 9, 527 P.2d 361(1974); *State v. Harrison*, 157 Ariz. 184, 755 P.2d 1172 (1989); *State v. Juarez*, 161 Ariz. 76, 775 P.2d 1140 (1989)
25. If blood or urine testing was done identify:
 - a. The testing method used.

- b. The qualifications of the person who administered the test,
- c. The date, time and place of the test,
- d. Whether the test was performed using enzymatic analysis, calorimetric distillation, alcohol separation or any other procedure,
- e. Whether the Defendant signed any waiver form or other document allowing the results of the test to be released to the State,
- f. Whether a sample of the blood or urine has been retained for independent testing,
- g. Whether any preservatives, anticoagulants or other reagents were added to the blood or urine and, if so, the name of that preservative, anticoagulant or reagent, the amount added by whom it was added and the time it was added, and
- h. A complete list of all persons in the chain of custody and in possession of the blood or urine sample.

26. Defendant by and through counsel undersigned, hereby demands that the State, pursuant to rules 15.1(a)(7), 15.1(c), 15.1(e) and 15.7 of the Arizona Rules of Criminal Procedure, disclose in writing the existence of and permit the Defendant to inspect, copy, photograph and/or gain access to any and all of the following:

- a. Copies of the Forensic Crime Lab's written procedures for the testing of a blood sample, including, but not limited to a description of the correct and/or standard method for the testing and handling of blood samples.
- b. Copies of Defendant's blood alcohol test result printouts created by (or in connection with) the blood testing devices used to analyze Defendant's blood, including printouts of all chromatograms for the Defendant's blood, all calibrators, controls, standard mix, blanks and verifiers.
- c. Copies of any other notes, charts, graphs or memorandum created in connection with the testing of the Defendant's blood including all Calibration Curve reports.
- d. If the calibration standard, control, blank or verifier run at the time of testing of Defendant's blood was produced in the Forensic Crime lab:
 - i. All notes, charts, graphs or memorandum created regarding the batch used.
 - ii. The identification of the person who created the batch, and when it was created
- e. The calibration standard, control, blank or verifier run at the time of the testing of the Defendant's blood was purchased:
 - i. The name of the manufacturer;
 - ii. The date of purchase;
 - iii. Copies of all certificates, literature, or other information provided to the Lab by the manufacturer;
 - iv. Copies of the results of any tests performed upon the standard.
- f. All repair and maintenance records, maintained on the blood testing device used to analyze Defendant's blood as well as any pipettes and autosamplers.
- g. The identification of the type of swab used on the Defendant's arm at the time

1 of the blood draw; including the name of the manufacturer, expiration date
2 and any other identifying information, and copies of the results of any test run
3 on this type of swab.

- 4 h. All documentation and information on the blood tubes used to collect and
5 store Defendant's blood, including:
6 i. The name of the manufacturer;
7 ii. The date of purchase;
8 iii. Copies of all certificates, literature of other information provided to
9 the Lab by the manufacturer;
10 iv. Copies of the results of any tests performed upon the test tubes.
11 i. The identification of all preservatives and anti-coagulants that were added to
12 Defendant's blood sample, including:
13 ii. The name of the manufacturer;
14 iii. The date of purchase;
15 iv. Copies of all certificates, literature or other information provided to
16 the Lab by the manufacturer;
17 iv. Copies of the results of any tests performed upon the preservatives or
18 anticoagulants.

19 The State intends to use the results of a blood alcohol test performed by the state's
20 criminalist at the Forensic Crime Laboratory. All of the items requested to be produced herein
21 relate to that test.

22 Rule 15.1(e) provides that upon motion of the defendant demonstrating a substantial need
23 for material or information not otherwise covered by Rule 15.1(a), and a further showing that the
24 defendant is unable to obtain the information without undue hardship by any other means, the
25 Court may order the discovery of this information. Rule 15.1(a)(7) provides for the disclosure of
"all material or information which tends to mitigate or negate the defendant's guilt as to the
offense being charged".

In *State v. Fuenning*, 139 Ariz. 590, 680 P.2d 121 (1984), the Arizona Supreme Court
examined the validity of the DUI statute that made it a crime to drive with a prohibited blood
alcohol concentration. The court recognized that the statute set forth a *per se* violation-no intent
or knowledge on the part of the defendant was required to violate the law; the only question is
the defendant's blood alcohol concentration at the time of driving. "Pragmatically, there may be

1 no way for a particular drinker to know the precise moment he reaches the physiologic point at
2 which driving or controlling the vehicle will violate the law.” *Id.*, 680 P.2d at 129. The court also
3 recognized that there are inherent errors in blood alcohol test results, even if the tests are
4 performed flawlessly. 680 P.2d at 125. The solution the court reached was “... that the defendant
5 may attack the accuracy of the test on any relevant ground.” 680 P.2d at 127. All of the
6 disclosure sought by Defendant relates to the accuracy of the test and the ability of the defense to
7 challenge the validity of the test results.
8

9 The fact that the materials requested herein may not be in the prosecutor’s case file is
10 unimportant. The United State Supreme Court has placed the burden on the prosecuting agency
11 to obtain evidence potentially exculpatory to the defendant from all of its agents and disseminate
12 the same to the defendant
13

14 On the one side, showing that the prosecution knew of an
15 item of favorable evidence unknown to the defense does
16 not amount to a *Brady* violation, without more. But the
17 prosecution, which alone can know what is undisclosed,
18 must be assigned the consequent responsibility to gauge
19 the likely net effect of all such evidence and make
20 disclosure when the point of “reasonable probability” is
21 reached. This in turn means that *the individual prosecutor*
22 *has a duty to learn of any favorable evidence known to the*
23 *others acting on the government’s behalf in the case,*
24 *including the police.*

25 *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555, 1567, 131 L.E.d.2d 490 (1995).
(Emphasis added)

The Arizona Court of Appeals has been even more explicit in this regard:

We agree that a law enforcement agency investigating a criminal
action operates as an arm of the prosecutor for purposes of
obtaining information that falls within the required disclosure
provisions of Rule 15.1 If a defendant has reason to believe
that the prosecutor has not disclosed information within the
possession or control of such an agency, his proper recourse
is to seek relief pursuant to Rule 15.7.

1
2 *Carpenter v. Superior Court In and For County of Maricopa*, 176 Ariz. 486, 862
P.2d 246 (Ariz. App. Div. 1, 1993).

3 As to the reasons the specific items requested are necessary to the defense:

4 **Item (a)** will allow Defendant to verify that the procedure used to analyze his
5 blood was performed correctly and in conformance with the requirements of the
6 laboratory performing the tests.

7 **Items (b), (c) and (f)** will allow Defendant to evaluate the analysis performed by
the blood testing device, and the criminalist's interpretation of those results.

8 **Items (d)-(g), (h) and (i)** will allow the Defendant to determine whether any
9 ingredient was added to his blood which could have produced a false positive
10 reading for alcohol or increased the blood alcohol reading.

11 All of the requested information pertains directly to the validity of the test results
12 obtained on Defendant's blood and pertains to whether the tests were performed within the
13 requirements set forth by the Department of Public Safety Regulations. As such, the information
14 is necessary to the defense of Defendant's case. All of the information requested is within the
15 control of the state, is easily obtainable by the state's agents, can be easily reproduced, and the
16 disclosure of this information will present no burden on the state. On the other hand, Defendant
17 has no independent access to this information.

18
19 This Demand is made pursuant to Rule 15.1(e) of the Arizona Rules of Criminal
20 Procedure. The requested materials have a direct bearing on the guilt or innocence of the
21 Defendant. *Scales v. City Court of Mesa*, 122 Ariz. 231, 594 P.2d (1979); *Baca v Smith*, 124
22 Ariz. 353, 604 P.2d 617 (1980); *Garcia v. District court, 21st Jud.Dist., Colo.*, 589 P.2 924
23 (1979); and *People v. Hitch*, 12 Cal.3d 641, 117 Cal.Rpt. 9, 527 P.2d 361(1974); *State v.*
24 *Harrison*, 157 Ariz. 184, 755 P.2d 1172 (1989); *State v. Juarez*, 161 Ariz. 76, 775 P.2d 1140
25 (1989)

The Defendant has substantial need for these materials to prepare a defense and would

1 otherwise be unable to obtain them without undue hardship. In the alternative, if the state is not
2 able to produce the requested material, counsel will move the Court to suppress any and all
3 evidence of the Defendant's chemical analysis, equipment, procedures and results as required in
4 the aforementioned cases. Such sanctions are appropriate pursuant to Rule 15.7 of the Arizona
5 Rules of Criminal Procedure.
6

7 RESPECTFULLY SUBMITTED this 13th day of October, 2022.

8 LITWAK LAW GROUP PLLC

9 By Jack Daniel Litwak

10
11
12
13
14 ORIGINAL/COPIES of the foregoing Emailed/mailed
15 this 13th day of October, 2022, to:

16 APACHE JUNCTION MUNICIPAL COURT

17 300 East Superstition Blvd

18 Apache Junction, AZ 85219

19 1149@courts.az.gov

20 Eric Yuva

21 APACHE JUNCTION PROSECUTOR'S OFFICE

22 300 East Superstition Blvd

23 Apache Junction, AZ 85219

24 ajcityprosecutor@apachejunctionaz.gov

25 By JDL

EXHIBIT 3

Jack Litwak

From: Eric Yuva <eyuva@apachejunctionaz.gov>
Sent: Thursday, October 13, 2022 5:00 PM
To: Jack Litwak
Subject: RE: [External] TR2022000466; Communication with Judge Douglas Lasota at 1:56 pm

I was not present. I do not generally go to court on Thursdays and there was nothing on the court calendar today that had me in court. My prosecutor's office is in a separate building about 40 yards from the courthouse.



*Eric Yuva
City Prosecutor
City of Apache Junction
300 E Superstition Blvd
Apache Junction, AZ 85119*

480.474.2604

From: Jack Litwak <jlitwak@litwaklawgroup.com>
Sent: Thursday, October 13, 2022 4:58 PM
To: Eric Yuva <eyuva@apachejunctionaz.gov>
Subject: RE: [External] TR2022000466; Communication with Judge Douglas Lasota at 1:56 pm

Eric,

Just following up on our call. You were not present for Judge LaSota's call to me today at 1:56, nor were you even in the courthouse.

I will get back to you shortly with some availability to at least set interview of officer Miller.

Best,

Jack

From: Jack Litwak
Sent: Thursday, October 13, 2022 3:33 PM
To: eyuva@apachejunctionaz.gov
Subject: TR2022000466; Communication with Judge Douglas Lasota at 1:56 pm

Eric,

At 1:56 today I received a call on my cellphone directly from judge Douglas LaSota. The call started with him addressing a 9.1 request in my notice of appearance filed on October 5, 2022, stating that we need to understand that the rule does not allow for this. He then began to talk about how he is not granting continuances in cases given directives from higher courts, that Mr. Velasquez had two prior appearances, and that the defense needs to get discovery completed and get interviews done—filing motions to compel if needed. I wanted to provide a collective update, from both of us, to him regarding your recent disclosures and my disclosure request that was filed today. At that moment I realized that there was no prosecutor present in the Courtroom and that he was calling me ex parte. I asked whether you were present, he

asked me why that mattered. I stated that I need to address whether this was an ex parte communication. He stated that you were in the room next door. I asked whether we were on the record, he stated that we were.

He then began to discuss setting interviews, I indicated that I needed materials and time to review materials to set interviews, and that I just filed a 15.1 with some additional requests that would be necessary for expert analysis. He asked me why certain materials were necessary and I stated that I did not feel comfortable speaking to him about defense strategy, nor did I feel I had an obligation. I stated I would do everything I could to move expeditiously. He concluded the conversation by again discussing 9.1, and I stated Mr. Valenzuela would be there.

I was floored by the phone call. I reached out to your office right when I got off the phone and Michelle stated that you were not at the courthouse, but were in prosecutor's office. I wanted to confirm with you here that you were not present for Judge LaSota's call to me. I am doing a records request for the proceeding since the judge indicated that we were on the record. However, when I just called the clerk she seemed to believe that the record was not on.

Please let me know how you want to address this, I have significant concerns and have reached out to ethics counsel.

Best,

Jack



Jack Daniel Litwak, Esq.

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dougmcv@yahoo.com / Email

Resp (LaSota)
2022-377
JUL 05 2023

July 5, 2023

Arizona Commission on Judicial Conduct
1501 West Washington Street
Suite 229
Phoenix, Arizona 85007

Re: Hon. A. Douglas LaSota
Case No. 22-377

Members of the Commission:

The following is Judge A. Douglas LaSota's response to the Complaint filed by Mr. Jack Litwak dated October 13, 2022.

Provided with this response are a series of documents including the Court file. Some documents which do not relate directly to Court action but are nevertheless a part of the Court file are included in the Appendix. Additional documents follow the Appendix. Reference to the documents in this response are to the numbered items, e.g., (No.1).

The Complaint against Judge LaSota arises out of a criminal complaint filed against Salvador Gomora Velasquez in mid-August of 2022 in the Apache Junction Municipal Court. Judge LaSota was and is the Presiding Magistrate in that Court. The complaint (No. 1) charged the defendant with two (2) counts of DUI. Defendant appeared without counsel pursuant to a summons. On September 28, 2022, the defendant signed a written waiver of counsel (No. 4) but thereafter decided that he wished to be represented. As a result, the City Prosecutor filed a Motion to Continue the pre-trial conference for four (4) weeks to give the defendant the time to retain private counsel (No. 6). The Court (Judge LaSota) granted this request and re-set the pre-trial conference to October 26, 2022, at 2:00 p.m. See (No.5) Hearing Notice Pre-Trial Conference.

The order re-setting the pretrial conference document (No. 5) specifically states: "DEFENDANT'S APPEARANCE **REQUIRED AT ALL COURT DATES** EVEN IF REPRESENTED BY COUNSEL." The defendant, signed this document and received a copy.

Presumably, Mr. Gamora Velasquez provided a copy of this document to Mr. Litwak when he retained him as his counsel.

On October 5, 2022, Mr. Litwak filed a document titled "Notice of Appearance" in this matter (No. 7). This Notice of Appearance gave the usual information regarding the attorney's appearance and contact information. However, without giving notice in the caption to the document, it also contained the following:

"Pursuant to Rule 9.1, Arizona Rules of Criminal Procedure, Mr. Velasquez hereby waives his personal appearance." (No. 7)

A recipient of the Notice of Appearance would have to read the body of the document to realize that it contained information in addition to the appearance of counsel. Essentially, the above statement indicated that the defendant was not going to appear despite the requirement to do so in the earlier order (No.5). Fortunately, the City Prosecutor read the document and realized that it contained this statement and chose to treat it as a motion to allow the defendant's non-appearance. Thus, on October 12, 2022, the Prosecutor filed "State's Response to Defense Atty's Motion to Waive Defendant's Appearance." (No. 8). That document stated:

"COMES NOW the State of Arizona, by and through its attorney undersigned and hereby State defers to the Court on Defense Atty's Motion to Waive Defendant's appearance."

The mailing certificate on the prosecutor's filing (No. 8) shows it was mailed to Mr. Litwak's address and possibly his email address. Due to the fact that the matters which are the subject of this complaint occurred the next day, it is impossible to determine whether Mr. Litwak was aware of the State's Response by mid-day of October 13, 2022.

When the Court's clerical staff received the Prosecutor's response to Mr. Litwak's request/motion to waive his client's appearance at the October 26, 2022 pre-trial conference, it brought the matter to Judge LaSota's attention by placing the matter on the Court's walk-in docket for the afternoon of October 13, 2022. This is what prompted

Judge LaSota to call the defendant's counsel, Mr. Litwak directly.

The State's lawyer was not made part of the call to Mr. Litwak since the prosecutor had stated in writing that he would "defer to the Court" on Mr. Litwak's motion/request. It is a common practice of this prosecutor to not appear for matters on the "walk-in docket" but in this instance there was a specific, written waiver of the State's right to participate and be heard and a clear expression of its intention to defer to the Court on whatever order the Court might choose to enter.

At the time Judge LaSota placed the call to Mr. Litwak, he had the electronic file up on his bench computer. Judge LaSota was aware of the order requiring the appearance of the defendant even if represented by counsel (No. 5). He was also aware that the defendant had received a copy of that order (No.5). Judge LaSota was also acting under the correct understanding that Rule 9.1 of the Criminal Rules does not grant a defendant's lawyer the right to waive his client's appearance in the face of a specific court order to the contrary. Rule 9.1 specifically provides:

"Except for sentencing or as these rules otherwise provide, a defendant's voluntary absence waives the right to be present at any proceeding. The court may infer that a defendant's absence is voluntary if the defendant had actual notice of the date and time of the proceedings, notice of the right to be present, and notice that the proceeding would go forward in the defendant's absence."

As one can see, that Rule does not confer any right on a defendant (or his lawyer), previously required by Court order to appear for a proceeding, to simply excuse himself from compliance with the order.

During the telephone conference with Mr. Litwak, Judge LaSota advised Mr. Litwak that Rule 9.1 did not authorize him to waive his client's appearance after the Court had previously entered an order specifically requiring his client's attendance regardless of whether the defendant was represented. After a somewhat lengthy colloquy disagreeing with the Court, Mr. Litwak finally agreed that his client would appear as ordered and, in fact, the defendant made all

further appearances.

At the next scheduled hearing on October 26, 2022, the Prosecutor filed a Motion requesting a four (4) week continuance to allow the defendant and counsel to receive additional discovery, to complete interviews and to consider a plea offer which had been extended (No. 11). This Motion was granted by Judge LaSota (No. 10) and the matter was reset for November 23, 2022 (No. 12). Thereafter, Mr. Litwak filed a Motion to Suppress (No. 13) and the defendant's Rule 15.2 Disclosure (No. 14). Thereafter, on November 23, 2022, the defendant signed a plea agreement and entered a plea of guilty to a charge of reckless driving pursuant to that agreement (Nos. 16 & 17).

Turning directly to the specific matters in Mr. Litwak's complaint, Judge LaSota offers the following responses:

It is true that the initial portion of the call dealt with Rule 9.1 and whether the defendant was required to appear. During that portion of the conversation, Judge LaSota advised Mr. Litwak that the Court followed guidelines for the handling of DUI cases. Those guidelines are contained in the Pinal County Limited Jurisdiction Courts, DUI Case Management Plan (No. 20, pp. 1 - 4). Upon entering an appearance in a DUI case, the Apache Junction Municipal Court sends these guidelines to every defense counsel appearing in a case.

During the conversation, Mr. Litwak, in attempting to persuade the Court that his client should not have to appear as ordered, began advising the Court of the many things that remained to be done by him to represent his client. This discussion included interviewing witnesses, obtaining documents and whatever else might be necessary for Mr. Litwak to be prepared to proceed. Judge LaSota inquired as to what else needed to be done and advised counsel that if there were problems with the prosecution providing what was required to be produced, to file a motion to compel and he would deal with it immediately. Judge LaSota did not discuss counsel's trial strategy. Counsel's strategy, whatever it might have been, was never discussed or even alluded to. The conversation was limited to the matters which Mr. Litwak raised in his attempt to persuade Judge LaSota that his client should not be required to appear.

The bulk of Mr. Litwak's complaint appears to center upon his assertion that Judge LaSota's call was an "ex parte" communication. In large measure this perception likely arose from Mr. Litwak's apparent unawareness that the day before the telephone call, October 12, 2022, the prosecution had specifically, in writing, advised the Court that it took no position on Mr. Litwak's advisement that his client was waiving his appearance at the next hearing. As may be seen from the prosecutor's response to Mr. Litwak's motion (No. 8 & 20. Register of Actions), that document was filed on October 12, at 2:25 p.m., approximately 24 hours before the Court called Mr. Litwak. Document No. 8 also indicates that Mr. Litwak was sent a copy by mail and/or email. The mailing certificate does not, with any certainty, indicate email delivery. Judge LaSota respectfully submits that the telephone call to Mr. Litwak was not an "ex parte" communication.

Initially, it is submitted that an "ex parte" communication is fairly defined as a communication that is done or made at the instance and/or the benefit of one party only and without notice to or argument by anyone having an adverse interest in or relating to a court action. Judge LaSota respectfully submits that the telephone call to Mr. Litwak fails to meet this basic definition. The prosecution had notice of Mr. Litwak's attempt to waive the presence of his client. In fact, it was the prosecutor who noticed the issue in the Notice of Appearance and, *sua sponte*, treated the matter as a motion and advised the Court that he took no position and would defer to the Court to deal with the matter. This was an appropriate response on the part of the prosecutor and, thereafter, the Court. Further it is specifically addressed in the Code of Judicial Conduct, Rule 2.9(A)(1).

What was at issue on the telephone call was whether Mr. Litwak's client was required to appear on October 26, 2022 as ordered. The prosecutor stated in writing that he had no position on Mr. Litwak's notice that his client waived his presence and would defer to the Court. At that point Mr. Litwak's request became an administrative and scheduling matter which the Court was permitted to resolve pursuant to the provisions of Rule 2.9(A)(1).

As an adjunct to Mr. Litwak's "ex parte" communications

claim, he also references comments he attributes to Judge LaSota which appear to suggest that the Court was attempting to conceal from Mr. Litwak that the prosecutor was not present. Judge LaSota recalls that he was asked about the presence of the prosecutor by Mr. Litwak and advised he was next door. In fact, the prosecutor's office is in the same building complex approximately 80+ feet from the Court building. Judge LaSota also believes that he advised Mr. Litwak that the prosecutor had waived his presence.

As is apparent from the record in the Court file, the prosecutor's presence was waived. There was no reason for the Court to conceal the fact that the prosecutor was not present and had waived his right to participate since that fact was already apparent in the record. However, Mr. Litwak's suggestion that the Court was attempting to conceal the absence of the prosecutor points to other facts which perhaps place Mr. Litwak's complaint in perspective.

This incident, according to Mr. Litwak, commenced "At 1:56 today, October 13, 2022." Complaint page 2. Twelve (12) minutes later, (2:08 p.m.) Mr. Litwak was on the telephone calling the prosecutor to determine the whereabouts of the prosecutor during the call. According to Mr. Litwak, he finally spoke to the prosecutor at 3:58 p.m. who advised that he had not been present. His complaint against Judge LaSota was filed the same day.

In short, Mr. Litwak's complaint against Judge LaSota was based upon events which occurred within a span of three hours. Had Mr. Litwak waited to file his complaint until he read his mail or emails concerning this matter, he would have learned that there was no "ex parte" communication nor anything to complain about. He would have also learned shortly afterwards that there was, in fact, a recording of the proceedings. Judge LaSota obtained a copy of the recording and submitted it for transcription. See No. 25, a memo from the court clerk advising that a recording of the telephone call had been made. However, the transcriber who attempted to transcribe the recording was unable to do so since the recording was unintelligible. A copy of the transcriber's affidavit is submitted with this response (No. 22). A copy of the recording is provided as well (No. 24).

As to the "tone" on the call between Judge LaSota and

Mr. Litwak, the call took place in the courtroom with Judge LaSota on the bench and the court clerk, Angelica Snyder, sitting immediately to his left. Ms. Snyder heard Judge LaSota's side of the call. She will testify that the Judge's tone and demeanor was direct, respectful and professional and consistent with the manner in which he deals with witnesses, defendants and lawyers. Further to the "tone" of the conversation and the allegation that the Court was attempting to bully the defense, that allegation is simply not true. Mr. Litwak was clearly unaware that Judge LaSota suffers from difficulties with his voice which began approximately a year ago and resulted in surgery in January of 2023. A copy of a letter from his treating physician's office is attached (No. 23).

