

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-464

Judge: A. Douglas LaSota

Complainant: Tyler M. Allen

ORDER

The complainant alleged a municipal court judge showed improper demeanor and pre-judged a witness's credibility in a criminal proceeding.

On November 23, 2022, the judge conducted a probation revocation arraignment. After the defendant's attorney requested a hearing, the judge made repeated statements impugning the defendant's credibility and creating an appearance of pre-judgment as to disputed issues. The judge said during the hearing that, "[i]f she goes on the stand at a hearing later and lies, it's not going to be a fun time for her, I guarantee you." The judge also said, "she doesn't have much credibility with the court," "she already has issues with the court," and finally that, "you can understand why she's not going not have any credibility with the court at this point." The judge also made threats of additional jail time as a sanction for lying and created a clear inference that he would consider any testimony from the defendant to be a lie.

The judge's comments were not relevant to the request to schedule a hearing and created an appearance of pre-judgment as to the defendant's credibility. The judge's comments had a chilling effect on the defendant's right to defend herself at this hearing. 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 2.2 (Impartiality and Fairness), which states: "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."

Rule 2.6(A) (Ensuring the Right to Be Heard), which requires a judge to "... accord to every person who has a legal interest in the proceeding, or that person's lawyer, the right to be heard according to law."

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

2022-464

COMPLAINT AGAINST A JUDGE

Name: Tyler M. Allen **Judge's Name:** A. 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 am submitting the following summary as a statement of facts based on the alleged judicial misconduct of A. Douglas LaSota, presiding judge of the Apache Junction Municipal Court with consent of my client, Denise Raefski. Attached is a copy of my Notice of Appearance and a verified affidavit from Ms. Raefski. I currently represent Ms. Raefski as a Defendant in a criminal case with pending probation proceedings scheduled.

(An audio recording or transcript of the proceedings from November 23, 2022 has not been made available by the time of the filing of this complaint and therefore statements herein have been set forth as closely as possible based on Defendant and Counsel's recollection and notes.)

The facts alleged in the attached Verified Affidavit of Denise Raefski are incorporated herein by this reference.

Defendant was sentenced in this matter on September 7, 2022 with terms to include fourteen (14) days of jail confinement whereby the court allowed Defendant to serve eleven (11) of the fourteen (14) days on home detention/electronic monitoring. In addition, Defendant was ordered to serve a term of unsupervised probation for twenty-four (24) months to begin on the date of sentencing. The eleven (11) days of home detention was monitored through Scram of Arizona which is the specific agency the court requires all Defendant's to utilize for completing home detention/electronic monitoring.

After serving the three (3) days of jail confinement and eleven (11) days of home detention/electronic monitoring, Defendant received a Petition to Revoke Probation filed by the State and an Order to Show Cause notice from this court who also set a Probation Revocation Arraignment on November 14, 2022 at 3:00 p.m.

On November 14, 2022, Defendant was having issues with her certified ignition interlock device that was also ordered to be installed pursuant to her terms of sentencing in this matter and the ignition interlock provider she was under contract with advised that the only time available to assist with correcting the interlock was at the same time set as the Probation Revocation Arraignment. Defendant contacted the court and requested a continuance so she could make her ignition interlock appointment and continue to drive for work purposes. A clerk with the court advised Defendant to submit a request in writing for a continuance, which Defendant was unable to do, and appear the following morning for the court's walk-in calendar to appear for this matter. Defendant followed the instructions of the court staff.

When Defendant appeared the following morning, Judge LaSota had issued a warrant and took Defendant into custody based on her failure to appear the previous afternoon. Judge LaSota ordered a \$5,000.00 cash bond that Defendant was able to post with her family's assistance. The court set a Probation Revocation Pre-Trial Conference on November 23, 2022 at 8:15 a.m.

Due to the demeanor Judge LaSota exhibited at the Probation Revocation Arraignment, Defendant felt it was necessary to retain private counsel for further representation in this matter.

Defendant and undersigned Counsel timely appeared for the Probation Revocation Pre-Trial Conference on November 23, 2022 with the State represented by the Apache Junction Municipal Prosecutor, Eric Yuva, who was present in the courtroom. When Judge LaSota called the case on the record, he immediately asked the parties what the intent was on handling the probation matter and asked Defense Counsel if Defendant was entering a denial as to the allegations contained in the State's Petition to Revoke.

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

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COMPLAINT AGAINST A JUDGE

Name: Tyler M. Allen Judge's Name: A. 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.

to Revoke.