In the colloquy between Mr. Litwak and the Court, there was no substantive discussion of the merits of the case. It was Mr. Litwak who was attempting to persuade the Court to see matters his way by describing all of the things he had to do to prepare his case, had only signed on to represent his client a few days earlier, etc.

The undersigned respectfully submits that at the very least, before a lawyer files a complaint against a judge, particularly a judge who has just addressed a matter with that lawyer, he should consider that approach with due circumspection and prudence before proceeding. It is difficult to believe that was done in this matter. It is clear that Mr. Litwak was unaware of the filing of the prosecutor advising that he did not intend to participate in resolving the issue contained in Mr. Litwak's Notice of Appearance. It is also clear that a recording was made of the proceedings. The chronology proffered by Mr. Litwak in his complaint suggests that he was upset and perhaps angry with the Court. His haste in rushing to file a complaint against this judge left him uninformed as to salient facts which demonstrate that the Court acted properly. It is a timeless truism that one who acts hastily usually errs. *Proverbs 19:2.*

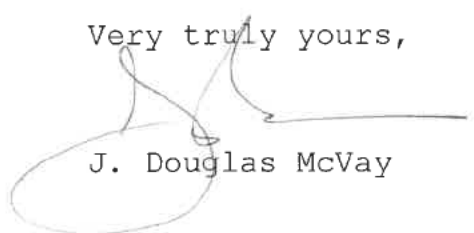
In conclusion, it is respectfully submitted that Judge LaSota acted appropriately and violated no provisions of the Code of Judicial Conduct. It does appear that Mr. Litwak was unaware that the prosecutor had waived the State's presence and deferred to the Court for whatever ruling it

deemed appropriate and that he acted hastily in the filing of his complaint. A review of the Court's file demonstrates that the case against Mr. Litwak's client was handled fairly, expeditiously and appropriately.

Litigation is difficult for both judges and lawyers and it is frequently contentious. A lawyer, unaware of all the salient facts, might (and in this case did) come to a mistaken conclusion about the Court's actions and perhaps held hard feelings towards the Court. Regardless, the undersigned submits that Judge LaSota acted properly and the complaint is without merit.

This response was authored by the undersigned. However, Judge LaSota has read this document and agrees with its contents. If the Commission believes that matters in the complaint have not been addressed which should be addressed, or if further information or explanation is necessary or would be helpful, it is respectfully requested that an opportunity to address the same be afforded.

Very truly yours,



J. Douglas McVay

JDM/sv

Enclosures

DOCUMENTS RE: CASE NO. 22-377

INDEX TO COURT FILE
APACHE JUNCTION MUNICIPAL COURT
STATE V. GOMORA-VELASQUEZ
TR2022000466

No.	Document	Filed
1.	Complaint	8/17/22
2.	Summons 10 Print Fingerprint Req.	8/29/22
3.	Summons Court Date Change Notice	9/20/22
4.	Notice of Right to Counsel & Waiver (signed)	9/28/22
5.	Hearing Notice Pre-Trial Conf.	9/28/22
6.	Motion and Order Cont. PTC (Motion Granted)	9/28/22
7.	Notice of Appearance (J. Litwak)	10/5/22
8.	State's Response to Defense Atty's Motion to Waive Defendant's Appearance (State Deferred to Court on Non-Appearance of Defendant)	10/12/22
9.	Defense Rule 15.1 Supplemental Request for Specific Disc.	10/13/22
10.	Hearing Notice Pre-trial Conf.	10/26/22
11.	Motion & Order to Cont. PTC (Motion was granted)	10/26/22

- | | |
|--|---------------------|
| 12. Hearing Notice PTC | 10/26/22 |
| 13. Deft's Motion to Suppress | 11/15/22 |
| 14. Deft's Rule 15.2 Disclosure | 11/15/22 |
| 15. Screening Report (Note: Cert. Of Completion dated 12/20/22 is attached.) | 11/22/22 |
| 16. Plea Agreement (signed by all parties) | 11/23/22 |
| 17. Additional Plea & Sentencing Documents:
Court Order for Compliance
Probation Order
Waiver of Right to Appeal, etc.
Guilty Plea Proceedings
Judgment & Sentence Order
Proof of Community Restitution
Payment Agreement | 11/23/22 |
| 18. Certificate of Completion - MADD | 12/10/22 |
| 19. | 1/30/22 &
4/4/23 |
| 20. Register of Actions | |
| 21. Appendix:
Pinal Co. Ltd. Jurisdiction
Courts; DUI Case Mgmt. Plan
Note: This document provided
to defense counsel in all DUI
matters

MADD Documents | |

DPS Disposition Report

AES Report (1/11/23)

ADDITIONAL RELEVANT DOCUMENTS

- 22. Affidavit of John M. Cozza
- 23. Letter from Sara G. Davis June 2, 2023
- 24. Copy of recording of telephone call 10.13.22
- 25. Memo re recording of 10/13/22 telephone call

1

Eric Yuva
City Prosecutor
City of Apache Junction
300 E Superstition Blvd
Apache Junction, AZ 85119
(480) 474-5150
eyuva@apachejunctionaz.gov
AZ Bar No. 023545
Attorney for State

IN THE APACHE JUNCTION MUNICIPAL COURT

COUNTY OF PINAL, STATE OF ARIZONA

STATE OF ARIZONA,

Plaintiff,

v.

SALVADOR O GOMORA VELASQUEZ,

Defendant.

NO. TR 2022000466

CRIMINAL COMPLAINT

3457

Mailing Address:

Sex:	Race:	Weight:	Height:	Eyes:
Hair		DOB:		
DR#:		OLN:	License Plate:	

The complainant herein personally appears and being duly sworn, complains of her own knowledge or upon information and belief against the above-named Defendant charging that in the City of Apache Junction, Pinal County, Arizona, Defendant committed a certain misdemeanor offense, to wit:

Count I

On or about April 21, 2022, Defendant, at W. Broadway Ave./S. Lawther Dr., Apache Junction, Arizona, did drive or was in actual physical control of a vehicle while under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any

1 combination of liquor, drugs or vapor releasing substances, and was impaired thereby to the slightest
2 degree, all in violation of A.R.S. 28-1381.A.1, 13-707, and 13-802, a Class 1 misdemeanor.
3
4

5 **Count II**

6 On or about April 21, 2022, Defendant, at W. Broadway Ave./S. Lawther Dr., Apache
7 Junction, Arizona, did drive or was in actual physical control of a vehicle with a blood alcohol
8 concentration of .08 or more within two hours of driving or being in actual physical control of the
9 vehicle, all in violation of A.R.S. 28-1381A2, 13-707, and 13-802, a Class 1 Misdemeanor.
10

11
12 

13 Complainant

14 SUBSCRIBED AND SWORN TO before me this 16 of August, 2022.
15

16
17 

18 Judge, Apache Junction City Court

19 ☐ Summons

20 Cole Miller - 403
21 Referring Officer
22
23
24
25
26
27
28

2

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case No: M1149TR2022000466 Complaint No: 3457	SUMMONS (TEN PRINT FINGERPRINT REQUIRED)
--	--	---

TO: SALVADOR O GOMORA VELASQUEZ

[X] YOU ARE ORDERED to appear at **APACHE JUNCTION POLICE DEPARTMENT AT 1001 N. IDAHO RD**
(Required for all felonies, domestic violence, sexual or DUI offenses)
ON A WEDNESDAY between the hours of 1:00-3:00 p.m. **PRIOR** to your court appearance date to be photographed and
ten-print fingerprinted.

IMPORTANT. YOU ARE REQUIRED TO BRING THIS SUMMONS AND COMPLAINT AND A FORM OF I.D. TO THE LAW ENFORCEMENT
ENTITY AT THE TIME YOU APPEAR FOR FINGERPRINTS. MUST ALSO BRING THIS SUMMONS TO YOUR COURT APPEARANCE TO
PROVE THAT YOU HAVE PROVIDED FINGERPRINTS AND/OR A DNA SAMPLE, AS ORDERED ABOVE.

YOU ARE SUMMONED to appear before this court for the following reason:

COUNT 1- 28-1381A1 - DUI LIQUOR/DRUGS/VAPORS 1ST - MISD. 1ST DEGREE
COUNT 2- 28-1381A2 - DUI LIQUOR BAC .08 OR MORE - 1ST - MISD. 1ST DEGREE
DR#: 220421013

[] DOMESTIC VIOLENCE

YOU ARE ORDERED TO REPORT on 09/20/2022 at 8:00AM at APACHE JUNCTION MUNICIPAL
COURT

LOCATED AT: 300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

IF YOU FAIL TO APPEAR AS ORDERED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.



Date: 08/29/2022

Judicial Officer: Honorable A. Douglas LaSota

**Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3
working days in advanced of a scheduled court proceeding.**

THIS SPACE FOR THE LAW ENFORCEMENT AGENCY'S INKED STAMP(S) TO CONFIRM THAT THE DEFENDANT PROVIDED FINGERPRINTS AND/OR
A DNA SAMPLE.

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case No: M1149TR2022000466 Complaint No: 3457	SUMMONS (TEN PRINT FINGERPRINT REQUIRED)
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DR#: 220421013

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LOCATED AT: 300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

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APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff	Case Number: M1149TR2022000466	SUMMONS COURT DATE CHANGE NOTICE
Vs SALVADOR O GOMORA VELASQUEZ Defendant	Complaint Number: 3457	

REGARDING: COMPLAINT NUMBER- 3457

You were scheduled to appear in the APACHE JUNCTION MUNICIPAL court regarding the above referenced complaint number which was originally schedule for 9/20/2022 at 8:00am.

Due to scheduling conflict/unscheduled appearance date, your court appearance date and/or time has been changed/assigned.

Please make a note of the new date and /or time.

An appearance may not be required if you were cited for only civil traffic violations. If you have any questions regarding the necessity of an appearance for your citation you may contact the court at the above telephone number.

NEW DATE: 9/28/2022 at 2:00pm

FAILURE TO APPEAR COULD RESULT IN A SUSPENSION OF YOUR DRIVING PRIVILEGES AND/OR A WARRANT COULD BE ISSUED FOR YOUR ARREST

Date: 09/20/2022

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding.

CERTIFICATE OF PERSONAL SERVICE

I swear that I personally served this summons as follows:

Date Received: _____

Date Served: _____

Time Served: _____

Person Served: _____

Location Where Served: _____ County.

Officer Serving Summons

Dated: 9/20/22

DEFENDANT: Rmq Gomora V.

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case Number: M1149TR2022000466 Complaint Number: 3457	SUMMONS COURT DATE CHANGE NOTICE
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Officer Serving Summons

Dated: _____

DEFENDANT: _____

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	CASE NO: M1149TR2022000466 COMPLAINT NO: 3457	NOTICE OF RIGHT TO COUNSEL AND WAIVER
--	--	--

READ THE ENTIRE FORM CAREFULLY BEFORE SIGNING IT

You have elected to proceed without an attorney either because:

- ☒ [X] you do not want an attorney,
- ☐ [] the Court has determined that you are not entitled to a court-appointed attorney and you choose not to retain one.

The purpose of this form is to notify you of your right to an attorney, of the ways in which an attorney can be important to you in this case, and also to allow you to give up your rights if you so choose.

I understand that I am charged with the following crime(s) under the laws of Arizona:

1. DUI LIQUOR/DRUGS/VAPORS 1ST Which is MISD. 1ST DEGREE
2. DUI LIQUOR BAC .08 OR MORE - 1ST Which is MISD. 1ST DEGREE

I understand that if I am found guilty, I can be given a severe punishment, including incarceration ☐ [] in the Arizona State Prison, ☒ [X] in the PINAL County Jail, ☒ [X] a fine, or other penalty.

I understand that under the Constitutions of the United States and the State of Arizona, I have the right to be represented by an attorney at all critical stages of this criminal case: before trial, at trial itself, during proceedings to determine what sentence should be imposed if I am found guilty, and for an appeal. I understand that, for certain offenses, if I am unable to obtain the services of an attorney without incurring substantial hardship to myself or to my family, one will be appointed for me at a reduced cost or at no cost to me.

I understand that the services of an attorney can be of great value, for example: in determining if the charges against me are sufficient as a matter of law; whether the procedures used in investigating the charges and obtaining evidence against me, including the lawfulness of any search, seizure or police questioning; if an act I may have committed actually amounts to the crime for which I am charged; if I have any other valid defense to the charges; if I am found guilty, whether I should be placed on probation, be required to pay a fine, or be sentenced to a term of incarceration; or if appellate review would be justified. I understand that, if I am found guilty of the offense charged, the Court may sentence me to a term of incarceration, even though I have given up my right to an attorney.

RIGHT TO AN ATTORNEY AT ANY TIME

I understand that I can change my mind about having an attorney at any time by asking the judge to appoint an attorney for me or by hiring my own attorney. I also understand that I will not be entitled to repeat any part of the case already held or to delay scheduled court proceedings based solely on changing my mind about having an attorney.

CERTIFICATION AND WAIVER

I certify that I have read and understand all of the above, and I hereby waive my right to an attorney in this case, and to have an attorney appointed at a reduced cost or at no cost to me, for eligible offenses, if I cannot afford one.

DO NOT SIGN THIS FORM UNLESS YOU HAVE READ IT COMPLETELY, OR HAD IT READ TO YOU AND UNDERSTAND IT FULLY.

DO NOT SIGN THIS FORM IF YOU WANT AN ATTORNEY.

Date: 09/28/2022 Defendant: OMER GOMORA V. Interpreter: [Signature]

FINDING

After advising the defendant of the dangers and disadvantages of self-representation, the Court finds that the defendant's waiver of counsel is knowing, voluntary, and intelligent.

Dated: 09/28/2022 Judicial Officer's Signature A. Douglas LaSota

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

<p>STATE OF ARIZONA Plaintiff</p> <p style="text-align: center;">Vs</p> <p>SALVADOR O GOMORA VELASQUEZ Defendant</p>	<p>CASE NO: M1149TR2022000466</p> <p>COMPLAINT NO: 3457</p>	<p>NOTICE OF RIGHT TO COUNSEL AND WAIVER</p>
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READ THE ENTIRE FORM CAREFULLY BEFORE SIGNING IT

You have elected to proceed without an attorney either because:

- ☒ [X] you do not want an attorney,
- ☐ [] the Court has determined that you are not entitled to a court-appointed attorney and you choose not to retain one.

The purpose of this form is to notify you of your right to an attorney, of the ways in which an attorney can be important to you in this case, and also to allow you to give up your rights if you so choose.

I understand that I am charged with the following crime(s) under the laws of Arizona:

1. DUI LIQUOR/DRUGS/VAPORS 1ST Which is MISD. 1ST DEGREE
2. DUI LIQUOR BAC .08 OR MORE - 1ST Which is MISD. 1ST DEGREE

I understand that if I am found guilty, I can be given a severe punishment, including incarceration ☐ [] in the Arizona State Prison, ☒ [X] in the PINAL County Jail, ☒ [X] a fine, or other penalty.

I understand that under the Constitutions of the United States and the State of Arizona, I have the right to be represented by an attorney at all critical stages of this criminal case: before trial, at trial itself, during proceedings to determine what sentence should be imposed if I am found guilty, and for an appeal. I understand that, for certain offenses, if I am unable to obtain the services of an attorney without incurring substantial hardship to myself or to my family, one will be appointed for me at a reduced cost or at no cost to me.

I understand that the services of an attorney can be of great value, for example: in determining if the charges against me are sufficient as a matter of law; whether the procedures used in investigating the charges and obtaining evidence against me, including the lawfulness of any search, seizure or police questioning; if an act I may have committed actually amounts to the crime for which I am charged; if I have any other valid defense to the charges; if I am found guilty, whether I should be placed on probation, be required to pay a fine, or be sentenced to a term of incarceration; or if appellate review would be justified. I understand that, if I am found guilty of the offense charged, the Court may sentence me to a term of incarceration, even though I have given up my right to an attorney.

RIGHT TO AN ATTORNEY AT ANY TIME

I understand that I can change my mind about having an attorney at any time by asking the judge to appoint an attorney for me or by hiring my own attorney. I also understand that I will not be entitled to repeat any part of the case already held or to delay scheduled court proceedings based solely on changing my mind about having an attorney.

CERTIFICATION AND WAIVER

I certify that I have read and understand all of the above, and I hereby waive my right to an attorney in this case, and to have an attorney appointed at a reduced cost or at no cost to me, for eligible offenses, if I cannot afford one.

DO NOT SIGN THIS FORM UNLESS YOU HAVE READ IT COMPLETELY, OR HAD IT READ TO YOU AND UNDERSTAND IT FULLY.

DO NOT SIGN THIS FORM IF YOU WANT AN ATTORNEY.

Date: 09/28/2022 Defendant: _____ Interpreter: _____

FINDING

After advising the defendant of the dangers and disadvantages of self-representation, the Court finds that the defendant's waiver of counsel is knowing, voluntary, and intelligent.

Dated: 09/28/2022

Judicial Officer's Signature *A. Douglas La Sota*

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	CASE NO: M1149TR2022000466 COMPLAINT NO: 3457	NOTICE OF RIGHT TO COUNSEL AND WAIVER
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DO NOT SIGN THIS FORM IF YOU WANT AN ATTORNEY.

Date: 09/20/2022 Defendant: _____ Interpreter: _____

FINDING

After advising the defendant of the dangers and disadvantages of self-representation, the Court finds that the defendant's waiver of counsel is knowing, voluntary, and intelligent.

Dated: 09/20/2022

Judicial Officer's Signature

A. Douglas Le Sota

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case Number: M1149TR2022000466 Complaint Number: 3457	HEARING NOTICE-PRETRIAL CONFERENCE
--	--	---------------------------------------

This matter has been scheduled for Pre Trial Conference on ~~10/26/2022~~ 10/26/2022 at 2:00PM.

YOU MUST APPEAR for this court date. If you fail to appear, any bond that has been posted will be subject to forfeiture, and a warrant being issued for your arrest.

DEFENDANT'S APPEARANCE REQUIRED AT ALL COURT DATES EVEN IF REPRESENTED BY COUNSEL.

The following legal issue should be resolved by the first (1st) Pre Trial Conference date.

1. Obtain discovery (Police reports, blood analysis, etc.) from the City Prosecutor
2. The court is to be notified immediately, by either party, of any issued related to obtaining discovery prior to the Pre Trial conference date.

You have the right to be present at all your court proceedings in your case. If this matter is eventually set to trial and you do not appear at your trial, this nonappearance will be considered a waiver of your right to be present at your trial. The trial may be held without you, possibly resulting in a conviction with accompanying sentence, which will be enforced if necessary, by your arrest.

IT IS YOUR RESPONSIBILITY TO BE AWARE OF ALL FUTURE COURTDATES SHOULD ANY SCHEDULED MATTER BE CONTINUED, YOU MUST CONTACT THE COURT OR YOUR ATTORNEY TO GET THE NEW DATE.

Please notify the Court of any change of address in order to continue receiving court notices.

Please contact the court if you need special accommodations (such as assistive devices, interpreters, etc.)

Date: 09/28/2022

Judge Name: HON A DOUGLAS LASOTA

Judge Signature: A. Douglas La Sota

Defendant Signature: Omar Gomora V.

Defendant Address:

☐ **Current Address on file:** _____

☐ **Current Phone number on file:**

Check either/both above only if correct

Corrected Mailing _____

Corrected Phone Number _____

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case Number: M1149TR2022000466 Complaint Number: 3457	HEARING NOTICE-PRETRIAL CONFERENCE
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Judge Signature: *A. Douglas La Sota*

Defendant Signature: _____

Defendant Address:

☐ **Current Address on file:** _____

☐ **Current Phone number on file:**

Check either/both above only if correct

Corrected Mailing _____

Corrected Phone Number _____

6

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BLVD
APACHE JUNCTION AZ 85119
(480)982-8250

STATE OF ARIZONA
Plaintiff,

vs

Salvador Gomora Velasquez
Defendant.

MOTION/ORDER

CASE NUMBER: TR2022000466

THIS IS WHAT I WANT THE JUDGE TO DO: Continue PTC 4 weeks. Defendant wants to hire private counsel.

THIS IS WHY THE JUDGE SHOULD DO IT: (Please be specific)

If requesting a continuance, I hereby certify that the above reasons represent extraordinary circumstances; that this delay is indispensable to the interests of justice; and it is made in good faith and not for the purposes of avoiding a disposition in this matter.

Date: 9/28/22
Date: _____
Date: 9/28/22

Prosecutor: [Signature]
Defense Attorney: _____
Defendant: [Signature]

NOTE: THIS MOTION IS NOT GRANTED UNTIL ORDERED BY A JUDGE EVEN IF UNOPPOSED.

Upon reading the motion, and giving the opposing party and victim, if any, a reasonable opportunity to be heard, and having considered any comments from the victim and the right of a speedy trial:

- ☒ IT IS ORDERED granting ~~denying~~ this motion.
☐ IT IS ORDERED excluding _____ days.
☐ IT IF FURTHER ORDERED setting/re-affirming this matter for _____ on
at _____ AM/PM.
☐ A continuance was granted because it was indispensable to the interest of justice.

9/28/2022
DATE

A. Douglas La Sota
JUDGE

I acknowledge receipt of a copy of this order and promise to appear.

DATE

DEFENDANT Dono Gomora V.

ADDRESS: CITY, STATE, ZIP

PHONE

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BLVD
APACHE JUNCTION AZ 85119
(480)982-8250

STATE OF ARIZONA)
Plaintiff,)

vs)

Salvador Gomora Velasquez)
Defendant.)

MOTION/ORDER

CASE NUMBER: TR2022000466

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Prosecutor: 

Defense Attorney: _____

Defendant: 

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at _____ AM/PM.
☐ A continuance was granted because it was indispensable to the interest of justice.

DATE

JUDGE

I acknowledge receipt of a copy of this order and promise to appear.

DATE

DEFENDANT

ADDRESS: CITY, STATE, ZIP

PHONE

7

1 **LITWAK LAW GROUP PLLC**
1 North 1st Street, Suite 716
2 Phoenix, Arizona 85004
845-558-1448 (telephone)
3 **Jack Daniel Litwak, Bar No. 032153**
Jlitwak@litwaklawgroup.com
4 Attorney for Defendant

5
6 IN THE APACHE JUNCTION MUNICIPAL COURT IN THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,)	Case Number: TR2022000466
)	
Plaintiff,)	
	)	NOTICE OF APPEARANCE
vs.)	
)	
SALVADOR GOMORA VELASQUEZ,	)	(Honorable Douglas Lasota)
)	
Defendant.)	

13 Jack D. Litwak and the firm of Litwak Law Group, PLLC hereby enters his
14 appearance on behalf of Salvador Velasquez ("Mr. Velasquez"), for all further
15 proceedings through the filing of a Notice of Appeal, if required. Pursuant to Rule 9.1,
16 Arizona Rules of Criminal Procedure, Mr. Velasquez hereby waives his personal
17 appearance.
18

19
20
21 RESPECTFULLY SUBMITTED this 5th day of October, 2022.

22 **LITWAK LAW GROUP PLLC**

23 By Jack Daniel Litwak
24
25

1 ORIGINAL/COPIES of the foregoing Emailed/mailed
2 this 5th day of October, 2022, to:

3 APACHE JUNCTION MUNICIPAL COURT
4 300 East Superstition Blvd
5 Apache Junction, AZ 85219
6 1149@courts.az.gov

7 Eric Yuva
8 APACHE JUNCTION PROSECUTOR'S OFFICE
9 300 East Superstition Blvd
10 Apache Junction, AZ 85219
11 ajcityprosecutor@apachejunctionaz.gov

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24
25
By JDL

1 Eric Yuva
2 City Prosecutor
3 City of Apache Junction
4 300 E Superstition Blvd
5 Apache Junction, AZ 85119
6 (480) 474-5150
eyuva@apachejunctionaz.gov
7 AZ Bar No. 023545
8 Attorney for State

9 **IN THE APACHE JUNCTION MUNICIPAL COURT**

10 **COUNTY OF PINAL, STATE OF ARIZONA**

11 **STATE OF ARIZONA,**

12 **Plaintiff,**

13 **v.**

14 **SALVADOR O GOMORA VELASQUEZ,**

15 **Defendant.**

NO. TR2022000466

**STATE'S RESPONSE TO DEFENSE
ATTY'S MOTION TO WAIVE
DEFENDANT'S APPEARANCE**

16 **COMES NOW** the State of Arizona, by and through its attorney undersigned, and hereby

17 State defers to the Court

18 on Defense Atty's Motion to waive Defendant's appearance.

19 **RESPECTFULLY SUBMITTED** this 12th day of October, 2022.

20
21 **APACHE JUNCTION CITY PROSECUTOR**

22
23
24 By: 

25 Eric Yuva
26 Attorney for State
27
28

1 Copy of the foregoing
2 mailed this 12th day of October, 2022 to:

3 Jack D Litwak
4 1 North 1st St, Suite 716
5 Phoenix, AZ 85004
6 Jlitwak@litwaklawgroup.com
7 Attorney for Defendant

8 By: Danielle Bray
9 Danielle Bray, Legal Assistant
10
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LITWAK LAW GROUP PLLC
1 North 1st Street, Suite 716
Phoenix, Arizona 85004
845-558-1448 (telephone)
Jack Daniel Litwak, Bar No. 032153
Jlitwak@litwaklawgroup.com
Attorney for Defendant

IN THE APACHE JUNCTION MUNICIPAL COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,	)	Case Number: TR2022000466
)	
Plaintiff,)	
	)	DEFENDANT'S RULE 15.1
vs.	)	SUPPLEMENTAL REQUEST FOR
	)	SPECIFIC DISCLOSURE
SALVADOR GOMORA VELASQUEZ,)	
	)	(Honorable Douglas Lasota)
Defendant.)	

Counsel for the Defendant moves this court to order that the prosecutor make the following material and information within the prosecutor's control available for examination and reproduction. The Defense further requests disclosure of these items within 30 days of arraignment per Arizona Rule of Criminal Procedure 15.1 "and 1.1". "and the decision of the United States Supreme Court in *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963).

Pursuant to A.R.C.P 15.5(e) the State shall clearly identify any and all redactions made to any videos and recordings contemporaneous with disclosing said video/recordings and provide the legal basis upon which the redactions are made. The defense asks that the prosecutor make available the following evidence or materials:

1. Extended blood packet.
2. Dash Camera Footage.
3. The names, agencies and addresses of all police officers or government employees who investigated this case.

- 1 4. The names, addresses and phone numbers, in as much as this request does not
2 violate the Victim's Rights Laws, of all civilian witnesses.
- 3 5. The name, address, and phone number of any Expert Witness that the State may
4 call at trial, including:
 - 5 a. A list and description of any and all chemical and/or scientific tests or
6 experiments about which the State's expert will testify;
 - 7 b. A list of any and all publications relied upon by the State's expert witness;
 - 8 c. Whether the State's Expert Witness will render an opinion concerning the
9 supposed Blood Alcohol level of "Universal Impairment."
- 10 6. All police or agency reports created in connection with this case including
11 accident reports, if any.
- 12 7. Computer Aided Dispatch (CAD) printouts, without redactions barring Victim
13 Rights Concerns.
- 14 8. Police handwritten notes. See *Carrillo v. County of Los Angeles*, 798 F.3d 1210,
15 1215 (9th Cir. 2015))
- 16 9. Recorded witness interviews.
- 17 10. All formal and informal notifications of suspected Brady violations of each
18 officer involved in this case.
- 19 11. All witness prior convictions.
- 20 12. Scene Photographs.
- 21 13. All books, papers, documents, photographs, sound or video recordings, tangible
22 objects, and other exhibits which are intended for use by the State as evidence at
23 the trial or were obtained from or belong to the Defendant Salvador Velasquez.
- 24 14. A copy of the Admin per se/Implied Consent Affidavit, if one exists.
- 25 15. Any and all photographs, diagrams, videos, audiotapes created with respect to this
case.
16. Whether there was any type of special operation in effect on the date of the arrest,
including, but not limited to: roadblocks, sobriety checkpoints, saturation patrols,
zero-tolerance patrols, DUI Task Force Operations, Operation Safe Streets, etc.
And, if there was such an operation in effect:
 - a. Any official or unofficial reports stemming from the operation;

- b. Any descriptions, instructions or rules involved, whether made public or not;
 - c. Statistics on the number of stops, investigations and arrests made;
 - d. The names of all participants in the operation;
 - e. Payroll records for the officers who participated in the operation.
17. The names of any Field Sobriety Tests that were given as well as the results of such tests if they are not listed in the disclosed police reports.
 18. If one or more HGN tests were administered:
 - a. The HGN logs of the person(s) who administered the test;
 - b. The date such person(s) was first qualified for the HGN;
 - c. The date and location such person(s) attended HGN training;
 - d. The score of the person(s) on his or her HGN test;
 - e. The results of the HGN administered to the defendant.
 19. All material now known to the State, or which may become known, or which through due diligence may be learned by the State, which is exculpatory in nature or favorable to the defendant or which may lead to exculpatory material.
 20. Any other evidence obtained by observation of police witnesses intended to be used against Defendant at trial that is not part of a written police report furnished to defense counsel.
 21. All ADOT/MVD records regarding the defendant.
 22. A list of any prior felony convictions of the Defendant that the State plans to introduce at trial.
 23. Any and all documents signed by, read to or offered to the defendant , as part of the police contact including, but not limited to, waivers of preserved chemical samples, breath/blood advisory forms and independent test option forms.
 24. The Gas Chromatograph of Titration Results for the Stock Solution and the Simulator Solution as required by Arizona Administrative Code R9-14-404(A)(5)
- This Demand is made pursuant to Rule 15.1(e) of the Arizona Rules of Criminal Procedure. The requested materials have a direct bearing on the guilt or innocence of the Defendant. *Scales v. City Court of Mesa*, 122 Ariz. 231, 594 P.2d (1979); *Baca v Smith*, 124 Ariz. 353, 604 P.2d 617 (1980); *Garcia v. District court*, 21st Jud.Dist., Colo., 589 P.2 924 (1979); and *People v. Hitch*, 12 Cal.3d 641, 117 Cal.Rpt. 9, 527 P.2d 361(1974); *State v. Harrison*, 157 Ariz. 184, 755 P.2d 1172 (1989); *State v. Juarez*, 161 Ariz. 76, 775 P.2d 1140 (1989)
25. If blood or urine testing was done identify:
 - a. The testing method used.

- b. The qualifications of the person who administered the test,
- c. The date, time and place of the test,
- d. Whether the test was performed using enzymatic analysis, calorimetric distillation, alcohol separation or any other procedure,
- e. Whether the Defendant signed any waiver form or other document allowing the results of the test to be released to the State,
- f. Whether a sample of the blood or urine has been retained for independent testing,
- g. Whether any preservatives, anticoagulants or other reagents were added to the blood or urine and, if so, the name of that preservative, anticoagulant or reagent, the amount added by whom it was added and the time it was added, and
- h. A complete list of all persons in the chain of custody and in possession of the blood or urine sample.

26. Defendant by and through counsel undersigned, hereby demands that the State, pursuant to rules 15.1(a)(7), 15.1(c), 15.1(e) and 15.7 of the Arizona Rules of Criminal Procedure, disclose in writing the existence of and permit the Defendant to inspect, copy, photograph and/or gain access to any and all of the following:

- a. Copies of the Forensic Crime Lab's written procedures for the testing of a blood sample, including, but not limited to a description of the correct and/or standard method for the testing and handling of blood samples.
- b. Copies of Defendant's blood alcohol test result printouts created by (or in connection with) the blood testing devices used to analyze Defendant's blood, including printouts of all chromatograms for the Defendant's blood, all calibrators, controls, standard mix, blanks and verifiers.
- c. Copies of any other notes, charts, graphs or memorandum created in connection with the testing of the Defendant's blood including all Calibration Curve reports.
- d. If the calibration standard, control, blank or verifier run at the time of testing of Defendant's blood was produced in the Forensic Crime lab:
 - i. All notes, charts, graphs or memorandum created regarding the batch used.
 - ii. The identification of the person who created the batch, and when it was created
- e. The calibration standard, control, blank or verifier run at the time of the testing of the Defendant's blood was purchased:
 - i. The name of the manufacturer;
 - ii. The date of purchase;
 - iii. Copies of all certificates, literature, or other information provided to the Lab by the manufacturer;
 - iv. Copies of the results of any tests performed upon the standard.
- f. All repair and maintenance records, maintained on the blood testing device used to analyze Defendant's blood as well as any pipettes and autosamplers.
- g. The identification of the type of swab used on the Defendant's arm at the time

1 of the blood draw; including the name of the manufacturer, expiration date
2 and any other identifying information, and copies of the results of any test run
3 on this type of swab.

- 4 h. All documentation and information on the blood tubes used to collect and
5 store Defendant's blood, including:
6 i. The name of the manufacturer;
7 ii. The date of purchase;
8 iii. Copies of all certificates, literature of other information provided to
9 the Lab by the manufacturer;
10 iv. Copies of the results of any tests performed upon the test tubes.
11 i. The identification of all preservatives and anti-coagulants that were added to
12 Defendant's blood sample, including:
13 i. The name of the manufacturer;
14 ii. The date of purchase;
15 iii. Copies of all certificates, literature or other information provided to
16 the Lab by the manufacturer;
17 iv. Copies of the results of any tests performed upon the preservatives or
18 anticoagulants.

19 The State intends to use the results of a blood alcohol test performed by the state's
20 criminalist at the Forensic Crime Laboratory. All of the items requested to be produced herein
21 relate to that test.

22 Rule 15.1(e) provides that upon motion of the defendant demonstrating a substantial need
23 for material or information not otherwise covered by Rule 15.1(a), and a further showing that the
24 defendant is unable to obtain the information without undue hardship by any other means, the
25 Court may order the discovery of this information. Rule 15.1(a)(7) provides for the disclosure of
"all material or information which tends to mitigate or negate the defendant's guilt as to the
offense being charged".

26 In *State v. Fuenning*, 139 Ariz. 590, 680 P.2d 121 (1984), the Arizona Supreme Court
27 examined the validity of the DUI statute that made it a crime to drive with a prohibited blood
28 alcohol concentration. The court recognized that the statute set forth a *per se* violation-no intent
29 or knowledge on the part of the defendant was required to violate the law; the only question is
30 the defendant's blood alcohol concentration at the time of driving. "Pragmatically, there may be

1 no way for a particular drinker to know the precise moment he reaches the physiologic point at
2 which driving or controlling the vehicle will violate the law.” *Id.*, 680 P.2d at 129. The court also
3 recognized that there are inherent errors in blood alcohol test results, even if the tests are
4 performed flawlessly. 680 P.2d at 125. The solution the court reached was “... that the defendant
5 may attack the accuracy of the test on any relevant ground.” 680 P.2d at 127. All of the
6 disclosure sought by Defendant relates to the accuracy of the test and the ability of the defense to
7 challenge the validity of the test results.
8

9 The fact that the materials requested herein may not be in the prosecutor’s case file is
10 unimportant. The United State Supreme Court has placed the burden on the prosecuting agency
11 to obtain evidence potentially exculpatory to the defendant from all of its agents and disseminate
12 the same to the defendant
13

14 On the one side, showing that the prosecution knew of an
15 item of favorable evidence unknown to the defense does
16 not amount to a *Brady* violation, without more. But the
17 prosecution, which alone can know what is undisclosed,
18 must be assigned the consequent responsibility to gauge
19 the likely net effect of all such evidence and make
20 disclosure when the point of “reasonable probability” is
21 reached. This in turn means that *the individual prosecutor*
22 *has a duty to learn of any favorable evidence known to the*
23 *others acting on the government’s behalf in the case,*
24 *including the police.*

25 *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555, 1567, 131 L.E.d.2d 490 (1995).
(Emphasis added)

The Arizona Court of Appeals has been even more explicit in this regard:

We agree that a law enforcement agency investigating a criminal
action operates as an arm of the prosecutor for purposes of
obtaining information that falls within the required disclosure
provisions of Rule 15.1 If a defendant has reason to believe
that the prosecutor has not disclosed information within the
possession or control of such an agency, his proper recourse
is to seek relief pursuant to Rule 15.7.

1
2 *Carpenter v. Superior Court In and For County of Maricopa*, 176 Ariz. 486, 862 P.2d 246 (Ariz. App. Div. 1, 1993).

3 As to the reasons the specific items requested are necessary to the defense:

4 **Item (a)** will allow Defendant to verify that the procedure used to analyze his
5 blood was performed correctly and in conformance with the requirements of the
6 laboratory performing the tests.

7 **Items (b), (c) and (f)** will allow Defendant to evaluate the analysis performed by
8 the blood testing device, and the criminalist's interpretation of those results.

9 **Items (d)-(g), (h) and (i)** will allow the Defendant to determine whether any
10 ingredient was added to his blood which could have produced a false positive
11 reading for alcohol or increased the blood alcohol reading.

12 All of the requested information pertains directly to the validity of the test results
13 obtained on Defendant's blood and pertains to whether the tests were performed within the
14 requirements set forth by the Department of Public Safety Regulations. As such, the information
15 is necessary to the defense of Defendant's case. All of the information requested is within the
16 control of the state, is easily obtainable by the state's agents, can be easily reproduced, and the
17 disclosure of this information will present no burden on the state. On the other hand, Defendant
18 has no independent access to this information.

19 This Demand is made pursuant to Rule 15.1(e) of the Arizona Rules of Criminal
20 Procedure. The requested materials have a direct bearing on the guilt or innocence of the
21 Defendant. *Scales v. City Court of Mesa*, 122 Ariz. 231, 594 P.2d (1979); *Baca v Smith*, 124
22 Ariz. 353, 604 P.2d 617 (1980); *Garcia v. District court, 21st Jud.Dist., Colo.*, 589 P.2 924
23 (1979); and *People v. Hitch*, 12 Cal.3d 641, 117 Cal.Rpt. 9, 527 P.2d 361(1974); *State v.*
24 *Harrison*, 157 Ariz. 184, 755 P.2d 1172 (1989); *State v. Juarez*, 161 Ariz. 76, 775 P.2d 1140
25 (1989)

The Defendant has substantial need for these materials to prepare a defense and would

1 otherwise be unable to obtain them without undue hardship. In the alternative, if the state is not
2 able to produce the requested material, counsel will move the Court to suppress any and all
3 evidence of the Defendant's chemical analysis, equipment, procedures and results as required in
4 the aforementioned cases. Such sanctions are appropriate pursuant to Rule 15.7 of the Arizona
5 Rules of Criminal Procedure.
6

7 RESPECTFULLY SUBMITTED this 13th day of October, 2022.

8 LITWAK LAW GROUP PLLC

9 By Jack Daniel Litwak
10
11
12
13

14 ORIGINAL/COPIES of the foregoing Emailed/mailed
15 this 13th day of October, 2022, to:

16 APACHE JUNCTION MUNICIPAL COURT
17 300 East Superstition Blvd
18 Apache Junction, AZ 85219
19 1149@courts.az.gov

20 Eric Yuva
21 APACHE JUNCTION PROSECUTOR'S OFFICE
22 300 East Superstition Blvd
23 Apache Junction, AZ 85219
24 ajcityprosecutor@apachejunctionaz.gov
25

By JDL

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case Number: M1149TR2022000466 Complaint Number: 3457	HEARING NOTICE-PRETRIAL CONFERENCE
--	--	---

This matter has been scheduled for Pre Trial Conference on 11/23/2022 at 2:00PM.

YOU MUST APPEAR for this court date. If you fail to appear, any bond that has been posted will be subject to forfeiture, and a warrant being issued for your arrest.

DEFENDANT'S APPEARANCE REQUIRED AT ALL COURT DATES EVEN IF REPRESENTED BY COUNSEL.

The following legal issue should be resolved by the first (1st) Pre Trial Conference date.

1. Obtain discovery (Police reports, blood analysis, etc.) from the City Prosecutor
2. The court is to be notified immediately, by either party, of any issued related to obtaining discovery prior to the Pre Trial conference date.

You have the right to be present at all your court proceedings in your case. If this matter is eventually set to trial and you do not appear at your trial, this nonappearance will be considered a waiver of your right to be present at your trial. The trial may be held without you, possibly resulting in a conviction with accompanying sentence, which will be enforced if necessary, by your arrest.

IT IS YOUR RESPONSIBILITY TO BE AWARE OF ALL FUTURE COURTDATES SHOULD ANY SCHEDULED MATTER BE CONTINUED, YOU MUST CONTACT THE COURT OR YOUR ATTORNEY TO GET THE NEW DATE.

Please notify the Court of any change of address in order to continue receiving court notices.

Please contact the court if you need special accommodations (such as assistive devices, interpreters, etc.)

Date: 10/26/2022

Judge Name: HON A DOUGLAS LASOTA

Judge Signature: 

Defendant Signature: _____

Defendant Address:

☐ **Current Address on file:**

☐ **Current Phone number on file:**

Check either/both above only if correct

Corrected Mailing _____

Corrected Phone Number _____

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BLVD
APACHE JUNCTION AZ 85119
(480)982-8250

STATE OF ARIZONA,)
Plaintiff,)
)
vs)
)
)
Salvador Gomora Velasquez)
Defendant.)

MOTION/ORDER


CASE NUMBER: TR2022000466

THIS IS WHAT I WANT THE JUDGE TO DO: Continue PTC 4 weeks. Defense has the offer and State is sending additional discovery including an extended blood packet. One interview is complete, the 2nd interview is scheduled for next week.

THIS IS WHY THE JUDGE SHOULD DO IT: (Please be specific)

If requesting a continuance, I hereby certify that the above reasons represent extraordinary circumstances; that this delay is indispensable to the interests of justice; and it is made in good faith and not for the purposes of avoiding a disposition in this matter.

Date: 10/26/22
Date: _____
Date: 10/26/22

Prosecutor: 
Defense Attorney: _____
Defendant: _____

NOTE: THIS MOTION IS NOT GRANTED UNTIL ORDERED BY A JUDGE EVEN IF UNOPPOSED.

Upon reading the motion, and giving the opposing party and victim, if any, a reasonable opportunity to be heard, and having considered any comments from the victim and the right of a speedy trial:

- ☐ IT IS ORDERED granting/denying this motion.
☐ IT IS ORDERED excluding _____ days.
☐ IT IF FURTHER ORDERED setting/re-affirming this matter for _____ on
at _____ AM/PM.
☐ A continuance was granted because it was indispensable to the interest of justice.

DATE _____

JUDGE

I acknowledge receipt of a copy of this order and promise to appear.

DATE

DEFENDANT

ADDRESS: CITY, STATE, ZIP

PHONE

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff	Case Number: M1149TR2022000466	HEARING NOTICE-PRETRIAL CONFERENCE
Vs	Complaint Number: 3457	
SALVADOR O GOMORA VELASQUEZ Defendant		

This matter has been scheduled for Pre Trial Conference on 11/23/2022 at 2:00PM.

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The following legal issue should be resolved by the first (1st) Pre Trial Conference date.

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2. The court is to be notified immediately, by either party, of any issued related to obtaining discovery prior to the Pre Trial conference date.

You have the right to be present at all your court proceedings in your case. If this matter is eventually set to trial and you do not appear at your trial, this nonappearance will be considered a waiver of your right to be present at your trial. The trial may be held without you, possibly resulting in a conviction with accompanying sentence, which will be enforced if necessary, by your arrest.

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Please notify the Court of any change of address in order to continue receiving court notices.

Please contact the court if you need special accommodations (such as assistive devices, interpreters, etc.)

Date: 10/26/2022

Judge Name: HON A DOUGLAS LASOTA

Judge Signature: A. Douglas LaSota

Defendant Signature: Salvador O. Gomora Velasquez

Defendant Address:

☐ **Current Address on file:** _____

☐ **Current Phone number on file:**

Check either/both above only if correct

Corrected Mailing _____

Corrected Phone Number _____

LITWAK LAW GROUP PLLC
1 North 1st Street, Suite 716
Phoenix, Arizona 85004
845-558-1448 (telephone)
Jack Daniel Litwak, Bar No. 032153
Jlitwak@litwaklawgroup.com
Attorney for Defendant

IN THE APACHE JUNCTION MUNICIPAL COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,	)	Case Number: TR2022000466
)	
Plaintiff,)	
	)	DEFENDANT'S MOTION TO
vs.	)	SUPPRESS THE ILLEGAL STOP
)	
SALVADOR GOMORA VELASQUEZ,	)	(Honorable Douglas Lasota)
)	
Defendant.)	

Defendant Salvador Gomora Velasquez ("Mr. Velasquez"), by and through undersigned counsel, hereby moves this Court to enter an order suppressing any and direct and derivative evidence resulting from the illegal stop perpetrated on him and his motor vehicle. This motion is predicated upon the Fourth Amendment to the United States Constitution, Art. II, § 8 of the Arizona Constitution, and their related progeny. The legal basis for this request is fully set forth within the accompanying Memorandum of Points and Authorities.

RESPECTFULLY SUBMITTED this 15th day of November, 2022

LITWAK LAW GROUP PLLC

By /s/ Jack Litwak
Jack D. Litwak
For the Firm

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. RELEVANT FACTS**¹

3 On April 21, 2022, Officer Miller (#403), Apache Junction Police Department,
4 stopped Mr. Velasquez's Chevy Tahoe ("the Tahoe") for an allegation of "not having a
5 functional white light to the rear of the vehicle." This was the only basis for the stop, per
6 Officer Miller. However, Mr. Velasquez unequivocally denies that he violated any traffic
7 law and claims herein that the tail lamp allegation was clearly used to justify his stop in
8 violation of his Fourth Amendment rights. The body worn camera footage shows that Mr.
9 Velasquez had functional tail lamps illuminating his license plate when the headlights
10 were on, in accordance with statutory requirements. Mr. Velasquez was never ticketed or
11 issued a warning for violation of A.R.S. 28-925. The Tahoe has two working license plate
12 lights. (Exhibit 1).
13
14
15

16 Officer Miller was interviewed on November 3, 2022. He agreed that the body
17 worn camera footage documented his observations and depicted the scene. Officer Miller
18 did not know how many license plate lights the Tahoe had. Officer Miller stated that he
19 was behind the Tahoe for less than a minute when it pulled over in a safe spot without
20 any issues. He stated his observations of the Tahoe during that time were documented in
21 his report. There were no observations of unsafe driving, an unsafe vehicle, or any other
22 traffic infractions. Mr. Velasquez interacted with the officers appropriately, handled
23
24
25

1 The factual basis asserted herein is predicated upon the disclosure received from the Apache Junction
Attorney, the body worn camera, and the interviews conducted by counsel thus far. Because the defense
disputes the accuracy of the events memorialized in the relevant Police Departmental Reports, Defense

1 paperwork appropriately, did not have slurred speech, did not stumble, and did not have
2 issues with balance or hand-eye coordination.