When Defense Counsel informed the court that Defendant was entering a denial and requested a Probation Revocation Hearing to present evidence and dispute the State's allegations, Judge LaSota immediately launched into a tirade of comments, threats and advice concerning Defendant's potential testimony. In pre-judging Defendant's credibility without any basis in fact, Judge LaSota repeatedly advised that should Defendant "take the stand and lie, things will not go well for her." Later Judge LaSota would again threaten Defendant with additional jail if she "lied." The inference was made clear that the court would consider any testimony by Defendant a "lie" that is adverse to the testimony and evidence presented by Scram of Arizona and their representative. Judge LaSota then read aloud the specific allegations against Defendant including emails and information directly sent to the court from Scram of Arizona.

While Judge LaSota reviewed the information and allegations on the record, he continuously made comments that inferred he had already weighed the credibility and pre-judged the evidence as he followed with another threat that "if Defendant takes the stand and lies, this will get worse for her." In addition, Judge LaSota commented that Defendant already lacks credibility from the court's perspective due to her failure to timely appear at the Probation Revocation Arraignment. Judge LaSota's made it clear in his inference that if Defendant testified to the contrary of the State's witnesses and evidence, he would not only impose jail confinement to cover the original eleven (11) days of home detention, but he would also impose additional jail.

The comment about anticipating Defendant being untruthful on the stand caused Defendant to be fearful to dispute the allegations submitted to the court by Scram of Arizona and present evidence to the contrary. Defendant advised Defense Counsel after the hearing adjourned that she felt Judge LaSota has "already made up his mind" and decided the allegations even before a Probation Revocation Hearing commences. In addition, and even more egregiously, Defendant is fearful to take the witness stand at a future hearing and exercise her right to testify based on Judge LaSota's comments and demeanor.

After the Probation Revocation Pre-Trial Conference, the Prosecutor spoke with Defense Counsel outside the courtroom and agreed that Defendant was not going to receive a fair and impartial hearing after having just witnessed Judge LaSota's comments and demeanor.

Based on the above, I believe there is just cause to file a complaint with this Commission alleging that Judge A. Douglas LaSota violated Judicial Canons 1.2, 2.2, 2.6 and 2.10. The lack of fairness and impartiality that was displayed by Judge LaSota during the hearing on November, 23, 2022 unfortunately eroded public confidence due to his conduct that gave appearance to impropriety. The City Prosecutor, Mr. Yuva, agreed with me after the hearing concluded that Judge LaSota's comments and conduct significantly called into question whether he would be fair and impartial at a future hearing. Judge LaSota's comments and conduct further caused my client to make statements of her fear to testify at a future hearing in her defense and she feels that Judge LaSota has pre-judged the issues to be decided at a future hearing.

1 **TYLER M. ALLEN** (030202)
2 **TOBIN LAW OFFICE, LLC**
3 2045 S. Vineyard Suite 125
4 Mesa, AZ 85210
5 Phone: 480.447.4837
6 Fax: 480.447.4837
7 admin@tobinlawoffice.com
8 Attorney for Defendant

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IN THE APACHE JUNCTION MUNICIPAL COURT
PINAL COUNTY, STATE OF ARIZONA

STATE OF ARIZONA,

Plaintiff,

vs.

DENISE A RAEFSKI,

Defendant.

Case No: TR-2022000238

NOTICE OF APPEARANCE

Undersigned counsel ("Counsel"), hereby notices his appearance for Defendant in the above-captioned matter.

Respectfully Submitted November 16, 2022.

/s/ Tyler M. Allen

Tyler M. Allen

Attorney for Defendant

ORIGINAL of the foregoing filed this November 16, 2022 to:

Apache Junction Municipal Court

1149@courts.az.gov

COPY of the foregoing emailed this November 16, 2022 to:

Apache Junction City Prosecutor

ajcityprosecutor@ajcity.net

1 By: Tyler M. Allen

2 **/s/ Tyler M. Allen**

3 Tyler M. Allen

4 Attorney for Defendant

AFFIDAVIT OF DENISE RAEFSKI

I, Denise Raefski, hereby do affirm and swear under penalty of perjury that the following is true and accurate to best of my knowledge:

- Based on what I witnessed at a Probation Revocation Pre-Trial Conference on November 23, 2022 at the Apache Junction Municipal Court, I have reason to believe and do believe that I cannot have a fair and impartial hearing before the Honorable A. Douglas LaSota by reason of the prejudice, bias or other interest of such judge/magistrate.
- Judge LaSota gave the inference, through his comments and demeanor, that I would be considered a "liar" by the court if I testified to anything adverse or contrary to the State's witnesses and evidence.
- Judge LaSota said that if I took the witness stand and "lied", consequences "would get worse" for me and inferred that I would be sentenced to additional jail for testifying to my own observations and personal knowledge.
- Judge LaSota stated on the record that I do not have any credibility with the court because I was unable to appear on short notice for the Probation Revocation Arraignment on November 14, 2022 due to a scheduling conflict, although I followed the clerk's instructions and appeared the next morning on November 15, 2022 to address this matter.
- I am fearful and do not want to exercise my Constitutional right to testify based on the comments of Judge LaSota as he made me feel that I would not be able to present any defense or evidence on my own behalf that conflicts with the State's witnesses and evidence and if I did so, he would make me serve more jail time.
- It appeared to me based on his comments at the hearing that Judge LaSota has already made his decision on whether I have violated probation without letting me present any evidence or taking any evidence from any party in this matter.
- I believe Judge LaSota reviewed the documentation sent from Scram of Arizona to the Court and has pre-judged the case and will not entertain any arguments or evidence in rebuttal therefore preventing me from a fair and impartial hearing.

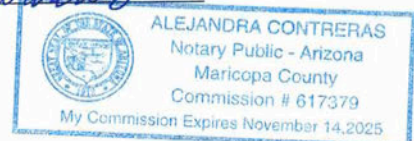
The above is true and accurate to the best of my knowledge.

Dated this 30 day of November, 2022.

Denise Raefski
Denise Raefski

Subscribed and sworn before me this 30th day of November, 2022.

Alejandra Contreras
Notary Public



Tyler M. Allen (030202)
Tobin Law Office, LLC
2045 S. Vineyard Suite 125
Mesa, AZ 85210
Phone: 480.447.4837
Fax: 480.447.4837
admin@tobinlawoffice.com

comp supp 1
22-464
FEB 21 2023

February 10, 2023

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

Re: Judicial Complaint re: Judge A. Douglas LaSota
Case Number: 22-464

To Whom It May Concern:

Please find enclosed a CD containing an audio recording of the hearing from November 23, 2022 which is subject to the judicial complaint filed in this matter.

In addition, please find a copy of two (2) minute entries issued by Judge LaSota subsequent to the filing of a Notice of Change of Judge for Cause pursuant to Rule 10.1 and the filing of the judicial complaint.

Regards,



Tyler M. Allen
Attorney at Law

APACHE JUNCTION MUNICIPAL COURT #1149
300 E SUPERSTITION BLVD, APACHE JUNCTION, AZ 85119
(480)982-8250 FAX (480)982-4496

STATE OF ARIZONA
Plaintiff

Case Number: M1149TR2022000238

VS

MINUTE ENTRY/ORDER

DENISE A RAEFSKI

Defendant.

The Court having received a "NOTICE OF CHANGE OF JUDGE FOR CAUSE PURSUANT TO ARIZ.R.CRIM.P RULE 10.1",


IT IS HEREBY ORDERED:

The Court takes the following action pursuant to Rule 10.1(b)(2):

The above-mentioned motion is transferred to the Hon. Douglas Coleman, J.P. Precinct 6, Apache Junction, AZ, for determination of the ruling pursuant to Rule 10.1. Pursuant to Rule 10.1(c), "The hearing judge will then return the matter to the presiding judge."

Court staff shall provide to Judge Coleman (along with this order) a copy of the Defendant's pleading, a copy of the Register of Actions from the court file, any response filed by the state and a copy of the recording of the court proceedings from the PTR matter held on November 23, 2022. Staff shall also provide a copy of the relevant Petition to Revoke and any further documents requested by Judge Coleman.

Dated: 12/13/2022


HON A. DOUGLAS LA SOTA
Presiding Judge

Date 12/13/2022
copies mailed/delivered to:

Counsel for Defendant: Tyler M. Allen, 2045 S. Vineyard, Suite 125, Mesa, AZ 85210

Counsel for the State: Eric Yuva, Apache Junction City Prosecutor, 300 E. Superstition Blvd., Apache Junction, AZ 85110-2825

APACHE JUNCTION MUNICIPAL COURT #1149
300 E SUPERSTITION BLVD, APACHE JUNCTION, AZ 85119
(480)982-8250 FAX (480)982-4496

STATE OF ARIZONA
Plaintiff

Case Number: M1149TR2022000238

VS

MINUTE ENTRY/ORDER

DENISE A RAEFSKI

Defendant.