3 Chief Michael Pooley was riding along with officer Miller during the traffic stop.
4 Chief Pooley was interviewed on October 21, 2022. He did not have much memory of the
5 traffic stop. When asked about the tail lamp requirements, the Chief acknowledged, "you
6 have to have some type of illumination, and I don't know if he did or not that night."
7 Chief Pooley did not author a report. He read Officer Miller's report to refresh his
8 memory, and when asked if anything else would refresh his memory further, he said, "no,
9 I mean, this is the best I can do." He did not report observing any traffic violations.
10
11

12 is the owner of the Tahoe. She was interviewed on
13 November 8, 2022. She stated that she is the owner of the Tahoe and drives the Tahoe all
14 the time. She was not in the Tahoe at the time of the stop but observed the Tahoe
15 previously while the headlights were on, and the license plate lights worked perfectly
16 fine. She stated that she works night shift and always checks to make sure the lights are
17 on and working. She also stated that when she picked the Tahoe up from the impound
18 after this traffic stop, she checked the license plate lights, and they were working fine.
19 She has never had any electrical problems, and no maintenance has been performed on
20 the tail lamps or the electrical work associated with them.
21
22

23 Our Arizona Court of Appeals dealt with a similar issue in 2016. In *State v. Stoll*,
24 239 Ariz. 292, 297 (App. 2016), the Court promulgated that the United States Supreme
25

counsel requests a formal evidentiary hearing prior to ruling on this motion. Accordingly, none of the facts contained in the foregoing motion should be interpreted as a concession.

1 Court precedent of *Heien v. North Carolina*, 135 S. Ct. 530 (2014) “does not support the
2 proposition that a police officer acts in an objectively reasonable manner by
3 misinterpreting an unambiguous statute.” *citations omitted*. The Court reasoned that “an
4 officer can gain no Fourth Amendment advantage through a sloppy study of the laws he
5 is duty-bound to enforce.” *Id.*, at 297-298.

7 Mr. Velasquez unequivocally denies that he violated any traffic law and claims
8 herein that the alleged traffic violation was clearly used to justify his stop and the search
9 of his body and vehicle in violation of his Fourth Amendment rights.

11 **II. BURDEN OF GOING FORWARD**

12 The burden of going forward is on the defense to produce sufficient preliminary
13 evidence for suppression before the State has the burden of persuasion to proceed with
14 evidence supporting the legality of the search. *Arizona Rules of Criminal Procedure, Rule*
15 *16.2(b)(2)(A)*; *see also, State v. Hyde*, 186 Ariz. 252, 266, 921 P.2d 655, 669 (Ariz.
16 1996). This prima facie requirement is met if the defendant’s evidence conflicts with the
17 state’s evidence [hearsay statements in the police reports]. *Id.*, at 269, 921 P.2d at 672.
18 Moreover, it is axiomatic that an investigatory stop of a motor vehicle constitutes a
19 seizure. *State v. Kjolsrud*, 371 P.3d 647, 650 (Ariz. 2016).

22 It suffices under this rule for a defendant to make allegations of fact that, if
23 proved, would entitle the defendant to suppression; the obligation to prove a prima facie
24 case for suppression is imposed by Rule 16.2 and attaches at the hearing, not the motion,
25 stage” *Rodriguez v. Arellano*, 194 Ariz. 211, 214-215, 979 P.2d 539, 543-544 (Ariz.
1999).

1 Mr. Velasquez has met his burden and established a prima facie case for
2 suppression. Moreover, under *Rodriguez v. Arellano, supra*, Rule 16.2(b)(2)(A) attaches
3 at the hearing stage.
4

5 **III. ISSUE PRESENTED**

6 Whether Officer Miller violated Mr. Velasquez's constitutional rights to be free
7 from an unreasonable seizure and search when he effectuated an illegal traffic stop upon
8 his motor vehicle without articulable reasonable suspicion and then conducted a
9 subsequent illegal search therein.
10

11 **IV. LEGAL ARUGMENT**

12 The Fourth Amendment protects individuals from being subjected to
13 "unreasonable searches and seizures." U.S. CONST. AMEND. IV. And that protection
14 extends to investigatory stops of motor vehicles. *United States v. Cortez*, 449 U.S. 411,
15 417 (1980); *Terry v. Ohio*, 392 U.S. 1, 16, (1968); *State v. Graciano*, 134 Ariz. 35, 37,
16 653 P.2d 683, 685 (1982). This is because investigatory stops "constitute a seizure under
17 the Fourth Amendment." *State v. Gonzalez-Gutierrez*, 187 Ariz. 116, 118, 927 P.2d 776,
18 778 (1996).
19
20

21 Nevertheless, investigatory stops "may be made under circumstances which would
22 not be sufficient to constitute 'probable cause' for the issuance of an arrest warrant[]"
23 because they are inherently "less intrusive than actual arrests." *Graciano*, 134 Ariz. at 37,
24 653 P.2d at 685. Accordingly, officers may effectuate a stop based merely upon
25 "reasonable suspicion that . . . [a] driver has committed an offense." *State v. Livingston*,

1 206 Ariz. 145, ¶9, 75 P.3d 1103, 1105 (App. 2003); accord *United States v. Brignoni-*
2 *Ponce*, 442 U.S. 873, 878, 881 (1975).

3 “[R]easonable suspicion is something short of probable cause.” *State v. O’Meara*,
4 198 Ariz. 294, ¶10, 9 P.3d 325, 327 (2000). Under this standard, officers must possess “a
5 particularized and objective basis for suspecting the particular person stopped of criminal
6 activity.” *Gonzalez-Gutierrez*, 187 Ariz. at 118, 927 P.2d at 778 (quoting *Cortez*, 449
7 U.S. at 417–18). To this end, “officer[s] must be able to point to specific and articulable
8 facts which, taken together with rational inferences from those facts, reasonably warrant
9 intrusion” upon an individual’s right to be free from unreasonable searches and seizures.
10 *Terry*, 392 U.S. at 21.

11 An officer’s intuition—or inchoate hunch—cannot satisfy the reasonable suspicion
12 standard. *State v. Richcreek*, 187 Ariz. 501, 505, 930 P.2d 1304, 1308 (1997).
13 Accordingly, when officers initiate traffic stops predicated “on facts that neither
14 constitutes a violation of the law nor constitute reasonable grounds to suspect the driver
15 has committed an offense, they run afoul of the Fourth Amendment requirement that they
16 possess objectively reasonable grounds for the intrusion.” *Livingston*, 206 Ariz. at ¶9, 75
17 P.3d at 1105–06; accord *United States v. Lopez-Soto*, 205 F.3d 1101, 1105–06 (9th Cir.
18 2002). Arizona trial courts must be especially vigilant when evaluating the totality of the
19 circumstances surrounding traffic stops because the right to privacy granted by the
20 Arizona Constitution has been recognized to extend beyond the limits delineated by the
21 Fourth Amendment. *State v. Tykwinski*, 170 Ariz. 365, 371, 824 P.2d 761, 767 (App.

1 1991); *but see*, *State v. Teagle*, 217 Ariz. 17, ¶19, 170 P.2d 266, 271 (App. 2007). The
2 facts present in this litigation pose no exception.

3 In *Whren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996), the Supreme
4 Court held that pretextual stops did not violate the Fourth Amendment as the officer's
5 subjective intent was irrelevant. However, the facts of *Whren* involved speeding and
6 failure to signal, and the parties **agreed** that, from these facts, the police had justification
7 to make the disputed stop. *U.S. v. Lopez-Soto*, 205 F.3d 1101, 1104 (9th Cir. 2000) *citing*
8 *Whren at 810, 116 S.Ct. at 1773* (*emphasis added*). This agreement allowed the Supreme
9 Court to focus on the constitutional relevance of the officer's subjective intent in making
10 the stop. *Id.* As such, given that justification for the stop was established per the
11 agreement between the parties, the *Whren* Court was allowed to focus elsewhere. *Id.*

12 In this case, to the contrary, there is no agreement between the parties accepting as
13 fact that Mr. Velasquez committed any traffic offenses that would justify his stop therein,
14 and as such, *Whren* does not control. Mr. Velasquez contends that he did not violate any
15 traffic laws prior to Officer Miller stopping his vehicle, and therefore the police had no
16 legitimate reason to stop him/seize him and his vehicle. The State's only out of court
17 evidence, at this time, in attempting to establish reasonable suspicion to justify the stop is
18 Officer Miller's controverted assertions that Mr. Velasquez's stop was legally justified
19 based on "not having a functional white light on the rear of the vehicle." However, there
20 is evidence that directly contradicts that claim—body worn camera footage and
21 statements from the owner of the Tahoe, who observed the lights in working condition
22 both before and after the stop.
23
24
25

1 Moreover, undersigned counsel is entitled to inquire into Officer Miller's
2 *subjective motivation in making the stop*, as an officer's ulterior motives for the stop are
3 relevant to his credibility on the threshold question of whether he had actually witnessed
4 a traffic violation. *State v. Livingston*, 206 Ariz. 145, 147, 75 P.3d 1103, 1106, (Ariz.
5 App. 2003). In *Livingston*, the court suppressed the fruits of an unconstitutional stop
6 because they found that the defendant had committed no violation and the officer had
7 lacked a reasonable basis for the stop, even though the officer claimed that the defendant
8 was in violation of a minor traffic offense.
9

11 Because the state cannot establish a constitutionally permissible basis to support
12 the stop, all evidence obtained from Mr. Velasquez as a result of the illegal seizure and
13 search must be suppressed as fruits of the poisonous tree. ("When Officers make traffic
14 stops based on facts that neither constitute a violation of the law nor constitute reasonable
15 grounds to suspect the driver has committed an offense, they run afoul of the Fourth
16 Amendment requirement that they possess objectively reasonable grounds for the
17 intrusion.") (citing *United States v. Mariscal*, 285 F.3d 1127 (9th Cir. 2002); see also
18 *Terry*, 392 U.S. at 21).
19

21 In Arizona, it is well recognized that "[f]orced stops of. . . automobile[s] are much
22 different and more intrusive than simply addressing a question to a pedestrian
23 encountered on the street or public conveyance." *Richcreek*, 187 Ariz. at 505, 930 P.2d at
24 1308. For this reason, the Arizona Supreme Court, speaking through Justice Feldman,
25 flatly held that police may not "follow and pursue automobiles driven and occupied by
persons not suspected of any criminal activity" in order to "pull them over, detain them,

1 and question them.” *Id.* Because evidence supporting a stop or search cannot be gathered
2 *ex post*, Officer Miller’s speculative hunch cannot constitutionally legitimize his decision
3 to stop Mr. Velasquez’s motor vehicle. *Ornelas*, 517 U.S. at 696; *see also Safford Unified*
4 *Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 370 (2009).

6 **V. CONCLUSION**

7 Mr. Velasquez’s operation of the Tahoe did not violate any Arizona traffic laws.
8 Because Office Miller’s stop was unlawful and not substantiated by reasonable suspicion,
9 he ran afoul of the Fourth Amendment to the United States Constitution as well as Art. II,
10 § 8 of the Arizona Constitution. As a result, this Court should enter an Order suppressing
11 any items of evidentiary value obtained because of the illegal stop and search of Mr.
12 Velasquez and his vehicle.
13

14
15 RESPECTFULLY SUBMITTED this 15th day of November, 2022.

16 **LITWAK LAW GROUP PLLC**

17 By Jack Daniel Litwak
18 For the Defense

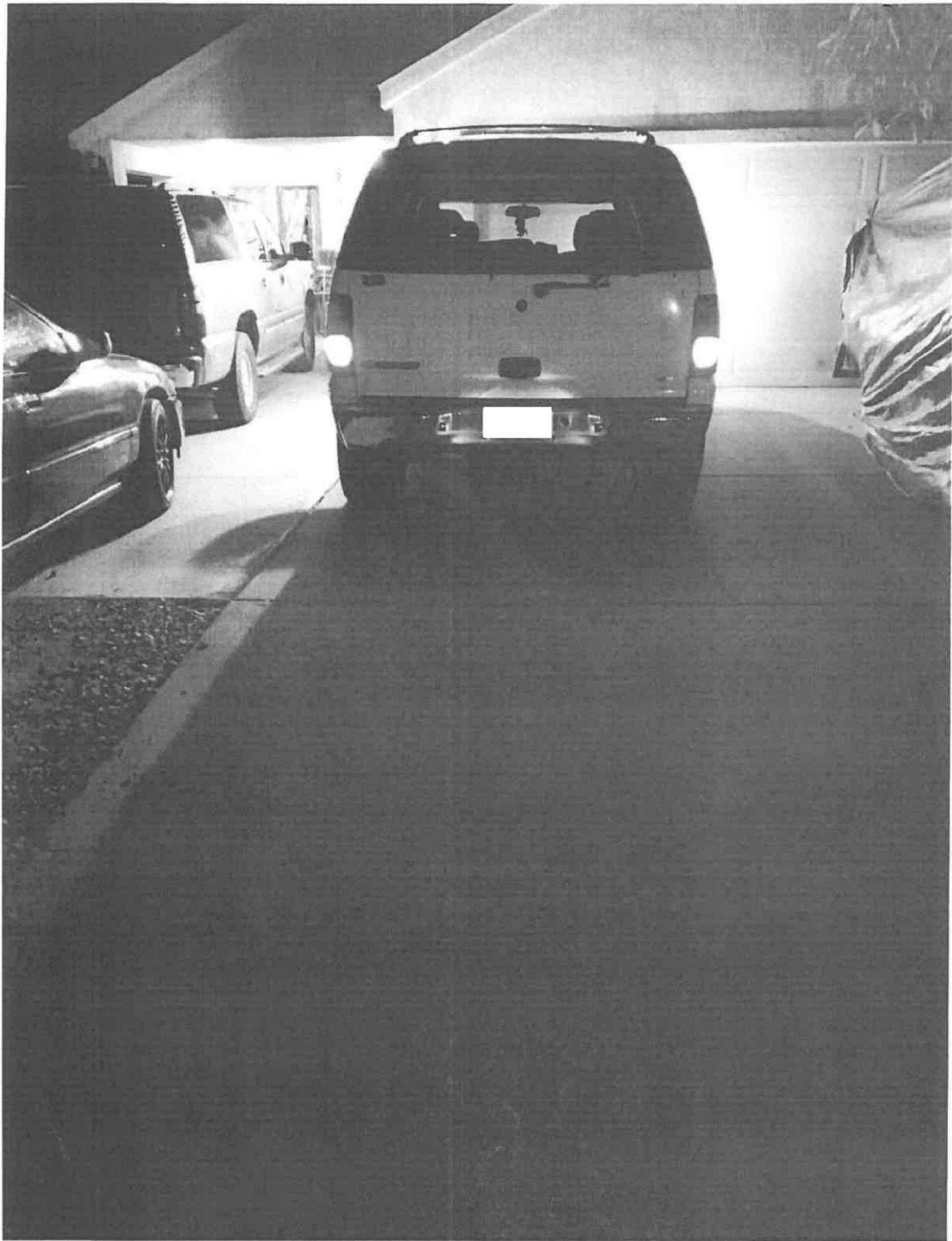
19 ORIGINAL/COPIES of the foregoing Emailed/mailed
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23 Apache Junction, AZ 85219
1149@courts.az.gov

24 Eric Yuva
25 APACHE JUNCTION PROSECUTOR’S OFFICE
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By JDL

EXHIBIT 1





LITWAK LAW GROUP PLLC
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845-558-1448 (telephone)
Jack Daniel Litwak, Bar No. 032153
Jlitwak@litwaklawgroup.com
Attorney for Defendant

IN THE APACHE JUNCTION MUNICIPAL COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,

Plaintiff,

VS.

SALVADOR GOMORA VELASQUEZ,

Defendant.

Case Number: TR2022000466

DEFENDANT'S RULE 15.2 NOTICE OF DEFENSES AND DISCLOSURE

(Honorable Douglas Lasota)

Counsel for the defense submits the following disclosure. Ariz. R. Crim. P. 15.2.

1. The defense notices the following defenses:
 - a. Mere Presence
 - b. No Criminal Intent
 - c. No Specific Intent
 - d. Insufficiency of State's Evidence
 - e. Denial
2. The defense notices the following witnesses:
 - a. The Defendant;
 - b. Michael Grommes
Forensic Toxicologist
5425 E Bell Road, Suite 125
Scottsdale, AZ 85254

1 Mr. Grommes is a forensic toxicologist. He is anticipated to testify regarding
2 blood analysis using Headspace Gas Chromatography, including, but not limited to, the
3 process and procedures of blood analysis using Headspace Gas Chromatography, any
4 reports generated from the blood analysis using Headspace Gas Chromatography, any
5 data generated by the blood analysis using Headspace Gas Chromatography, any
6 testimony provided by the State's blood testing expert, studies and publications about
7 Headspace Gas Chromatography and blood testing. Mr. Grommes will testify regarding
8 the National Highway Traffic Safety Administration's (NHTSA) studies, training, and
9 manuals on the detection of DWI/DUI, and signs and symptoms of impairment, and
10 publications and studies about the NHTSA studies, training, and manuals, and
11 publications and studies about signs and symptoms of impairment.
12
13
14

15 c.

16 d. Any and all individuals, including but not limited to Victim Assistance
17 caseworkers and/or volunteers, who have spoken with any witness in this case.

18 e. All witnesses listed in the State's Rule 15.1 disclosure as well as in any
19 supplemental witness disclosure filings.
20

21 3. The defense notices the following documents, photographs, and other tangible
22 objects that the defense intends to use at trial:

23 a. Any item disclosed by the State.

24 b. Michael Grommes CV.

25 c. Photos of the Chevy Tahoe.

1 The Defense has yet to identify any other witnesses who will assist in the defense
2 of this case. The Defense will inform the State of the names, addresses and phone
3 numbers of any witnesses who the defense intends to call at trial, together with their
4 written or recorded statements, when and if they are discovered. The Defense reserves the
5 right to supplement this list further as witnesses and physical evidence becomes
6 available.
7

8
9
10 RESPECTFULLY SUBMITTED this 15th day of November, 2022.

11 **LITWAK LAW GROUP PLLC**

12 By /s/ Jack Litwak
13 Jack D. Litwak
14 For the Firm

15 ORIGINAL/COPIES of the foregoing Emailed/mailed
16 this 15th day of November, 2022, to:

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24 Apache Junction, AZ 85219
25 ajcityprosecutor@apachejunctionaz.gov

By JDL



AES
Alternative Education Solutions™

SCREENINGREPORT

Apache Junction Municipal
FILED NOV 22 '22 PM 4:48

Report Date: 11/22/2022

Counselor: Monica C; BHT

To: **Apache Junction Municipal Court**
300 E. Superstition Blvd.
Apache Junction, AZ 85119
Phone: (480)928-8520 Fax: (480)982-4496

Client Name: SALVADOR OMAR GOMORA VELAZQUEZ

Client DOB:

Client CASE#: M1149-TR2022-000466

Screening/Program Information:

Date of Screening: 7/14/2022

TCD: TBD BY COURT

Date Program Started:

Number of Hours Assigned: 16

Number of Hours Completed:

NOTES:

Comments/Recommendations: ASSESSED Level II – 16 Hour Drug/Alcohol Education Program.

FAX COVER SHEET

TO

COMPANY

FAX NUMBER 14809824496

FROM AES AES

DATE 2022-11-22 22:07:09 GMT

RE AES SCREENING REPORT - SALVADOR OMAR
GOMORA VELAZQUEZ

COVER MESSAGE

AES SCREENING REPORT - 11/22/2022

CT: SALVADOR OMAR GOMORA VELAZQUEZ

DOB:

CASE#:

ASSESSED: Level II - 16HRS Alcohol/Drug Education

TCD: TBD BY COURT

CLIENT STATES HE DOES NOT KNOW BAC nor Date of Violation??

Client has court tomm 11/23 and needs proof of screening.

If EXT or SUPER Ext please let us know to adjust hours properly.

Thank you,

CERTIFICATE of COMPLETION

THIS EDUCATIONAL CERTIFICATE ACKNOWLEDGES THAT

Salvador Omar Gomora Velazquez

HAS SUCCESSFULLY COMPLETED THE FOLLOWING COURT ORDERED CLASS:

16 Hr FIRST Offense DWI/DUI/OWI EDUCATION COURSE

By AIC. AMERICAN INTEGRITY COURSES®

Date:

December 20, 2022

*Certificate valid for 1 year
after date issued

Final Exam Score:

76.56/100 (76.56%)

Signed, GISELA BRYANT

RN, MSN AGNP-NC

Program Director of

AIC. AMERICAN INTEGRITY COURSES, LLC®

www.AmericanIntegrityCourses.com

Email: AIC.AmericanCourses@gmail.com

Ph. #936-333-0087



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FILED DEC 20 '22 PM 1:32

Apache Junction Municipal

APACHE JUNCTION MUNICIPAL COURT
300 EAST SUPERSTITION BLVD.
APACHE JUNCTION, ARIZONA 85119
(480) 982-8250

THE STATE OF ARIZONA,

Plaintiff,

vs.

Salvador Gomora Velasquez,

Defendant.

CASE NUMBER: TR2022000466

PLEA AGREEMENT

The State of Arizona, and the Defendant personally, and by and through counsel undersigned, hereby agree to the following disposition of this case:

1. **PLEA:** The Defendant agrees to plead **GUILTY** to the charge of:

Count 1(amended): **Reckless Driving**, a class two misdemeanor, pursuant to ARS §§28-693A, 13-707 and, 13-802, committed on **4/21/2022**.

2. **TERMS:** On the following understandings, terms and conditions:

- The Defendant shall be sentenced to 10 consecutive days in jail. If the defendant successfully completes substance abuse counseling and probation as directed by the court, all but one day of jail may be suspended. Defendant is given 1 day jail credit.
- The Defendant shall pay \$1,300.00 in fines, fees and assessments, plus a \$20.00 time payment fee if the amount cannot be paid on the day of sentence.
- The Defendant shall attend and complete substance abuse screening, education or treatment as directed by the Court, at their own expense, and provide the Court with proof of completion.
- The Defendant shall attend and complete a MADD Impact Panel.
- The Defendant shall be placed on 24 months of unsupervised probation. Unless an extension is granted by the Court, all terms must be completed within 24 months of sentencing.
- The Defendant shall pay an incarceration fee for each day he/she is incarcerated.
- The Defendant shall remain law-abiding while on probation.

3. **A) INCARCERATION:**

The maximum jail on a class one (2) misdemeanor is four months.

B) FINE(S): The maximum fine on a class (2) misdemeanor is \$750.00, plus surcharges.

C) PROBATION: (is) available. The Court may place the defendant on up to 2 years of probation.

D) RESTITUTION of economic loss to the victims, in the amount of \$(NA) will be required. If no figure is entered above for restitution, the amount of restitution shall be fixed by the Court at the time of sentencing. The victim('s/s')

acceptance of restitution, pursuant to the Court Order in this case, does not constitute a waiver of any civil claims the victim(s) may have. Defendant agrees not to challenge or dispute the amount of restitution set by the Court.

4. **OTHER CHARGES:** The following charge(s) or allegation(s) are dismissed or, if not yet filed, shall not be brought against the Defendant:

- Any remaining counts in this case.
- Any FTA related to the same.

5. **AMENDMENT TO CHARGING DOCUMENT:** This agreement, unless rejected or withdrawn, serves to amend the complaint, indictment or information to charge the offense to which the Defendant pleads, if necessary, without the filing of any additional pleading.

6. **ACCEPTANCE OF PLEA, REJECTION, REVOCATION, WITHDRAWAL OF PLEA:** The parties agree that the Court shall accept the Defendant's plea at the time of the change of plea. If marked above, the State's participation in this plea agreement is conditional upon the Court's acceptance of the plea at the change of plea hearing. If, after accepting the plea, the Court concludes that any of the terms or provisions of this agreement are unacceptable, the Court may reject the plea and both parties shall be given the opportunity to withdraw from this agreement. **Should the Court reject this agreement or the State revoke or withdraw from the agreement, as provided herein, the Defendant hereby waives all claims of double jeopardy.**

7. **WAIVER OF PRETRIAL MOTIONS/ISSUES:** Unless the plea is rejected or withdrawn, the Defendant hereby gives up (waives) any and all motions, defenses, objections, appeals, or requests he had made or raised, or could assert hereafter, to or against any matters preceding the Court's entry of judgment and imposition of sentence.

8. **WAIVER OF RIGHTS:** The Defendant understands the following rights and understands that (s)he gives up (waives) such rights by pleading guilty.

- a. his/her right to a jury trial;
- b. his/her right to confront the witnesses against him/her and cross-examine them;
- c. his/her right to present evidence and call witnesses in his/her defense, knowing that the Court will compel to appear and testify on his/her behalf;
- d. his/her right to be represented by counsel (appointed free of charge, if he/she cannot afford to hire his/her own) at all stages of the proceedings; and
- e. his/her right to remain silent, to refuse to be a witness against himself/herself, and to be presumed innocent until proven guilty beyond a reasonable doubt.
- f. his/her right to appeal the judgment and sentence to a higher court.

9. **NO OTHER AGREEMENTS:** This written plea agreement contains all the terms and conditions of this plea agreement; and the Defendant understands that any promises made by anyone, including his lawyer, that are not contained within the written plea agreement, are without force and effect, and are null and void. Any prediction or promise as to what the possible sentence will be, by any person or party, except as specifically provided herein, is understood to be voided by this agreement.

10. **DEFENDANT'S AVOWALS:** I am not on or under the influence of any drug, medication, liquor or other intoxicant, and I am at this time fully capable of understanding the terms and conditions of this plea agreement, and that my agreement and plea are not the result of force, threats, assurances, or promises other than those which are contained in writing in this agreement.

I have read this agreement with the assistance of counsel, understand its terms, understand the rights I give up by

pleading guilty in this matter, and agree to be bound according to the provisions herein. I fully understand that if, as part of this plea bargain, I am granted probation by the Court, the terms and conditions thereof are subject to modification at any time during the period of probation in the event that I violate any written condition of probation.

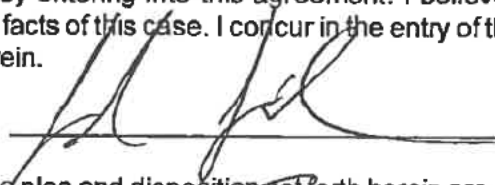
Date 11/23/22

Omer Gomora V.

DEFENDANT

I have discussed this case with my client in detail and advised him/her of his/her constitutional rights and all possible defenses. I believe my client understands this plea agreement, including the range of sentence he/she faces and the constitutional rights he/she gives up by entering into this agreement. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

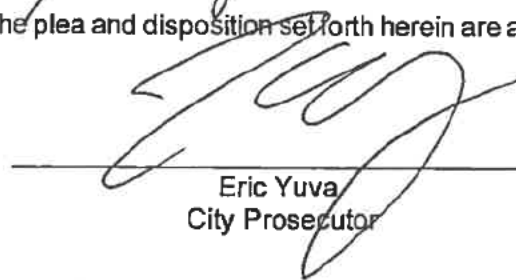
Date 11/23/22



Defense Counsel

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date 11/23/22



Eric Yuva
City Prosecutor

APACHE JUNCTION MUNICIPAL COURT
300 EAST SUPERSTITION BLVD.
APACHE JUNCTION, ARIZONA 85119
(480) 982-8250

THE STATE OF ARIZONA,

Plaintiff,

vs.

Salvador Gomora Velasquez,

Defendant.

CASE NUMBER: TR2022000466

PLEA AGREEMENT

The State of Arizona, and the Defendant personally, and by and through counsel undersigned, hereby agree to the following disposition of this case:

1. **PLEA:** The Defendant agrees to plead **GUILTY** to the charge of:

Count 1(amended): **Reckless Driving**, a class two misdemeanor, pursuant to ARS §§28-693A, 13-707 and, 13-802, committed on 4/21/2022.

2. **TERMS:** On the following understandings, terms and conditions:

- The Defendant shall be sentenced to 10 consecutive days in jail. If the defendant successfully completes substance abuse counseling and probation as directed by the court, all but one day of jail may be suspended. Defendant is given 1 day jail credit.
- The Defendant shall pay \$1,300.00 in fines, fees and assessments, plus a \$20.00 time payment fee if the amount cannot be paid on the day of sentence.
- The Defendant shall attend and complete substance abuse screening, education or treatment as directed by the Court, at their own expense, and provide the Court with proof of completion.
- The Defendant shall attend and complete a MADD Impact Panel.
- The Defendant shall be placed on 24 months of unsupervised probation. Unless an extension is granted by the Court, all terms must be completed within 24 months of sentencing.
- The Defendant shall pay an incarceration fee for each day he/she is incarcerated.
- The Defendant shall remain law-abiding while on probation.

3. **A) INCARCERATION:**

The maximum jail on a class one (2) misdemeanor is four months.

B) FINE(S): The maximum fine on a class (2) misdemeanor is \$750.00, plus surcharges.

C) PROBATION: (is) available. The Court may place the defendant on up to 2 years of probation.

D) RESTITUTION of economic loss to the victims, in the amount of \$(NA) will be required. If no figure is entered above for restitution, the amount of restitution shall be fixed by the Court at the time of sentencing. The victim('s/s')

acceptance of restitution, pursuant to the Court Order in this case, does not constitute a waiver of any civil claims the victim(s) may have. Defendant agrees not to challenge or dispute the amount of restitution set by the Court.

4. **OTHER CHARGES:** The following charge(s) or allegation(s) are dismissed or, if not yet filed, shall not be brought against the Defendant:

- Any remaining counts in this case.
- Any FTA related to the same.

5. **AMENDMENT TO CHARGING DOCUMENT:** This agreement, unless rejected or withdrawn, serves to amend the complaint, indictment or information to charge the offense to which the Defendant pleads, if necessary, without the filing of any additional pleading.

6. **ACCEPTANCE OF PLEA, REJECTION, REVOCATION, WITHDRAWAL OF PLEA:** The parties agree that the Court shall accept the Defendant's plea at the time of the change of plea. If marked above, the State's participation in this plea agreement is conditional upon the Court's acceptance of the plea at the change of plea hearing. If, after accepting the plea, the Court concludes that any of the terms or provisions of this agreement are unacceptable, the Court may reject the plea and both parties shall be given the opportunity to withdraw from this agreement. Should the Court reject this agreement or the State revoke or withdraw from the agreement, as provided herein, the Defendant hereby waives all claims of double jeopardy.

7. **WAIVER OF PRETRIAL MOTIONS/ISSUES:** Unless the plea is rejected or withdrawn, the Defendant hereby gives up (waives) any and all motions, defenses, objections, appeals, or requests he had made or raised, or could assert hereafter, to or against any matters preceding the Court's entry of judgment and imposition of sentence.

8. **WAIVER OF RIGHTS:** The Defendant understands the following rights and understands that (s)he gives up (waives) such rights by pleading guilty.

- a. his/her right to a jury trial;
- b. his/her right to confront the witnesses against him/her and cross-examine them;
- c. his/her right to present evidence and call witnesses in his/her defense, knowing that the Court will compel to appear and testify on his/her behalf;
- d. his/her right to be represented by counsel (appointed free of charge, if he/she cannot afford to hire his/her own) at all stages of the proceedings; and
- e. his/her right to remain silent, to refuse to be a witness against himself/herself, and to be presumed innocent until proven guilty beyond a reasonable doubt.
- f. his/her right to appeal the judgment and sentence to a higher court.

9. **NO OTHER AGREEMENTS:** This written plea agreement contains all the terms and conditions of this plea agreement; and the Defendant understands that any promises made by anyone, including his lawyer, that are not contained within the written plea agreement, are without force and effect, and are null and void. Any prediction or promise as to what the possible sentence will be, by any person or party, except as specifically provided herein, is understood to be voided by this agreement.

10. **DEFENDANT'S AVOWALS:** I am not on or under the influence of any drug, medication, liquor or other intoxicant, and I am at this time fully capable of understanding the terms and conditions of this plea agreement, and that my agreement and plea are not the result of force, threats, assurances, or promises other than those which are contained in writing in this agreement.

I have read this agreement with the assistance of counsel, understand its terms, understand the rights I give up by

pleading guilty in this matter, and agree to be bound according to the provisions herein. I fully understand that if, as part of this plea bargain, I am granted probation by the Court, the terms and conditions thereof are subject to modification at any time during the period of probation in the event that I violate any written condition of probation.

Date 11/23/22 Omer Gomora V. **DEFENDANT**

I have discussed this case with my client in detail and advised him/her of his/her constitutional rights and all possible defenses. I believe my client understands this plea agreement, including the range of sentence he/she faces and the constitutional rights he/she gives up by entering into this agreement. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date 11/23/22 [Signature] Defense Counsel

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date 11/23/22 [Signature]
Eric Yuva
City Prosecutor

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250 EMAIL:
1149@courts.az.gov

STATE OF ARIZONA PLAINTIFF VS SALVADOR O GOMORA VELASQUEZ DEFENDANT	CASE NUMBER: M1149TR2022000466 COMPLAINT NUMBER: 3457	COURT ORDER FOR COMPLIANCE
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YOU ARE HEREBY ORDERED to contact the **Program Provider** within 2 business days, contact a state approved agency to schedule your screening/intake appointment for:

- ONE M.A.D.D. VICTIM IMPACT PANEL AND SUBMIT COMPLETION TO THE COURT
- ATTEND SCREENING FOR ALCOHOL/DRUG ABUSE AND SUCCESSFUL COMPLETION EDUCATION/COUNSELING

The approved agencies that have offices in Apache Junction are:
(As of September 2019)

Horizon Health And Wellness, Inc. (480) 983-0065
625 N. Plaza Dr. Apache Junction AZ 85120

Omega Counseling and Education Services, Inc (602) 495-9306
2288 S. Idaho Rd., #4 Apache Junction AZ 85119

Pathway Counseling, LLC (480) 235-6680
564 N. Idaho Rd, Suite 10B Apache Junction AZ 85119

WGA Apache Junction (480) 671-0886
2114 W. Apache Trail, Suite 12 Apache Junction AZ 85120

OR

Select any Certified Agency on the Arizona Department of Health Services website www.azdhs.gov
Search in **LICENSING** for **Provider and Facility Databases** for Domestic Violence Treatment Providers or DUI
Service Providers based on what you have been ordered to complete

Proof of screening/counseling/program completion must be provided to the court

YOU ARE FURTHER ORDERED to comply with the course requirements and attendance standards as established by the program provider. Failure to successfully complete ORDERED screening, enrollment and/or assigned programs(s) will be considered a violation of the terms of your sentence and further Court action will result. If you change your address or telephone number, you must notify the court immediately. Please contact the **Program Provider** to discuss fees and payment.

Release of screening and treatment information is hereby authorized by SALVADOR O GOMORA VELASQUEZ to be communicated to APACHE JUNCTION MUNICIPAL.

NOTE: Pursuant to the Interstate Compact for Adult Offender Supervision, the Defendant shall not be permitted to move across state boundaries for more than 45 consecutive days in any 12 month period until all court orders (except monetary) are completed for cases in which the defendant has been found or plead guilty to a violation in which a person incurred direct or threatened physical or psychological harm, involves the use or possession of a firearm, is a second or subsequent misdemeanor DUI, or is a sexual offense that requires the offender to register as a sex offender.

Date: 11/23/2022

Judge Signature: A. Douglas Le Sote

Defendant Signature: Omor Gomora Velasquez

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant DOB	Case Number: M1149TR2022000466 Complaint number: 3457	PROBATION (UNSUPERVISED)
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IT IS THE JUDGMENT OF THIS COURT THAT THE DEFENDANT IS GUILTY OF ARS 28-693A - RECKLESS DRIVING AND IS PLACED ON 24 MONTHS OF UNSUPERVISED PROBATION STARTING ON 11/23/2022. IN ADDITION, AS STANDARD TERMS, SHALL:

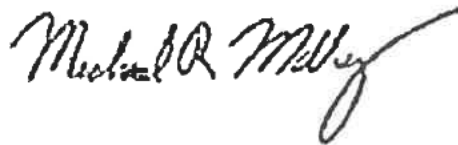
1. Maintain a crime-free lifestyle by obeying all laws and not engaging or participating in any criminal activity.
2. Not leave the State of Arizona nor change the place of residence without any notification and approval of the Court.
3. Report to the Court or its designated officer at least once each month in writing, in person or by way of payments until payments are complete.
4. Be financially responsible by paying all restitution, fines, and fees in my case as imposed by the Court. I understand, if I do not pay restitution in full, the Court may extend my probation
5. Do not contact:
6. Do not Harm, Threaten, Harass or Assault:
7. Do Not Return To :
8. X Serve 10 days in the County Jail, 9 DAYS SUSPENDED UPON SUCCESSFUL COMPLETION OF SCREENING AND ANY RECOMMENDED COUNSELING, CREDIT FOR ONE DAY SERVED, JUDGE WAIVE ONE DAY JAIL FEE.
9. [] Complete a total of 0 hours of community restitution.

SPECIAL CONDITIONS:

10. COMPLY WITH ALL OF THE TERMS:
11. OBEY ALL LAWS
12. NOT KNOWINGLY ASSOCIATE WITH ANY PERSON ENGAGED IN CRIMINAL ACTIVITY OR WHO HAS A CRIMINAL RECORD WITHOUT THE PRIOR WRITTEN APPROVAL OF THE APD.
13. PARTICIPATE AND COOPERATE IN ANY PROGRAM OF COUNSELING OR ASSISTANCE AS DIRECTED BY THE APD AND/OR COURT

DEFENDANT TO READ AND SIGN: I understand that if I violate any term or condition, the Court may revoke and terminate my probation and impose a sentence on me in accordance with the law. I agree to waive extradition for any probation revocation proceedings which occur with reference to probation herein granted.

WARNING: This is an official order, if you disobey this order the Court may find you in contempt of court. You may also be arrested and prosecuted for the crime of "Interfering With Judicial Proceedings" as provided by ARS 13-2810 and if civil traffic charges are included, your driving privilege will be suspended as provided by ARS 28-1601.



DATE: 11/23/2022

JUDGE SIGNATURE:

DATE: 11/23/2022

DEFENDANT SIGNATURE: 

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	CASE NUMBER: M1149TR2022000466 COMPLAINT NUMBER: 3457	WAIVER OF RIGHT TO APPEAL NOTICE OF RIGHT TO POST- CONVICTION RELIEF AND DOMESTIC VIOLENCE CONVICTION WARNINGS
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WAIVER OF RIGHT TO APPEAL

I understand that by pleading either guilty or no contest that I am giving up the right to have a higher court review these proceedings by way of an appeal and that I may only seek review of these proceedings or raise any claim of error by filing a petition for post-conviction relief by way of Rule 32, Arizona Rules of Criminal Procedure.

RIGHT TO POST CONVICTION RELIEF

You have a right to petition the municipal court for post-conviction relief, Rule 32; Rules of Criminal Procedure, 17 ARS. In order to begin such a procedure you must first file a NOTICE OF POST-CONVICTION RELIEF with the municipal court within 90 days of the entry of judgment and sentence. If you do not timely file a Notice of Post-Conviction Relief you may never have another opportunity to have any errors made in your case corrected by another court. After filing a Notice of Post-Conviction Relief, you or your attorney must file a timely petition detailing the basis for your claim together with affidavits, records, a transcripts, or other evidence supporting the allegations of the petition. See Rule 32.5 Arizona Rules of Criminal Procedure.

If a jail sentence was imposed, you can file an Affidavit of Indigence with the Notice of Post-Conviction Relief to request a lawyer be appointed to represent you if you cannot afford to hire a lawyer.

RIGHT TO APPLY FOR SET ASIDE JUDGMENT OF GUILT

ARS § 13-905 provides that every person convicted of certain criminal offenses may, upon fulfillment of the conditions of probation or sentence apply to the judge who pronounced sentence or imposed probation to have the judgment of guilt set aside. The application to set aside the judgment may be made by the convicted person or by his/her attorney in writing. Forms can be obtained at this Court. If the judge grants the application, the judge shall set aside the judgment of guilt, dismiss the complaint and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation. The conviction may be used as a conviction if it would have been admissible had it not been set aside and may be pled and proved in any subsequent prosecution for any offense or used by the department of transportation.

The above provisions do not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. For which the person is required or ordered by the court to register pursuant to ARS § 13-3821.
4. For which there has been a finding of sexual motivation pursuant to ARS § 13-118.
5. In which the victim is a minor under fifteen years of age.
6. In violation of ARS § 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or Title 28, Chapter 3, except a violation of ARS § 28-693, or any local ordinance relating to the same subject matter as ARS § 28-693

DOMESTIC VIOLENCE CONVICTION WARNINGS (APPLICABLE IF BOX IS CHECKED)

☐ You have been convicted of an offense included in domestic violence. You are now on notice that:

1. If you are convicted of a second offense included in domestic violence, you may be placed on supervised probation and may be incarcerated as a condition of probation.
2. If you are convicted of a third or subsequent offense included in domestic violence, you will be sentenced to a term of incarceration.

CERTIFICATION BY DEFENDANT

I have received a copy of the Waiver of Right to Appeal, Notice of Right to Post-Conviction Relief, and Domestic Violence Conviction Warnings (If Applicable) form.

DATE: 11/23/2022

DEFENDANT SIGNATURE: Salvador Gomora Velasquez

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	CASE NO: M1149TR2022000466	GUILTY/NO CONTEST PLEA PROCEEDING
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Defendant appears personally and expresses a desire to plead guilty or no contest to the charges indicated and I find the following facts:

1. Defendant understands the nature of the charges as indicated: 28-693A - MISD. 2ND DEGREE - RECKLESS DRIVING, CHARGE COUNT 01
2. Defendant appears: ☒ with counsel ☐ Without counsel, (Waiver of counsel with file) and understands the Following:
3. Defendant has entered into a: ☒ Plea agreement, and consents to its terms, ☐ Plea to the court
4. Defendant understands the range of penalties to be: **Class Two: Minimum: Suspended sentence. Maximum: \$750 fine plus penalties and surcharges, 120 days jail and two years probation.**
5. If arrested on a subsequent offense, defendant may be charged with a more serious offense and associated penalties.
6. The Court has advised the defendant that this guilty plea may result in a violation of probation or parole.
7. Defendant was advised of the following: If you are not a citizen of the United States, pleading guilty or no contest to a crime may affect your immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. Your plea or admission of guilt could result in your deportation or removal, could prevent you from ever being able to get legal status in the United States, or could prevent you from becoming a United States citizen.
8. Defendant understands that the following constitutional rights are given up by changing the plea:
 - a) Right to plead not guilty and require the State to prove guilt beyond a reasonable doubt.
 - b) Right to a trial ☒ By Jury, ☐ By Judge, ☐ By Jury on facts used to aggravate a sentence
 - c) Right to assistance of an attorney at all stages of the proceeding, including appeal. In some cases, the defendant may be eligible for a court-appointed attorney at a reduced cost or at no cost, if the defendant cannot afford one.
 - d) Right to confront the witnesses against the defendant and to cross-examine them as to the truthfulness of their testimony.
 - e) Right to present evidence in the defendant's own behalf and to have the court compel the defendant's chosen witnesses to appear and testify free of charge.
 - f) Right to remain silent, not to incriminate oneself, and to be presumed innocent unless/or until proven guilty beyond a reasonable doubt.
 - g) Right to a direct appeal.
9. Defendant wishes to give up these constitutional rights after having been advised of them.
10. A basis in fact exists for believing the defendant guilty of the offenses charged.
11. The plea is voluntary and not the result of force or threat, or promises other than those contained in the plea agreement.
12. Defendant may file a Rule 32 petition for post-conviction relief and if denied may file a petition for review.

On the basis of these findings, I conclude that the defendant knowingly, voluntarily, and intelligently pleads:

☒ Guilty ☐ No contest* to the above charges, and I accept this plea.

* Rule 17.1c, Rules of Criminal Procedure states that a plea of no contest may be accepted only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

Date: 11/23/2022

Judge Name: Honorable A. Douglas LaSota

Judge Signature: A. Douglas LaSota

I certify that the judge personally advised me of the nature of the charges, the range of penalties, and my constitutional rights as indicated above. I understand the constitutional rights which I give up by entering this plea, and I desire to plead guilty or no contest as indicated above. I desire to proceed without an attorney, or if represented, my attorney's signature appears below.

Defendant: Salvador O. Gomora Velasquez

Defendant attorney bar no- 032153

Defendant Attorney Signature: [Signature]

Interpreter: _____

480-982-8250

GOMORA VELASQUEZ, SALVADOR O

Case Number : M1149TR2022000466

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ Amended

If you are required to pay fines, penalties, fees or other financial obligations as a result of a judgment of this court and **you are unable to pay**, bring this information to the attention of court staff or the judge because payments over time or other alternatives may be available. Do not ignore your responsibility to pay, as this may result in additional penalties and costs to you. For more information, contact the court.

480-982-8250

STATE OF ARIZONA vs SALVADOR O GOMORA
VELASQUEZCase Number : M1149TR2022000466

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ AmendedDate of Birth _____; Attorney for State State of Arizona Attorney for Defendant LITWAK, JACK D

The State is represented by the above named attorney. The Defendant is present with above named counsel.
The Defendant is advised of the charge(s), the determination of guilt, and is given the opportunity to speak.

Pursuant to ARS § 13-607, the basis of the finding of guilt was by:

☐ **WAIVER OF COUNSEL** The Defendant knowingly, intelligently, and voluntarily waived the right to be represented by counsel after being advised of the right to be represented by counsel, including the right to have counsel appointed free of charge if the Defendant is indigent and jail were to be imposed.

☒ **PLEA** The Defendant knowingly, intelligently, and voluntarily waived the right to a trial with or without a jury, the right to confront and cross examine witnesses, the right to testify or remain silent, the right to present evidence and to have the State compel witnesses of choice to appear and testify, and the right to be presumed innocent until proven guilty beyond a reasonable doubt after having been advised of these rights. By signing below, the judge is certifying that Rule 17, Arizona Rules of Criminal Procedure, was complied with before the plea was taken. The determination of guilt was based upon a plea of guilty/no contest.