This court has always been committed to providing the defendant a fair and impartial hearing, and nothing stated by the Court in prior hearings should be interpreted to the contrary.

However, in the interests of preserving public confidence in the impartiality of this court,

IT IS HEREBY ORDERED that Judge LaSota hereby recuses himself from all further proceedings in this case.

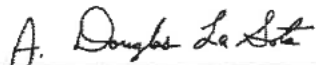
IT IS FURTHER ORDERED reassigning this case to Judge McVey for all further proceedings and the defendant's motion is now moot.

Due to Judge McVey's unavailability on December 21, 2022 at 4:00 pm,

IT IS FURTHER ORDERED resetting the matter to January 25, 2023 at 3:00 pm.

Because the continuance is for the benefit of the defendant,
IT IS FURTHER ORDERED excluding all time between December 21, 2022 and January 25, 2023.

Dated this 14th day of December 2023.



Hon. A. Douglas LaSota
Presiding Magistrate

Date _____
copies mailed/delivered to:

Plaintiff: _____

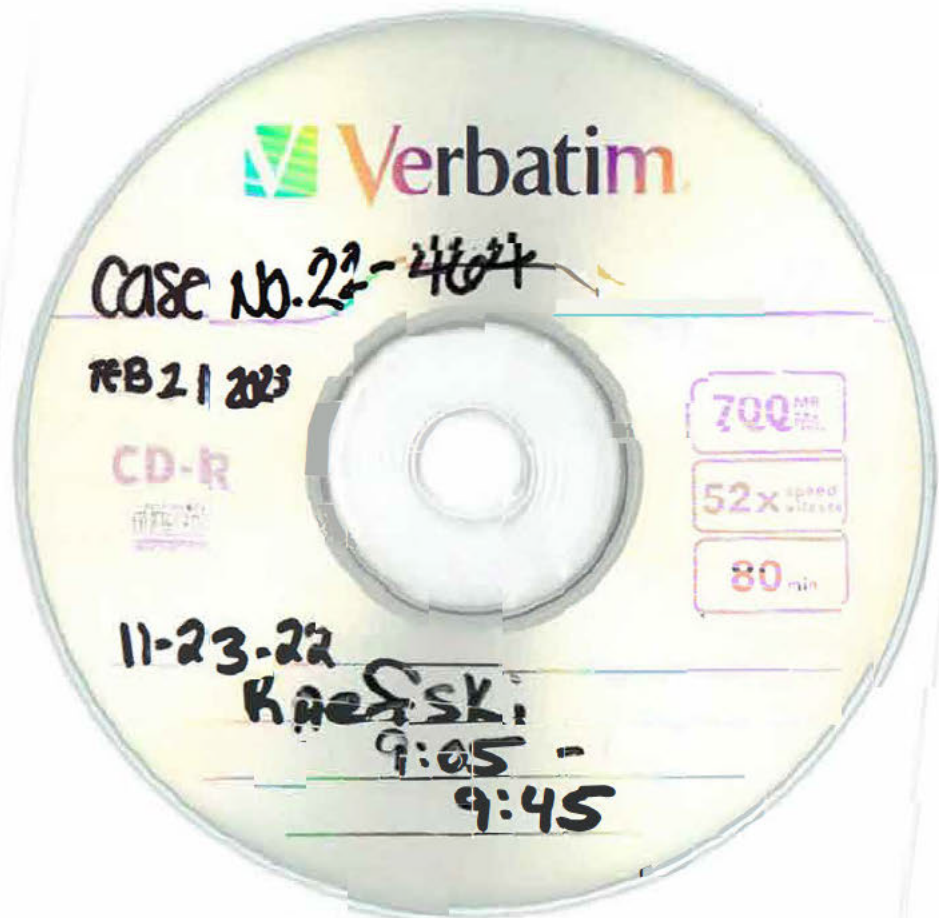
Defendant: _____

Comp Supp 1 - Attach 1

Hmg, CD

22-464

FEB 21 2023



Resp (LaSota)

July 17, 2023

JUL 17 2023

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

Re: Hon. A. Douglas LaSota
Case No. 22-464

Members of the Commission:

The following is Judge A. Douglas LaSota's response to the Complaint filed by Mr. Tyler Allen dated December 1, 2022.¹

Judge LaSota is the Presiding Judge of the Apache Junction Municipal Court. The Complaint against this judge arises out of a four (4) count criminal complaint (for DUI) filed in that Court against Denise Raefski on May 5, 2022 (No. 2) in that Court. Based on the matters set forth in this response, it is respectfully submitted that Judge LaSota acted appropriately in all respects in this matter and that Mr. Allen's complaint is without merit.