☐ **TRIAL TO THE COURT** The Defendant knowingly, intelligently, and voluntarily waived the right to a trial by jury after having been advised of the right to same. The determination of guilt was based upon a trial to the Court.

☐ **JURY VERDICT** The determination of guilt was based upon a verdict of guilty after a jury trial.

Complaint Number(s): 3457**FINES, SANCTIONS, AND FEES**

You are guilty and / or responsible of a misdemeanor and / or civil traffic offense(s). You are to pay the Court the TOTAL sum of \$1,300.00 which includes the following:

CHARGE	DESC/CLASS	DISPOSITION	DISP.DATE	FINE AMT	REST.AMT
28-693A (M2)	RECKLESS DRIVINGMISD. 2ND DEGREE	11-PLEA GUILTY/RESP SENT IMPOSED	11/23/2022	<u>\$1146.92</u>	
28-1381A2	DUI LIQUOR BAC .08 OR MORE - 1STMISD. 1ST DEGREE	44-CHARGE DISMISSED BY PROSECUTOR	11/23/2022		

And the following Case Fees:

10% Surcharge - Prosecutor Recovery Fee	<u>\$8.60</u>
68% Surcharge - Prosecutor Recovery Fee	<u>\$58.48</u>
Prosecutor Recovery Fee	<u>\$86.00</u>

CONDITIONAL AND OTHER SENTENCING OPTIONS - NOT APPLICABLE

CHARGE	CONDITION	BY DATE	REDUCE TO
--------	-----------	---------	-----------

INCARCERATION

A total of 10 Jail Days Imposed
9 days of Jail Sentence is suspended
Comments: _____

Credit for 1 days time served
Serve 0 days in jail

480-982-8250

GOMORA VELASQUEZ, SALVADOR O

Case Number : M1149TR2022000466

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ Amended

PROBATION

Defendant is placed on Unsupervised Probation for 24 months starting on 11/23/2022

Defendant is placed on Supervised Probation for N/A months starting on N/A

Defendant shall comply with the terms and conditions of probation as follows:

1. OBEY ALL LAWS

2. NOT KNOWINGLY ASSOCIATE WITH ANY PERSON ENGAGED IN CRIMINAL ACTIVITY OR WHO HAS A CRIMINAL RECORD WITHOUT THE PRIOR WRITTEN APPROVAL OF THE APD.

3. PARTICIPATE AND COOPERATE IN ANY PROGRAM OF COUNSELING OR ASSISTANCE AS DIRECTED BY THE APD AND/OR COURT

Do Not Contact: _____

Do Not Harm, Threaten, Harass, or Assault: _____

Do Not Return to: _____

Other Probation Terms: _____

RESTITUTION - NOT APPLICABLE

Pay restitution to the victims in the case through the Court. The Court shall forward payment as follows:

COURT MANDATES / SCREENING AND MONITORING

Complete MADD VICTIM IMPACT PANEL screening/classes/treatment/service as directed, by 02/23/2023.

Complete SCREENING & ORDERED TREATMENT screening/classes/treatment/service as directed, by 02/28/2023.

Comments:

FUTURE HEARING - NOT APPLICABLE

Appear at a _____ on _____ at _____ in Courtroom _____

The offense ☐ is or ☐ is not of a dangerous or repetitive nature pursuant to A.R.S. 13-703, 13-704 or 13-708

Judge

11-23-22

Date

11-23-22

Date

Courtroom Staff: I hereby certify that at the time of sentencing, and in open court, the defendant's fingerprint was permanently affixed to this document

☐ Current Address on file: 350 S MAIN DR APACHE JUNCTION - ARIZONA 85120

☐ Current Phone Number on file: 480-359-9879

Check either/both above only if correct

Please provide correct Address and/or Phone Number:

Corrected Mailing

Address: _____

Corrected Primary Phone Number: _____

Omara Gomora V.
Defendant's Signature

11/23/22
Date

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BLVD APACHE JUNCTION, AZ 85119
PHONE: (480)982-8250 FAX: (480)982-4496 EMAIL: 1149@courts.az.gov

PROOF OF COMMUNITY RESTITUTION

Defendant's Name: _____ Case Number: _____

DATES:	NAME OF NON-PROFIT AGENCY or CITY DEPARTMENT	# OF HOURS	Supervisor or Authorized Agent NAME & PHONE #

***EACH ENTRY MUST BE COMPLETE. NO HOURS WILL BE APPROVED UNLESS SIGNED WITH A VALID PHONE NUMBER. ALL HOURS ARE SUBJECT TO VERIFICATION.**

Community service will only be accepted if it is performed at an organization specified by a 501(c)(3) as a non-profit. The agency must be willing to provide you documentation on their letterhead (including contact information) indicating the number of hours and dates worked OR complete each entry as indicated.

You must provide your proof of community service hours 1 week prior to your payment due date to receive credit towards the monthly obligation. Approved hours will be credited to the allowable balance at a rate of \$13.00 per hour. It is very important the agency is a non-profit. They should be able to confirm if they are a 501(c)(3) non-profit. If you have any questions or concerns, please contact the court at 480-982-8250.

You may contact the following city departments to inquire if you are able to perform community restitution hours with them. You must receive approval from the contact person and comply with the guidelines set by them.

Apache Junction Library (currently offering community restitution only for fines on traffic cases)
CONTACT: TJ call 480-474-8555 or email tjwatkins@apachejunctionaz.gov

Development Services/Code Compliance CONTACT: Victor Martinez 480-474-5075

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250
EMAIL: 1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ DEFENDANT	CASE NO: M1149TR2022000466 COMPLAINT NO: 3457	PAYMENT AGREEMENT
---	---	--------------------------

Payment Agreement (This is NOT a receipt)

Created on: 11/23/2022 for the total amount of \$ 1320.00

ALL DUE BY 12/20/2022 (or equivalent community service)

I agree to report any change of address, phone number, or employment to the Court.

I understand that a time payment fee of twenty dollars (\$20) will be assessed on every case that is not paid in full on the day of sentencing, as required by ARS § 12-116.

I further understand that if I fail to abide by this payment agreement, the Court will void the agreement and may schedule a Non-Payment Fine Review proceeding before forwarding the case to collections. The Court may allow me to enter into a new payment agreement if I pay a portion of the balance due.

I ALSO UNDERSTAND THE COURT MAY TAKE LEGAL ACTION NECESSARY TO COLLECT ANY OVERDUE PAYMENTS, INCLUDING:

- **ISSUING A WARRANT.** Authorizing any law enforcement agency in the State of Arizona to arrest you.
- **FORWARDING YOUR ACCOUNT TO A COLLECTION AGENCY.** Assessing your case an additional \$35/\$49 FARE delinquency fee plus 19%/19.5% collection costs.
- **PREVENTING THE RE-REGISTRATION OF YOUR VEHICLE(S) IN ARIZONA.** May notify the AZ Department of Transportation, Motor Vehicle Division to prevent the re-registration of your vehicle(s) in AZ via the Traffic Ticket Enforcement Assistance Program (TTEAP), pursuant to ARS § 28-1631 to 28-1636.
- The Court MAY also intercept any tax refund from the Arizona Department of Revenue and apply the interception to any balance owed. This interception will only reduce the total balance owed and will not alter the current payment schedule due dates. The only way to avoid the interception of a refund is to have a zero (0) balance. The fact that you have entered into a payment agreement with the Court MAY NOT stop the tax refund interception from occurring

PAYMENT METHODS

- Online at www.azcourtpay.com
- In person or by mail at the above court address.
- Cash accepted at hundreds of retail locations using PayNearMe. Visit www.azcourtpay.com for more information. Subject to \$2.99 convenience fee.

Defendant's Signature: Salvador Gomora V.

- If you are required to pay fines, penalties, fees or other financial obligations as a result of a judgment of this court and you are unable to pay, bring this information to the attention of court staff or the judge because payments over time or other alternatives may be available. Do not ignore your responsibility to pay, as this may result in additional penalties and costs to you. For more information, contact the court.

[x] If this boxed is checked, the court will accept community service toward your outstanding balance. Depending on the fines, fees and penalties assessed, the entire balance may not be authorized to be satisfied with community service. Court staff can discuss any specific financial requirements you may have.

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APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250
EMAIL: 1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ DEFENDANT	CASE NO: M1149TR2022000466 COMPLAINT NO: 3457	PAYMENT AGREEMENT
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Defendant's Signature: Salvador Gomora V.

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APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250
EMAIL: 1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ DEFENDANT	CASE NO: M1149TR2022000466 COMPLAINT NO: 3457	PAYMENT AGREEMENT
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Defendant's Signature: _____

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FILED DEC 20 '22 PM 1:32

Apache Junction Municipal

Certificate of Completion

This certificate verifies that the below named party has attended a
MADD in-person Victim Impact Panel (VIP)

Salvador Gomora Velazquez

Completed: 12/10/2022 at MADD ARIZONA

Case Number: M1149TR2022000466

It is the participant's responsibility to submit this
Certificate of Completion to their local court/referral
agency as proof of attendance.

SHARING PREVENT
VICTIM to DRUNK
STORIES DRIVING

Alex Otte

Alex Otte
Mothers Against Drunk Driving
National President

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APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	Case No: M1149TR2022000466 Complaint No: 3457	SUMMONS (TEN PRINT FINGERPRINT REQUIRED)
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TO: SALVADOR O GOMORA VELASQUEZ

☒ **YOU ARE ORDERED** to appear at **APACHE JUNCTION POLICE DEPARTMENT AT 1001 N. IDAHO RD**
(Required for all felonies, domestic violence, sexual or DUI offenses)
ON A WEDNESDAY between the hours of 1:00-3:00 p.m. **PRIOR** to your court appearance date to be photographed and
ten-print fingerprinted.

IMPORTANT. YOU ARE REQUIRED TO BRING THIS SUMMONS AND COMPLAINT AND A FORM OF I.D. TO THE LAW ENFORCEMENT ENTITY AT THE TIME YOU APPEAR FOR FINGERPRINTS. MUST ALSO BRING THIS SUMMONS TO YOUR COURT APPEARANCE TO PROVE THAT YOU HAVE PROVIDED FINGERPRINTS AND/OR A DNA SAMPLE, AS ORDERED ABOVE.

YOU ARE SUMMONED to appear before this court for the following reason:

COUNT 1- 28-1381A1 - DUI LIQUOR/DRUGS/VAPORS 1ST - MISD. 1ST DEGREE
COUNT 2- 28-1381A2 - DUI LIQUOR BAC .08 OR MORE - 1ST - MISD. 1ST DEGREE
DR#: 220421013

☐ **DOMESTIC VIOLENCE**

YOU ARE ORDERED TO REPORT on 09/20/2022 at 8:00AM at **APACHE JUNCTION MUNICIPAL COURT**

LOCATED AT: 300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

IF YOU FAIL TO APPEAR AS ORDERED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.



Date: 08/29/2022

Judicial Officer: Honorable A. Douglas LaSota

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advanced of a scheduled court proceeding.

THIS SPACE FOR THE LAW ENFORCEMENT AGENCY'S INKED STAMP(S) TO CONFIRM THAT THE DEFENDANT PROVIDED FINGERPRINTS AND/OR A DNA SAMPLE.

1 Eric Yuva
2 City Prosecutor
3 City of Apache Junction
300 E Superstition Blvd
4 Apache Junction, AZ 85119
(480) 474-5150
eyuva@apachejunctionaz.gov
5 AZ Bar No. 023545
6 Attorney for State

7 IN THE APACHE JUNCTION MUNICIPAL COURT

8 COUNTY OF PINAL, STATE OF ARIZONA

9 STATE OF ARIZONA,

10 Plaintiff,

11 v.

12 SALVADOR O GOMORA VELASQUEZ,

13 Defendant.
14
15

NO. TR 2022000466

CRIMINAL COMPLAINT

3457

16 Mailing Address:

17 Sex:	Race:	Weight:	Height:	Eyes:
18 Hair		DOB: (
DR#		OLN: (	License Plate:	

19 The complainant herein personally appears and being duly sworn, complains of her own
20 knowledge or upon information and belief against the above-named Defendant charging that in the
21 City of Apache Junction, Pinal County, Arizona, Defendant committed a certain misdemeanor offense,
22 to wit:
23

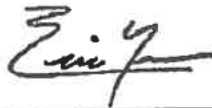
24 Count I

25 On or about April 21, 2022, Defendant, at W. Broadway Ave./S. Lawther Dr., Apache
26 Junction, Arizona, did drive or was in actual physical control of a vehicle while under the influence of
27 intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any
28

1 combination of liquor, drugs or vapor releasing substances, and was impaired thereby to the slightest
2 degree, all in violation of A.R.S. 28-1381.A.1, 13-707, and 13-802, a Class 1 misdemeanor.
3
4

5 Count II

6 On or about April 21, 2022, Defendant, at W. Broadway Ave./S. Lawther Dr., Apache
7 Junction, Arizona, did drive or was in actual physical control of a vehicle with a blood alcohol
8 concentration of .08 or more within two hours of driving or being in actual physical control of the
9 vehicle, all in violation of A.R.S. 28-1381A2, 13-707, and 13-802, a Class 1 Misdemeanor.
10

11 

12
13. Complainant

14 SUBSCRIBED AND SWORN TO before me this 16 of August, 2022.
15

16 

17 Judge, Apache Junction City Court
18

19 ☐ Summons

20 Cole Miller - 403
21 Referring Officer
22
23
24
25
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27
28

480-982-8250

STATE OF ARIZONA vs SALVADOR O GOMORA
VELASQUEZ

Case Number : M1149TR2022000466

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ Amended

Date of Birth

Attorney for State State of Arizona Attorney for Defendant LITWAK, JACK D

The State is represented by the above named attorney. The Defendant is present with above named counsel.
The Defendant is advised of the charge(s), the determination of guilt, and is given the opportunity to speak.

Pursuant to ARS § 13-607, the basis of the finding of guilt was by:

☐ **WAIVER OF COUNSEL** The Defendant knowingly, intelligently, and voluntarily waived the right to be represented by counsel after being advised of the right to be represented by counsel, including the right to have counsel appointed free of charge if the Defendant is indigent and jail were to be imposed.

☒ **PLEA** The Defendant knowingly, intelligently, and voluntarily waived the right to a trial with or without a jury, the right to confront and cross examine witnesses, the right to testify or remain silent, the right to present evidence and to have the State compel witnesses of choice to appear and testify, and the right to be presumed innocent until proven guilty beyond a reasonable doubt after having been advised of these rights. By signing below, the judge is certifying that Rule 17, Arizona Rules of Criminal Procedure, was complied with before the plea was taken. The determination of guilt was based upon a plea of guilty/no contest.

☐ **TRIAL TO THE COURT** The Defendant knowingly, intelligently, and voluntarily waived the right to a trial by jury after having been advised of the right to same. The determination of guilt was based upon a trial to the Court.

☐ **JURY VERDICT** The determination of guilt was based upon a verdict of guilty after a jury trial.

Complaint Number(s): 3457

FINES, SANCTIONS, AND FEES

You are guilty and / or responsible of a misdemeanor and / or civil traffic offense(s). You are to pay the Court the TOTAL sum of \$1,300.00 which includes the following:

CHARGE	DESC/CLASS	DISPOSITION	DISP.DATE	FINE AMT	REST.AMT
28-693A (M2)	RECKLESS DRIVING/MISO. 2ND DEGREE	11-PLEA GUILTY/RESP SENT IMPOSED	11/23/2022	<u>\$1146.92</u>	
28-1381A2	DUI LIQUOR BAC .08 OR MORE - 1ST MISO. 1ST DEGREE	44-CHARGE DISMISSED BY PROSECUTOR	11/23/2022		

And the following Case Fees:

10% Surcharge - Prosecutor Recovery Fee	<u>\$8.60</u>
68% Surcharge - Prosecutor Recovery Fee	<u>\$58.48</u>
Prosecutor Recovery Fee	<u>\$66.00</u>

CONDITIONAL AND OTHER SENTENCING OPTIONS - NOT APPLICABLE

CHARGE	CONDITION	BY DATE	REDUCE TO
--------	-----------	---------	-----------

INCARCERATION

A total of 10 Jail Days Imposed
9 days of Jail Sentence is suspended
Comments: _____

Credit for 1 days time served
Serve 0 days in jail

APACHE JUNCTION MUNICIPAL 300 E SUPERSTITION BOULEVARD APACHE JUNCTION, ARIZONA 85119

480-982-8250

GOMORA VELASQUEZ, SALVADOR O

Case Number: M1149TR2022000466

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom:

☐ Amended

PROBATION

Defendant is placed on Unsupervised Probation for 24 months starting on 11/23/2022

Defendant is placed on Supervised Probation for N/A months starting on N/A

Defendant shall comply with the terms and conditions of probation as follows:

1. OBEY ALL LAWS

2. NOT KNOWINGLY ASSOCIATE WITH ANY PERSON ENGAGED IN CRIMINAL ACTIVITY OR WHO HAS A CRIMINAL RECORD WITHOUT THE PRIOR WRITTEN APPROVAL OF THE APD.

3. PARTICIPATE AND COOPERATE IN ANY PROGRAM OF COUNSELING OR ASSISTANCE AS DIRECTED BY THE APD AND/OR COURT

Do Not Contact: _____

Do Not Harm, Threaten, Harass, or Assault: _____

Do Not Return to: _____

Other Probation Terms: _____

RESTITUTION - NOT APPLICABLE

Pay restitution to the victims in the case through the Court. The Court shall forward payment as follows:

COURT MANDATES / SCREENING AND MONITORING

Complete MADD VICTIM IMPACT PANEL screening/classes/treatment/service as directed, by 02/23/2023.

Complete SCREENING & ORDERED TREATMENT screening/classes/treatment/service as directed, by 02/28/2023.

Comments:

FUTURE HEARING - NOT APPLICABLE

Appear at a _____ on _____ at _____ in Courtroom _____

The offense ☐ is or ☐ is not of a dangerous or repetitive nature pursuant to A.R.S. 13-703, 13-704 or 13-708

Judge

11-23-22

Date

11-23-22

Date

Courtroom Staff: I hereby certify that at the time of sentencing, and in open court, the defendant's fingerprint was permanently affixed to this document

☐ Current Address on file: _____

☐ Current Phone Number on file: _____

Check either/both above only if correct

Please provide correct Address and/or Phone Number:

Corrected Mailing

Address: _____

Corrected Primary Phone Number: _____

Defendant's Signature

Date

APACHE JUNCTION MUNICIPAL 300 E SUPERSTITION BOULEVARD APACHE JUNCTION, ARIZONA 85119

480-982-8250

GOMORA VELASQUEZ, SALVADOR O

Case Number : M1149TR2022000468

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ Amended

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APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	CASE NO: M1149TR2022000465	GUILTY/NO CONTEST PLEA PROCEEDING
---	----------------------------	-----------------------------------

Defendant appears personally and expresses a desire to plead guilty or no contest to the charges indicated and I find the following facts:

1. Defendant understands the nature of the charges as indicated: 28-693A - MISD, 2ND DEGREE - RECKLESS DRIVING, CHARGE COUNT 01
2. Defendant appears: ☒ with counsel ☐ Without counsel, (Waiver of counsel with file) and understands the Following:
3. Defendant has entered into a: ☒ Plea agreement, and consents to its terms, ☐ Plea to the court
4. Defendant understands the range of penalties to be: **Class Two: Minimum: Suspended sentence. Maximum: \$750 fine plus penalties and surcharges, 120 days jail and two years probation.**
5. If arrested on a subsequent offense, defendant may be charged with a more serious offense and associated penalties.
6. The Court has advised the defendant that this guilty plea may result in a violation of probation or parole.
7. Defendant was advised of the following: If you are not a citizen of the United States, pleading guilty or no contest to a crime may affect your immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. Your plea or admission of guilt could result in your deportation or removal, could prevent you from ever being able to get legal status in the United States, or could prevent you from becoming a United States citizen.
8. Defendant understands that the following constitutional rights are given up by changing the plea:
 - a) Right to plead not guilty and require the State to prove guilt beyond a reasonable doubt.
 - b) Right to a trial ☒ By Jury, ☐ By Judge, ☐ By Jury on facts used to aggravate a sentence
 - c) Right to assistance of an attorney at all stages of the proceeding, including appeal. In some cases, the defendant may be eligible for a court-appointed attorney at a reduced cost or at no cost, if the defendant cannot afford one.
 - d) Right to confront the witnesses against the defendant and to cross-examine them as to the truthfulness of their testimony.
 - e) Right to present evidence in the defendant's own behalf and to have the court compel the defendant's chosen witnesses to appear and testify free of charge.
 - f) Right to remain silent, not to incriminate oneself, and to be presumed innocent unless/or until proven guilty beyond a reasonable doubt.
 - g) Right to a direct appeal.
9. Defendant wishes to give up these constitutional rights after having been advised of them.
10. A basis in fact exists for believing the defendant guilty of the offenses charged.
11. The plea is voluntary and not the result of force or threat, or promises other than those contained in the plea agreement.
12. Defendant may file a Rule 32 petition for post-conviction relief and if denied may file a petition for review.

On the basis of these findings, I conclude that the defendant knowingly, voluntarily, and intelligently pleads:

☒ Guilty ☐ No contest* to the above charges, and I accept this plea.

- * Rule 17.1c, Rules of Criminal Procedure states that a plea of no contest may be accepted only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

Date: 11/23/2022

Judge Name: Honorable A. Douglas LaSota

Judge Signature: A. Douglas LaSota

I certify that the judge personally advised me of the nature of the charges, the range of penalties, and my constitutional rights as indicated above. I understand the constitutional rights which I give up by entering this plea, and I desire to plead guilty or no contest as indicated above. I desire to proceed without an attorney, or if represented, my attorney's signature appears below.

Defendant: Salvador O. Gomora Velasquez

Defendant attorney bar no- 032153

Defendant Attorney Signature: [Signature]

Interpreter: _____

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant	CASE NUMBER: M1149TR2022000466 COMPLAINT NUMBER: 3457	WAIVER OF RIGHT TO APPEAL NOTICE OF RIGHT TO POST- CONVICTION RELIEF AND DOMESTIC VIOLENCE CONVICTION WARNINGS
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WAIVER OF RIGHT TO APPEAL

I understand that by pleading either guilty or no contest that I am giving up the right to have a higher court review these proceedings by way of an appeal and that I may only seek review of these proceedings or raise any claim of error by filing a petition for post-conviction relief by way of Rule 32, Arizona Rules of Criminal Procedure.

RIGHT TO POST CONVICTION RELIEF

You have a right to petition the municipal court for post-conviction relief, Rule 32, Rules of Criminal Procedure, 17 ARS. In order to begin such a procedure you must first file a NOTICE OF POST-CONVICTION RELIEF with the municipal court within 90 days of the entry of judgment and sentence. If you do not timely file a Notice of Post-Conviction Relief you may never have another opportunity to have any errors made in your case corrected by another court. After filing a Notice of Post-Conviction Relief, you or your attorney must file a timely petition detailing the basis for your claim together with affidavits, records, a transcripts, or other evidence supporting the allegations of the petition. See Rule 32.5 Arizona Rules of Criminal Procedure.

If a jail sentence was imposed, you can file an Affidavit of Indigence with the Notice of Post-Conviction Relief to request a lawyer be appointed to represent you if you cannot afford to hire a lawyer.

RIGHT TO APPLY FOR SET ASIDE JUDGMENT OF GUILT

ARS § 13-905 provides that every person convicted of certain criminal offenses may, upon fulfillment of the conditions of probation or sentence apply to the judge who pronounced sentence or imposed probation to have the judgment of guilt set aside. The application to set aside the judgment may be made by the convicted person or by his/her attorney in writing. Forms can be obtained at this Court. If the judge grants the application, the judge shall set aside the judgment of guilt, dismiss the complaint and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation. The conviction may be used as a conviction if it would have been admissible had it not been set aside and may be pled and proved in any subsequent prosecution for any offense or used by the department of transportation.

The above provisions do not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. For which the person is required or ordered by the court to register pursuant to ARS § 13-3821.
4. For which there has been a finding of sexual motivation pursuant to ARS § 13-118.
5. In which the victim is a minor under fifteen years of age.
6. In violation of ARS § 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or Title 28, Chapter 3, except a violation of ARS § 28-693, or any local ordinance relating to the same subject matter as ARS § 28-693

DOMESTIC VIOLENCE CONVICTION WARNINGS (APPLICABLE IF BOX IS CHECKED)

- ☐ You have been convicted of an offense included in domestic violence. You are now on notice that:
1. If you are convicted of a second offense included in domestic violence, you may be placed on supervised probation and may be incarcerated as a condition of probation.
 2. If you are convicted of a third or subsequent offense included in domestic violence, you will be sentenced to a term of incarceration.

CERTIFICATION BY DEFENDANT

I have received a copy of the Waiver of Right to Appeal, Notice of Right to Post-Conviction Relief, and Domestic Violence Conviction Warnings (If Applicable) form.

DATE: 11/23/2022

DEFENDANT SIGNATURE: Dmcr Gomora V.

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250

STATE OF ARIZONA Plaintiff Vs SALVADOR O GOMORA VELASQUEZ Defendant DOB	Case Number: M1149TR2022000466 Complaint number: 3457	PROBATION (UNSUPERVISED)
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IT IS THE JUDGMENT OF THIS COURT THAT THE DEFENDANT IS GUILTY OF ARS 28-693A - RECKLESS DRIVING AND IS PLACED ON 24 MONTHS OF UNSUPERVISED PROBATION STARTING ON 11/23/2022. IN ADDITION, AS STANDARD TERMS, SHALL:

1. Maintain a crime-free lifestyle by obeying all laws and not engaging or participating in any criminal activity.
2. Not leave the State of Arizona nor change the place of residence without any notification and approval of the Court.
3. Report to the Court or its designated officer at least once each month in writing, in person or by way of payments until payments are complete.
4. Be financially responsible by paying all restitution, fines, and fees in my case as imposed by the Court. I understand, if I do not pay restitution in full, the Court may extend my probation
5. Do not contact:
6. Do not Harm, Threaten, Harass or Assault:
7. Do Not Return To :
8. X Serve 10 days in the County Jail, 9 DAYS SUSPENDED UPON SUCCESSFUL COMPLETION OF SCREENING AND ANY RECOMMENDED COUNSELING, CREDIT FOR ONE DAY SERVED, JUDGE WAIVE ONE DAY JAIL FEE.
9. [] Complete a total of 0 hours of community restitution.

SPECIAL CONDITIONS:

10. COMPLY WITH ALL OF THE TERMS:
11. OBEY ALL LAWS
12. NOT KNOWINGLY ASSOCIATE WITH ANY PERSON ENGAGED IN CRIMINAL ACTIVITY OR WHO HAS A CRIMINAL RECORD WITHOUT THE PRIOR WRITTEN APPROVAL OF THE APD.
13. PARTICIPATE AND COOPERATE IN ANY PROGRAM OF COUNSELING OR ASSISTANCE AS DIRECTED BY THE APD AND/OR COURT

DEFENDANT TO READ AND SIGN: I understand that if I violate any term or condition, the Court may revoke and terminate my probation and impose a sentence on me in accordance with the law. I agree to waive extradition for any probation revocation proceedings which occur with reference to probation herein granted.

WARNING: This is an official order, if you disobey this order the Court may find you in contempt of court. You may also be arrested and prosecuted for the crime of "Interfering With Judicial Proceedings" as provided by ARS 13-2810 and if civil traffic charges are included, your driving privilege will be suspended as provided by ARS 28-1601.



DATE: 11/23/2022

JUDGE SIGNATURE:

DATE: 11/23/2022

DEFENDANT SIGNATURE: 

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250 EMAIL:
1149@courts.az.gov

STATE OF ARIZONA PLAINTIFF VS SALVADOR O GOMORA VELASQUEZ DEFENDANT	CASE NUMBER: M1149TR2022000466 COMPLAINT NUMBER: 3457	COURT ORDER FOR COMPLIANCE
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YOU ARE HEREBY ORDERED to contact the Program Provider within 2 business days, contact a state approved agency to schedule your screening/intake appointment for:

- ONE M.A.D.D. VICTIM IMPACT PANEL AND SUBMIT COMPLETION TO THE COURT
- ATTEND SCREENING FOR ALCOHOL/DRUG ABUSE AND SUCCESSFUL COMPLETION EDUCATION/COUNSELING

The approved agencies that have offices in Apache Junction are:
(As of September 2019)

Horizon Health And Wellness, Inc. (480) 983-0065
625 N. Plaza Dr. Apache Junction AZ 85120.

Omega Counseling and Education Services, Inc (602) 495-9306
2288 S. Idaho Rd., #4 Apache Junction AZ 85119

Pathway Counseling, LLC (480) 235-6680
564 N. Idaho Rd, Suite 10B Apache Junction AZ 85119

WGA Apache Junction (480) 671-0886
2114 W. Apache Trail, Suite 12 Apache Junction AZ 85120

OR

Select any Certified Agency on the Arizona Department of Health Services website www.azdhs.gov
Search in **LICENSING** for Provider and Facility Databases for Domestic Violence Treatment Providers or DUI
Service Providers based on what you have been ordered to complete

Proof of screening/counseling/program completion must be provided to the court

YOU ARE FURTHER ORDERED to comply with the course requirements and attendance standards as established by the program provider. Failure to successfully complete ORDERED screening, enrollment and/or assigned programs(s) will be considered a violation of the terms of your sentence and further Court action will result. If you change your address or telephone number, you must notify the court immediately. Please contact the Program Provider to discuss fees and payment.

Release of screening and treatment information is hereby authorized by SALVADOR O GOMORA VELASQUEZ to be communicated to APACHE JUNCTION MUNICIPAL.

NOTE: Pursuant to the Interstate Compact for Adult Offender Supervision, the Defendant shall not be permitted to move across state boundaries for more than 45 consecutive days in any 12 month period until all court orders (except monetary) are completed for cases in which the defendant has been found or plead guilty to a violation in which a person incurred direct or threatened physical or psychological harm, involves the use or possession of a firearm, is a second or subsequent misdemeanor DUI, or is a sexual offense that requires the offender to register as a sex offender.

Date: 11/23/2022

Judge Signature: A. Douglas Le Soth

Defendant Signature: Omor Gomora Velasquez

APACHE JUNCTION MUNICIPAL COURT
300 EAST SUPERSTITION BLVD.
APACHE JUNCTION, ARIZONA 85119
(480) 982-8250

THE STATE OF ARIZONA,

Plaintiff,

vs.

Salvador Gomora Velasquez,

Defendant.

CASE NUMBER: TR2022000466

PLEA AGREEMENT

The State of Arizona, and the Defendant personally, and by and through counsel undersigned, hereby agree to the following disposition of this case:

1. **PLEA:** The Defendant agrees to plead **GUILTY** to the charge of:

Count 1(amended): **Reckless Driving**, a class two misdemeanor, pursuant to ARS §§28-693A, 13-707 and, 13-802, committed on 4/21/2022.

2. **TERMS:** On the following understandings, terms and conditions:

- The Defendant shall be sentenced to 10 consecutive days in jail. If the defendant successfully completes substance abuse counseling and probation as directed by the court, all but one day of jail may be suspended. Defendant is given 1 day jail credit.
- The Defendant shall pay \$1,300.00 in fines, fees and assessments, plus a \$20.00 time payment fee if the amount cannot be paid on the day of sentence.
- The Defendant shall attend and complete substance abuse screening, education or treatment as directed by the Court, at their own expense, and provide the Court with proof of completion.
- The Defendant shall attend and complete a MADD Impact Panel.
- The Defendant shall be placed on 24 months of unsupervised probation. Unless an extension is granted by the Court, all terms must be completed within 24 months of sentencing.
- The Defendant shall pay an incarceration fee for each day he/she is incarcerated.
- The Defendant shall remain law-abiding while on probation.

3. **A) INCARCERATION:**

The maximum jail on a class one (2) misdemeanor is four months.

B) FINE(S): The maximum fine on a class (2) misdemeanor is \$750.00, plus surcharges.

C) PROBATION: (Is) available. The Court may place the defendant on up to 2 years of probation.

D) RESTITUTION of economic loss to the victims, in the amount of \$(NA) will be required. If no figure is entered above for restitution, the amount of restitution shall be fixed by the Court at the time of sentencing. The victim(s/s')

acceptance of restitution, pursuant to the Court Order in this case, does not constitute a waiver of any civil claims the victim(s) may have. Defendant agrees not to challenge or dispute the amount of restitution set by the Court.

4. OTHER CHARGES: The following charge(s) or allegation(s) are dismissed or, if not yet filed, shall not be brought against the Defendant:

- Any remaining counts in this case.
- Any FTA related to the same.

5. AMENDMENT TO CHARGING DOCUMENT: This agreement, unless rejected or withdrawn, serves to amend the complaint, indictment or information to charge the offense to which the Defendant pleads, if necessary, without the filing of any additional pleading.

6. ACCEPTANCE OF PLEA, REJECTION, REVOCATION, WITHDRAWAL OF PLEA: The parties agree that the Court shall accept the Defendant's plea at the time of the change of plea. If marked above, the State's participation in this plea agreement is conditional upon the Court's acceptance of the plea at the change of plea hearing. If, after accepting the plea, the Court concludes that any of the terms or provisions of this agreement are unacceptable, the Court may reject the plea and both parties shall be given the opportunity to withdraw from this agreement. Should the Court reject this agreement or the State revoke or withdraw from the agreement, as provided herein, the Defendant hereby waives all claims of double jeopardy.

7. WAIVER OF PRETRIAL MOTIONS/ISSUES: Unless the plea is rejected or withdrawn, the Defendant hereby gives up (waives) any and all motions, defenses, objections, appeals, or requests he had made or raised, or could assert hereafter, to or against any matters preceding the Court's entry of judgment and imposition of sentence.

8. WAIVER OF RIGHTS: The Defendant understands the following rights and understands that (s)he gives up (waives) such rights by pleading guilty.

- a. his/her right to a jury trial;
- b. his/her right to confront the witnesses against him/her and cross-examine them;
- c. his/her right to present evidence and call witnesses in his/her defense, knowing that the Court will compel to appear and testify on his/her behalf;
- d. his/her right to be represented by counsel (appointed free of charge, if he/she cannot afford to hire his/her own) at all stages of the proceedings; and
- e. his/her right to remain silent, to refuse to be a witness against himself/herself, and to be presumed innocent until proven guilty beyond a reasonable doubt.
- f. his/her right to appeal the judgment and sentence to a higher court.

9. NO OTHER AGREEMENTS: This written plea agreement contains all the terms and conditions of this plea agreement; and the Defendant understands that any promises made by anyone, including his lawyer, that are not contained within the written plea agreement, are without force and effect, and are null and void. Any prediction or promise as to what the possible sentence will be, by any person or party, except as specifically provided herein, is understood to be voided by this agreement.

10. DEFENDANT'S AVOWALS: I am not on or under the influence of any drug, medication, liquor or other intoxicant, and I am at this time fully capable of understanding the terms and conditions of this plea agreement, and that my agreement and plea are not the result of force, threats, assurances, or promises other than those which are contained in writing in this agreement.

I have read this agreement with the assistance of counsel, understand its terms, understand the rights I give up by

TR2022000466 - GOMOTA VELASQUEZ CASE DOCUMENTS

dougmcv@yahoo.c.../Inbox



DoNotReply@courts.az.gov <donotreply@courts.az.gov>
To: dougmcv@yahoo.com

Jun 15 at 7:55 AM

Dear Mr. Mcvey,

Here is the entire court file and documents on State v. Salvador Gomora Velasquez. We will be sending an email of the Register of Actions here shortly.

Thank you,
Apache Junction Municipal Court
City of Apache Junction
300 East Superstition Blvd.
Apache Junction, AZ 85119
(480)-982-8250
1149@COURTS.AZ.GOV

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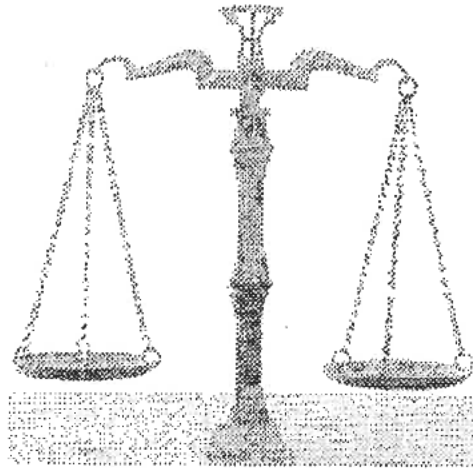
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Pinal County Limited Jurisdiction Courts

DUI Case Management Plan

Pinal County Court Administration

10/1/2008

The Pinal County Limited Jurisdiction Court Case Management Plan is to outline the rules and procedures required to fully implement the directive of Chief Justice Ruth V. Mc Gregor to improve the process of adjudicating DUI cases. The goal of the project is to adjudicate 85% of DUI cases within 120 days and 93% within 180 days while maintaining an active pending caseload that has less than 7% of the cases older than 180 days.

Pinal County Limited Jurisdiction Courts DUI Case Management Plan

As filed on 10/27/2008

INTRODUCTION

In order to better serve the citizens of Arizona and particularly the citizens in Pinal County, the limited jurisdiction courts in Pinal County are following the directive issued by Chief Justice Ruth V. McGregor by fully participating in the DUI Case Processing Program. The limited jurisdiction courts in Pinal County are dedicated to the fundamental principle that all citizens who have business before these courts are to be treated with courtesy, respect, and fairness. Having a DUI case management plan enhances the court's ability to ensure speedy trial rights and due process in DUI cases and apply these principles in all other case types.

OBJECTIVES

The objective of Pinal County's DUI case management plan is to reduce the time it takes to properly resolve its DUI caseload as established by the Supreme Court. Specifically, the case management plan will be used to assist the courts in achieving a resolution of 85% of its DUI cases within 120 days (measured from date of filing to date of disposition) and 93% within 180 days.

Several limited jurisdiction courts within Pinal County currently comply with the statewide goals and therefore an additional objective is to have less than 7% of active pending DUI cases aged older than 180 days.

RULES OF PROCEDURE

- A. In addition to the requirements of Rule 4.2, Arizona Rules of Criminal Procedure, at the arraignment of a defendant who is charged on an Arizona Traffic Ticket & Complaint with DUI, the court shall order the defendant to be fingerprinted by the citing agency prior to the first pre-trial conference unless the court has reasonable cause to believe that the defendant was previously fingerprinted as prescribed by A.R.S. § 41-1750(U).
- B. Pursuant to Rule 16.5(a), Arizona Rules of Criminal Procedure, attendance at the first pre-trial conference is mandatory for the defendant, defense counsel, if any, and the prosecutor. If a second or subsequent pre-trial conference is necessary, the defendant's attendance shall be mandatory unless defense counsel makes a written request to waive the client's presence and meets the following criteria. If the court cannot make a ruling before the scheduled court date (i.e. due to a violation of subsection 1), the defendant must appear.
 - 1. The motion to waive presence must be filed at least three days in advance of the pre-trial conference and does not apply to the first pre-trial conference.

2. Defense counsel must avow they have been in contact with their client and the client agrees to waive their presence. Counsel must further avow that the matters to be handled at the scheduled pre-trial conference will not need the defendant's presence to resolve (i.e. discovery or deposition issues).
 3. Extraordinary circumstances exist.
- C. All court dates involving DUI cases shall be considered firm. To ensure that court dates are considered firm:
1. The court shall require the Prosecutor's Office to provide all **available** discovery prior to the first pre-trial conference;
 2. The court shall encourage defense counsel to meet with their client **prior** to the pre-trial conference to review available discovery;
 3. The court shall provide notice of the name and phone number of any court-appointed attorney along with instructions to contact the public defender at least 10 days before the pre-trial conference;
 4. When a motion to continue a pre-trial conference is filed, the court shall require both the state and defense to state the status of the case. Specifically, whether discovery, interviews and motions are complete, or whether there remain any unresolved issues which prevent the case from being resolved or set for trial. The court shall then direct both the state and defense to take reasonable steps to resolve the identified issues. The court shall set reasonable deadlines to address issues identified as incomplete;
 5. The court will issue an arrest warrant for any defendant who fails to appear for any scheduled pre-trial conference and shall require the posting of a bond. Appearance by defense counsel will not be considered as satisfaction of this requirement in the absence of extraordinary circumstances. If defense counsel filed a motion to waive their client's presence but did not receive a ruling from the court, the client is expected to appear;
 6. All parties are expected to bring their calendar to each pre-trial proceeding so as not to create a scheduling conflict. All parties must agree to the next scheduled pre-trial conference date before leaving the building; and
 7. When setting a case for trial, the court shall require both parties to avow that discovery is complete and that all pre-trial motions will be filed no later than 20 days prior to trial pursuant to Rule 16.1(b), Arizona Rules of Criminal Procedure.
- D. In addition to the requirements of Rule 16.6, Arizona Rules of Criminal Procedure, if the court, upon motion of the prosecutor made at the time of trial, grants a motion to dismiss a DUI case, the court may impose any sanction it finds appropriate that is reasonably related to the reason for the prosecution's motion to dismiss. This sanction will apply in all further proceedings should the case be refilled. Available sanctions include, but are not limited to:

1. Precluding or limiting the calling of a witness, use of evidence or argument in support of a charge, or
2. Imposing costs of continuing the proceedings; or
3. Any other appropriate sanction, or
4. Dismissal of the case with or without prejudice.

CASE MANAGEMENT ACTIONS

The court shall manage its DUI cases consistent with the following:

- A. The court shall actively monitor, on a monthly basis, the age and volume of its active pending caseload, the age of cases at disposition, the clearance rate, and trial date certainty reports.
- B. The judges shall routinely meet to discuss progress towards meeting the goals set forth in this case management plan.
- C. The court will meet with the local criminal justice coordinating committee, consisting of representatives from the court, law enforcement agencies, the prosecutor's office, the public defender's office, private attorneys, and other county and/or city management, to assist the court in implementing its DUI case processing plan and in resolving DUI processing issues that occur prior to filing through disposition of a case.
- D. The Pinal County Criminal Justice Coordinating Committee shall meet on a regular basis to update the DUI case processing plan and work toward eliminating obstacles to:
 1. Accelerating the completion of pre-filing documentation;
 2. Ensuring that fingerprints are taken at the time of the offense or establishing a time and place that fingerprints can be taken;
 3. Addressing complaints that are rejected by the court as untimely filed; and
 4. Resolve specific DUI case processing issues.



2022 MADD Arizona Victim Impact Panel

Registration Information

The purpose of the Victim Impact Panel (VIP) program is to help DUI/OUI offenders realize the lasting and long-term effects of substance impaired driving, to create an empathy and understanding of the tragedy, to leave an impression that will change thinking and behavior, and to prevent future offenses from occurring.

Rules and Requirements

- Panels are 2 hours in length. Check panel times – late arrivals not allowed in. All panels are 6:30 – 8:30 pm except Prescott Valley (6 - 8 pm) and Goodyear / Apache Junction (10 am – 12 noon).
- You must show proof of ID to gain entrance.
- Panel fee is \$45. You can pay online at time of registration (\$48 total - \$45 panel and \$3 convenience fee) or bring a \$45 money order (made out to MADD) to your scheduled panel. No cash, no checks.
- Rescheduling for any reason will result in a \$10 fee.
- No refunds for fees paid.
- Attendees suspected of alcohol/drug use prior to panel will not be allowed in.
- Only youth who are ordered to attend may enter. 17 and under must have parent/ legal guardian
- You may bring one unopened bottle of water. No other food or drink is allowed.
- Make copies of your attendance certificate. Replacements are \$20 each.
- It is your responsibility to turn in your attendance certificate.

Registration Information - Register online at www.maddvip.org. You must register prior to the class if you want your certificate the night of the class. If you are rescheduling, please call 800-426-6233.

Reglas y requisitos

- Los paneles son de 2 horas de duración. Verifique los horarios de los paneles: no se permiten llegadas tarde. Todos los paneles son de 6:30 - 8:30 pm. excepto Prescott Valley (6 - 8 pm) y Goodyear / Apache Junction (10 am-12 del mediodía).
- Debes mostrar prueba de identificación para poder ingresar.
- La tarifa del panel es de \$45. Puede pagar en línea en el momento de la inscripción (\$48 en total, \$45 por panel y \$3 por tarifa de conveniencia) o traer un giro postal de \$45 (a nombre de MADD) a su panel programado. Sin efectivo, sin cheques.
- La reprogramación por cualquier motivo resultará en una tarifa de \$10.
- No hay reembolsos por las tarifas pagadas.
- No se le permitirá entrar si ha usado alcohol o drogas antes del panel.
- Solo pueden ingresar los jóvenes a quienes se ordena asistir. Los menores de 17 años deben tener un padre o tutor legal.
- Puede traer una botella de agua sin abrir. No se permite ninguna otra comida o bebida.
- Haga copias de su certificado de asistencia. Los reemplazos son de \$20 cada uno.
- Es su responsabilidad entregar su certificado de asistencia.

Información de Registro - Regístrese en línea en www.maddvip.org. Debe registrarse antes de la clase si desea obtener su certificado la noche de la clase. Si está reprogramando, llame al 800-426-6233.

SHARING VICTIM STORIES | PREVENT DRUNK DRIVING

A complete list of available dates and details is available online at www.maddvip.org



2022 MADD ARIZONA VICTIM IMPACT PANEL DATES

Northern Arizona

Flagstaff	W	04/06/22	Prescott Valley	Th	02/03/22	KINGMAN	Tu	03/22/22
DoubleTree Hotel	W	08/03/22	Prescott Valley Public	Th	06/10/22	Kingman Nazarene	Tu	06/28/22
1175 W Route 66	W	12/07/22	Library - Crystal Room	Th	10/20/22	Church	Tu	09/27/22
Flagstaff AZ 86001			7401 E Skoog Blvd			4715 Stockton Hill Rd	Tu	12/13/22
6:30 - 8:30 pm			Prescott Valley AZ 86314			Kingman AZ 86409		
			6:00 - 8:00 pm			6:30 - 8:30 pm		

Central Arizona

GLENDALE	W	01/12/22	PHOENIX SOUTH	Tu	02/15/22	MESA	M	01/24/22
Glendale Com College	W	03/09/22	English/Español - North	Tu	04/12/22	Charles K Luster	M	03/07/22
Student Union Bldg	W	05/11/22	Phoenix Baptist Church	Tu	06/14/22	Utilities Building	M	05/02/22
6000 W Olive Ave	W	07/13/22	6520 S Central Ave	Tu	08/09/22	640 N Mesa Dr	M	07/11/22
Glendale AZ 85302	W	09/14/22	Phoenix AZ 85042	Tu	10/11/22	Mesa AZ 85201	M	09/12/22
6:30 - 8:30 pm	W	11/09/22	6:30 - 8:30 pm	Tu	12/13/22	6:30 - 8:30 pm	M	11/07/22

SCOTTSDALE	Th	02/10/22	GOODYEAR	Sa	02/26/22	CASA GRANDE	Th	02/24/22
Open Arms Church	Th	04/14/22	Skyway Church	Sa	05/21/22	Radisson Hotel	Th	05/19/22
4640 N Granite Reef Rd	Th	06/09/22	Upstairs - Room 608	Sa	08/20/22	777 N Pinal Ave	Th	08/25/22
Phoenix, AZ 85251	Th	08/11/22	14900 W Van Buren St	Sa	11/19/22	Casa Grande AZ 85122	Th	11/03/22
6:30 - 8:30 pm	Th	10/13/22	Goodyear AZ 85338			6:30 - 8:30 pm		
	Th	12/08/22	10:00 - 12:00 noon					

APACHE JUNCTION	Sa	01/08/22	<p>Visit maddvip.org to register for a panel</p> <p>To reschedule a class or for more information, call the MADD Help Desk at 800-426-6233</p>					
Multi-Generational Center	Sa	05/14/22						
1035 N Idaho Rd	Sa	09/10/22						
Apache Junction AZ 85119	Sa	12/10/22						
10:00 - 12:00 noon								

Southern Arizona

TUCSON EAST	Th	01/27/22	TUCSON MIDTOWN	Tu	01/04/22	TUCSON NW / MARANA	Tu	02/15/22
Pantano Christian Church	Th	03/24/22	Tucson Police West	Tu	03/01/22	Oro Valley Community	Tu	04/26/22
Zone 45 by Auditorium	Th	05/26/22	Substation Rillito Room	Tu	05/03/22	Center	Tu	06/28/22
1755 S Houghton Rd	Th	07/28/22	1310 W Miracle Mile	Tu	07/05/22	10555 N La Canada Dr	Tu	08/23/22
Tucson AZ 85748	Th	09/22/22	Tucson AZ 85705	Tu	09/06/22	Oro Valley AZ 85737	Tu	10/25/22
6:30 - 8:30 pm	Th	11/17/22	6:30 - 8:30 pm	Tu	11/01/22	6:30 - 8:30 pm	Tu	12/13/22

TUCSON SOUTH /	M	02/07/22	NOGALES	Th	01/20/22	SIERRA VISTA	W	02/02/22
GREEN VALLEY	M	04/04/22	English/Español	Th	04/28/22	Sierra Vista PD	W	05/04/22
El Mezquite Event Hall	M	06/13/22	Circles of Peace	Th	07/28/22	911 N Coronado Dr	W	08/03/22
7130 S Nogales Highway	M	08/08/22	404 W Crawford St	Th	10/27/22	Sierra Vista AZ 85635	W	11/02/22
Tucson AZ 85756	M	10/10/22	Nogales AZ 85621			6:30 - 8:30 pm		
6:30 - 8:30 pm	M	12/05/22	6:30 - 8:30 pm					



Mothers Against Drunk Driving Online VIP

The Mothers Against Drunk Driving Online Victim Impact Panel (VIP) program is an educational tool to help drunk and drugged driving offenders better recognize the negative consequences of their actions, and to prevent future offenses.

To check eligibility for the Online VIP, please go to
<https://online.maddvip.org>
or see instructions on the back



NO MORE VICTIMS[®] Are You Eligible for the Online VIP?

- Must live 30 or more miles away from an in-person panel occurring within the next three months.
- The course takes around 1.5-2 hours to complete.
- This course **requires** a webcam or camera. Facial recognition software is used for compliance purposes.
- Certificates can be downloaded immediately upon completion of this course.
- The course is mobile and tablet friendly.
- Cost of the course is \$65
- For technical issues, attendees can call 1-877-729-8548 for support.

How to Register for the Online VIP

- To enroll in the Online VIP, visit <https://online.maddvip.org>
- Create a login to complete the course.
- Click on the red button that appears.
- Your IP address will determine your eligibility. If you are not eligible, you will be presented a denial message and prompted to visit maddvip.org
- If you are eligible, you will be presented with a call to action to start the panel.
- Click on "Start My Panel Now" button.
- You will complete a payment section. You can pay with a credit or debit card.

MADD ARIZONA
az.state@madd.org
602-240-6500



Madres Contra la Conducción en Estado de Ebriedad VIP Virtual

El programa del Foro Virtual del Impacto de las Víctimas (VIP en inglés) de las Madres Contra la Conducción en Estado de Ebriedad es un instrumento educativo para ayudar a los acusados de conducir bajo los efectos de las drogas o del alcohol a reconocer las consecuencias negativas de sus acciones y a prevenir futuros perjuicios.

Para verificar el criterio de la selección del VIP Virtual, por favor visite <https://online.maddvip.org> o vea las instrucciones para atrás.



¿Es usted elegible para el VIP Virtual?

- Debe vivir a 30 millas o más de algún foro que se vaya a celebrar dentro de los tres siguientes meses.
- El curso toma alrededor de 1.5 - 2 horas para ser culminado.
- Este curso requiere el uso de una cámara web u otra cámara. Se usa el software de reconocimiento facial por motivos de cumplimiento.
- Los certificados se pueden descargar de inmediato después de terminado el curso.
- El curso se puede realizar desde dispositivos móviles y tabletas.
- El precio del curso es de \$65
- En el caso de tener problemas técnicos, los asistentes pueden llamar al 1-877-729-8548 para recibir ayuda.

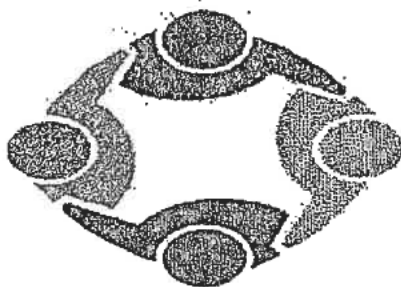
Cómo registrarse para el VIP Virtual

- Para ingresar al VIP Virtual, visite <https://online.maddvip.org>
- Cree un registro para completar el curso.
- De click en el botón rojo que aparece.
- Se usa su dirección IP para determinar si es elegible. Si no es elegible, le va a aparecer un mensaje de negación y le dirigirá a [maddvip.org](https://online.maddvip.org)
- Si es elegible, se le presentará una llamada de acción para empezar el foro.
- De click en el botón que dice "Empezar el foro ahora"
- Completará una sección de pago. Puede pagar con tarjeta de crédito o débito.

MADD ARIZONA
az.state@madd.org
602-240-6500

Criminal History Records
AZ Department of Public Safety
P.O. Box 18450
Phoenix, AZ 85005-8450

2	NAME (Last, First, Middle) VELASQUEZ, SALVADOR	3	DATE OF BIRTH	4	DATE OF ARREST 20220421	5	PTN															
6	ARRESTING AGENCY ORI	7	ARRESTING AGENCY CASE NO.	8	BOOKING AGENCY ORI	9	BOOKING NUMBER AJPX															
10	CHARGES / AMENDED CHARGES CHARGES: Please write literally. If more than three (3) charges, list on second (2nd) form. LAW ENFORCEMENT AGENCY: Fill in original charges(s) on line(s) 1a, 2a, etc. PROSECUTOR / COURT: Fill in amended charges(s) on line(s) 1b, 2b, etc.	11	ARIZONA REVISED STATUTE OR ORDINANCE	12	DATE OF OFFENSE / VIOLATION	13	OFFENSE TYPE	14	PREPARATORY OFFENSE	15	DOMESTIC VIOLENCE OR VICTIM INFORMATION CODES: D - Crime involves domestic violence M - Victim is a minor A - Victim is a vulnerable adult L - Victim is a law enforcement officer C - Dangerous crimes against children	18	DISPOSITION CODES: AC - Acquitted / Not guilty CD - Court Dismissed DP - Deferred Prosecution DS - Deferred Sentencing GG - Guilty GI - Guilty but Insane NF - No complaint filed NP - Nolo Contendere plea NR - Not referred for Prosecution PD - Pardoned PM - Pending due to mental incompetency PO - Plea to other charges RI - Not responsible by reason of insanity	21	APPELLATE CODES: AF - Affirmed AR - Affirmed, Remanded For Re-sentencing RR - Reversed and Remanded RV - Reversed and Conviction Overturned SM - Sentence Modified	24	COURT CASE / COMPLAINT NUMBER TP-2022000466	25	DISPOSITION DATE	26	AGENCY ORI MAKING DISPOSITION DECISION	
1a	28-1381A1 DUI - LIQUOR/DRUGS/VAPORS/COMBO				20220421 M																	
1b																						
2a	28-1381A2 DUI W/BAC OF .08 OR MORE				20220421 M																	
2b																						
3a																						
3b																						
27	FURTHER EXPLANATIONS OR MODIFICATIONS																				28	RIGHT INDEX FINGERPRINT
DISPOSITION REPORT A Disposition Report is required from the disposition agency (arrest, prosecutor or court) pursuant to the AZ Rules of Criminal Procedure (Rule 37) for each person fingerprinted for a reportable crime pursuant to A.R.S. 41-1750																					Please call DPS Criminal History Records at (602) 223-2222 for assistance with this form.	



AES
Alternative Education Solutions™

FINAL REPORT

Apache Junction Municipal

FILED JAH11'23 PM 1:48

Report Date: 12/20/2022

Counselor: Monica C; BHT

To: Apache Junction Municipal Court
300 E. Superstition Blvd.
Apache Junction, AZ 85119
Phone: (480)928-8520 Fax: (480)982-4496

Client Name: SALVADOR OMAR GOMORA VELAZQUEZ

Client DOB:

Client CASE#: M1149-TR2022-000466

Date of Violation: 4/21/2022

Screening/Program Information:

Date of Screening: 7/14/2022

Date Program Started: 11/30/2022

Number of Hours Assigned: **16**

Number of Hours Completed: **16**

NOTES:

Comments/Recommendations: COMPLETED Level II – 16 Hour Drug/Alcohol Education Program.

FAX COVER SHEET**TO****COMPANY****FAXNUMBER** 14809824496**FROM** AES AES**DATE** 2023-01-11 18:40:27 GMT**RE** AES FINAL REPORT - Salvador Omar Gomora Velazquez**COVER MESSAGE****AES FINAL REPORT - 12/20/2022****CT: Salvador Omar Gomora Velazquez****DOB:****CASE#: M1149-TR2022-000466****COMPLETED: Level II - 16HR Alcohol/Drug Education Program**

Thank you,

No. 50126



HEAD & NECK
SURGEONS

To Whom it May Concern:

Mr. Lasota has been experiencing dysphonia (change in voice) for several months prior to a surgery in January on his vocal folds. The surgery was helpful but may need to be repeated using a different method. He still requires voice therapy and will be having follow-ups with ENT and/or laryngologist consistently. It is expected that as he navigates through these vocal challenges, his voice may not be in its most optimal state and therefore this note serves to relay this information. His vocal folds achieve the most optimal closure pattern when he is using a strong/energized approach with a forward-based energy which can be perceived as louder or more of a yell-like production. The occasional rasp in his voice can be perceived as negative and this in no way is a reflection of his intentions.

Please contact our practice if you have any questions.

Sara G. Davis, M.A. CCC-SLP

Sara Davis, MA. CCC-SLP

6/2/23

Resp Exh 24 - Rec
of telephone call
10.13.22

2022-377

JUL 05 2023



25

May 8, 2023

CASE M1149TR2022000466,

SALVADOR O GOMORA VELASQUEZ,

Audio recording 10-13-2022

I do not recall the phone call from Attorney, Jack Litwak on the afternoon on October 13, 2022. My normal response when there is a request for an audio recording is: "The clerk has to wait until the next day to review any audio recording, the recording has to be archived before it can be retrieved, there is also a \$17.00 fee for the recording".

Then the court received a check #227 on October 18, 2022 for audio recording. The senior clerk burned the CD on October 20, 2022. It seemed very garbled, the court then left a voice mail for our Liberty representative if there was a way to get a clearer copy. The representative did return the call, there is no way to clear up the record. Mailed the CD to Mr Litwak office

Thank you

Dee Lefke 

Senior Court Clerk

Apache Junction Municipal Court #1149

300 E Superstition Blvd

Apache Junction, AZ 85119

Judge MR
2022-377
SEP 28 2023

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

MOTION FOR RECONSIDERATION COMPLAINT NO. 22-377

Judge: A. Douglas LaSota

Complainant: Jack D. Litwak

Judge A. Douglas LaSota respectfully requests the Commission reconsider the public reprimand it imposed as a sanction (Rule 17(a) in its August 30, 2023 order. This Motion is brought pursuant to Rule 23(b)(1). The time to file this Motion was extended to September 28, 2023.

Judge LaSota respectfully requests that the Commission reconsider its selection of sanction imposed in this matter. While the Commission did find that the Court's call to the Defendant's lawyer did not fall within the administrative and scheduling exception to Rule 2.9, the record demonstrates that the call to Defense counsel was prompted by Defendant's counsel's Notice of Appearance (Index No. 7) and the prosecutor's Response (index No. 8). The Response of the prosecutor clearly states that the State "defers to the Court on Defense Attorney's Motion to waive Defendant's appearance."

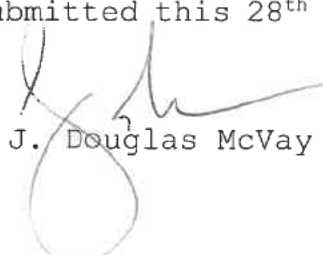
It is respectfully submitted that even though the Judge was mistaken as to whether the Motion to Waive Appearance was an administrative or scheduling matter, the prosecutor's written statement that he would defer to any ruling the Court might make on an issue of a defendant's personal appearance was not a purposeful attempt to conduct an *ex parte* hearing and the defendant, with his attorney on the telephone, was not unrepresented when the matter at issue was discussed.

It is obvious that the Court believed that the prosecutor's waiver was sufficient to warrant proceeding without the prosecutor. Clearly, the Judge LaSota did not make it clear to defendant's counsel that the prosecutor had waived his appearance and he should have done so. However, it is respectfully submitted this failing was not intentional

or purposeful.

The rules of the Commission provide for informal sanctions other than a reprimand. Specifically, the Commission may order judicial education or mentoring. Considering the lack of any indication that Judge LaSota intentionally or knowingly conducted a hearing he knew should have included the prosecutor, it is respectfully suggested that the Commission should reconsider the sanction imposed.

Respectfully submitted this 28th day of September, 2023.



J. Douglas McVay

Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning

Judge A. Douglas LaSota
Apache Junction Municipal Court
State of Arizona,

Respondent.

) Case No.: 22-377
)
)
)
)
)
)
)

**ORDER DIRECTING THE FILING
OF A RESPONSE**

Respondent Judge A. Douglas LaSota, filed a Motion for Reconsideration of the public reprimand issued on August 30, 2023.

IT IS ORDERED that Disciplinary Counsel for the Commission shall prepare and file a response to Respondent's motion by October 13, 2023. Disciplinary Counsel shall provide a copy of the Response to Respondent on or before October 13, 2023. Absent a request from the Commission, Respondent may not submit a written reply brief or any additional materials.

Dated this 28th day of September, 2023.

FOR THE COMMISSION

/s/ Christopher P. Staring
Hon. Christopher P. Staring
Commission Chair

A copy of this order was delivered on September 28, 2023, via electronic mail, to:

Hon. A. Douglas LaSota
Apache Junction Municipal Court
c/o Attorney J. Douglas McVay
dougmcv@yahoo.com

Respondent's Attorney

Ariel I. Worth, Esq.
Arizona Commission on Judicial Conduct
aworth@courts.az.gov

Disciplinary Counsel

By: /s/ Kim Welch
Kim Welch, Commission Clerk

Ariel I. Worth (Bar # 018702)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Email: *aworth@courts.az.gov*

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 22-377
Judge A. Douglas LaSota)	
	)	RESPONSE TO JUDGE'S
Apache Junction Municipal Court	)	MOTION FOR
State of Arizona,	)	RECONSIDERATION
)	
Respondent.)	

On August 30, 2023, the Commission on Judicial Conduct (Commission) publicly reprimanded Judge A. Douglas LaSota (Respondent) for violations of the Arizona Code of Judicial Conduct (Code). Respondent timely requested reconsideration of this order on September 28, 2023. Undersigned submits this response pursuant to Commission Rule 23(b), respectfully requesting that the Commission deny the motion.

Factors Supporting a Sanction

The Scope section of the Code sets forth several factors for the Commission to consider in determining whether a sanction is appropriate in a particular case. These factors are the seriousness of the transgression, the facts and circumstances existing at the time of the transgression, the extent of any pattern of improper activity or

previous violations, and the effect of the improper activity upon the judicial system or others. On balance, these factors support the issuance of the reprimand. The reprimand condemns Respondent's *ex parte* communication with a criminal defense attorney and his deceptive response to that attorney's inquiry about the presence of the opposing party. The public must have confidence in the independence, integrity, and impartiality of the judiciary, and the Respondent's conduct undermined that confidence. Thus, the transgression is serious.

The imposition of the public reprimand comports with the principles of Commission Rule 5 (Purpose of Judicial Discipline). That rule states:

The purpose of the judicial discipline and incapacity system is to protect the public and to maintain high standards for the judiciary and the administration of justice. Any disciplinary remedy or sanction imposed shall be sufficient to restore and maintain the dignity and honor of the position and to protect the public by assuring that the judge will refrain from similar acts of misconduct in the future.

Here, the nature of the misconduct was public insofar as it related to official business of the court. The harm caused, in part, was to the attorney's perception of the judiciary and trust in the institution. Issuing public discipline in response to underlying public misconduct helps restore dignity and honor to the judiciary. Further, the public nature of the reprimand allows other members of the judiciary to learn from the misconduct that warranted the reprimand. This opportunity, which helps protect the public generally, is lost if the Commission's resolution, such as judicial education or counseling as proposed by Respondent, is confidential. The purpose is to restore and maintain the dignity and honor of the position and to protect the public. The reprimand is the best way to achieve those ends.

Aggravating and Mitigating Factors

Rule 19 of the Commission Rules sets forth ten aggravating and mitigating factors for the Commission to also consider.

Nature, Extent and Frequency of the Misconduct: Respondent's conduct in this case was a one-time occurrence. However, his actions did precipitate this judicial complaint and compromise the attorney's confidence in the judiciary. This gives slightly more weight to this being an aggravating factor.

Judge's Experience and Length of Service on the Bench: Respondent has served as a judicial officer for approximately ten years (2009-2019) with the Cottonwood Municipal Court and approximately two years (2021-present) with the Apache Junction Municipal Court. Respondent should be reasonably well-versed regarding the Code. Undersigned deems this a slightly aggravating factor.

Whether the Conduct Occurred in the Judge's Official Capacity or Private Life: The conduct occurred in Respondent's official capacity while conducting court business and carrying the full authority of his office. Undersigned deems this an aggravating factor.

Nature and Extent to Which the Acts of Misconduct Injured Other Persons or Respect for the Judiciary: Respondent's conduct had some impact on the prosecution's right to be heard, although the assigned prosecutor had previously submitted a written response to the motion discussed *ex parte* with the defense attorney. Respondent's conduct and his deceptive response to the defense attorney's

inquiry about the presence of the prosecutor negatively impacted the attorney's perception and respect for the judiciary. This is an aggravating factor.

Whether and to What Extent the Judge Exploited his or her Position for Improper Purposes: Undersigned finds this factor inapplicable.

Whether the Judge has Recognized and Acknowledged the Wrongful Nature of the Conduct and Manifested an Effort to Change or Reform the Conduct: Respondent initially did not appear to appreciate the wrongful nature of his conduct when responding to the Commission. In his initial response, Respondent asserted he had a proper legal basis for conducting a proceeding *ex parte*, and that his statements to the attorney were accurate. In his request for reconsideration, Respondent only slightly modified this assessment by asserting that he was mistaken in believing the prosecutor had waived presence for the hearing, and that "he did not make it clear" to the attorney that "the prosecutor had waived his presence." Respondent, by these statements, shows a continued lack of understanding of his ethical duties. Respondent has not taken responsibility for his conduct in this matter. Undersigned finds this to be an aggravating factor.

Whether There Has Been Prior Disciplinary Action Concerning the Judge, and if so, its Remoteness and Relevance to the Present Proceeding: Respondent received a public reprimand in Case No. 09-293 after viewing explicit nude images on his work-issued computer and then erasing the hard drive of that computer prior to the initiation of an investigation. This prior discipline is quite remote, and different in kind than the current matter.

Undersigned finds the prior discipline to be a neutral factor.

Whether the Judge Complied with Prior Discipline or Requested and Complied with a Formal Ethics Advisory Opinion: Respondent has not committed a similar offense to his prior discipline and has not acted in reliance upon a formal ethics advisory opinion. Undersigned does not deem this factor as neutral.

Whether the Judge Cooperated Fully and Honestly with the Commission in the Proceeding: Undersigned believes Respondent has cooperated fully and honestly. This is a mitigating factor.

Whether the Judge was Suffering from Personal or Emotional Problems, or from Physical or Mental Disability or Impairment at the Time of the Misconduct: This was not raised as a defense by Respondent, and undersigned does not deem this factor applicable to this case.

While the aggravating factors outweigh the mitigating factors numerically, the Commission is free to assign whatever weight it chooses to the factors. Given the nature of the conduct, Respondent's experience, and the injury to the public perception of the judiciary, undersigned argues that the overall balance is in favor of upholding the sanction.

CONCLUSION

Based on the foregoing, undersigned recommends that the Commission deny Respondent's Motion for Reconsideration and affirm the imposition of the public reprimand issued on August 30, 2023.

///

COMMISSION ON JUDICIAL CONDUCT



Ariel I. Worth
Disciplinary Counsel

A copy of this document was electronically served this 5th day of October, 2023 to:

J. Douglas McVay, Esq.
dougmcv@yahoo.com

Respondent

Ariel I. Worth, Esq.
Arizona Commission on Judicial Conduct
aworth@courts.az.gov

Disciplinary Counsel

By: /s/ Dora Ruelas Rivera
Dora Ruelas Rivera, Administrative Assistant II

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-377

Judge: A. Douglas LaSota

Complainant: Jack D. Litwak

**ORDER DENYING RESPONDENT JUDGE'S
MOTION FOR RECONSIDERATION**

The respondent judicial officer filed a Motion for Reconsideration of the Commission's reprimand decision as set forth in its previous order. Pursuant to Commission Policy 23, disciplinary counsel was requested to file a response to the motion, and did so.

On December 8, 2023, the Commission denied the Motion for Reconsideration. As provided in Commission Policy 23, the respondent judicial officer's Motion for Reconsideration, disciplinary counsel's response, and this Order denying the Motion for Reconsideration shall be made a part of the record that is posted to the Commission's website with the other public documents (the Complaint, the judicial officer's response, and the Reprimand Order).

Commission members Denise K. Aguilar, Roger D. Barton, Louis Frank Dominguez, and Regina L. Nassen did not participate in the consideration of this matter.

Dated: December 27, 2023

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on December 27, 2023.