On June 2, 2022, Defendant appeared without counsel pursuant to a summons and signed a waiver of counsel. (No. 4). Thereafter, on the same day, Defendant signed a written plea agreement to enter a plea of guilty to a charge of super extreme DUI. (No. 3).

On September 7, 2022, Defendant appeared before the Associate Judge of the Court (Hon. Michael McVey) and entered her plea to the super extreme DUI charge with an agreement that the remaining charges were to be dismissed. The Defendant was placed on probation and among other things ordered to participate in continuous alcohol monitoring and home detention by enrolling in SCRAM, an alcohol and location

¹ Provided with this response are a series of documents including the Court file. The documents are numbered and referenced in this response by those numbers. The last document provided from the Court file, No. 27, is a Register of Actions which records not only documents filed in the Court but other actions taken including telephone calls and emails.

monitoring system which required her to wear a monitoring device. (No. 9). She did so on October 7, 2022. (Nos. 11).

On October 14, 2022, seven days after the device was installed, SCRAM sent a notice to the Court that the Defendant had tampered with the monitoring device and also advised that alcohol use had been detected for the period October 10, 2022 at 1:21 a.m. to October 11 at 6:30 a.m. This was three (3) days after the device had been installed. (No. 11). On October 19, 2022, SCRAM sent another violation notice to the Court stating that between October 13 at 7:17 p.m. to October 15, 2022 at 8:27 a.m. tampering with the monitor and alcohol use had occurred. (No. 12). On the same day and at the same time, SCRAM sent to the Court a third notice of violation occurring on October 15, 2022 at 9:00 p.m. to October 16, 2022 at 6:02 a.m. This violation involved tampering only. (No. 13). The last two violations resulted in SCRAM inactivating her enrollment in the program. (See Nos. 12 & 13).

On October 19, 2022, an order to show cause was emailed to the Defendant. (See Nos. 27 & 13). This required an appearance by the Defendant on November 14, 2022 regarding the three (3) SCRAM violation reports. It also provided notice that witnesses from SCRAM would be appearing on that date. This also resulted in the City Prosecutor filing a Petition to Revoke the Defendant's probation (No. 14) and an order to appear for arraignment on the Petition to Revoke. (No. 15). Defendant was required to appear on November 14, 2022 at 3:00 p.m. (No. 13). These documents were filed, mailed and emailed to the Defendant November 7, 2022. See No. 27 entries for October 7, 2022.

On November 14, 2022 at 2:43 p.m., seventeen minutes before she was scheduled to appear for the hearing, the Defendant called the Court and advised that she could not be in Court that day because her interlock on her vehicle was not working. The substance of this call is recorded in the Registry of Actions (No. 27). The Defendant was warned that if she missed her court date a warrant might issue. There is nothing in the Court file which indicates that from the time of the installation of the interlock device (September 1, 2022, No. 8) to the date of the November 14, 2022 appearance, Defendant has experienced any problems with the

interlock device.

Later on November 14, 2022, at 4:19 p.m., the Defendant having failed to appear after a wait of more than one hour, a warrant was issued for the Defendant's arrest and a bond of \$5,000.00 was set. See No. 27 entries for November 14, 2022.

The next day, November 15, 2022, the Defendant appeared at 8:30 a.m. on the "walk-in" docket. She posted the bond of \$5,000.00 and was immediately released. The matter was set for what appears to be a revocation arraignment hearing on November 23, 2022 (No. 16). A recording of the November 15, 2023 hearing is provided. (No. 28). Those proceedings have not been transcribed. The following day, November 16, 2023, Mr. Tyler Allen filed a Notice of Appearance for the Defendant (No. 17) and a Pre-Trial Conference was set for December 12, 2022 at 9:30 a.m. (No. 17.).

On November 23, 2022, the Defendant appeared as ordered and with her counsel, Mr. Allen. A transcript of these proceedings is attached as No. 29. The Court read the bases for the Petition to Revoke and asked whether the Defendant was going to admit or deny the allegations. (No. 29, p. 2, line 18 to p. 3, line 16). In response, Mr. Allen requested a hearing (effectively a denial of the charges). (No. 29, p. 3, line 17 to p. 4, line 3.)

Thereafter, a colloquy occurred between Judge LaSota and Mr. Allen. Although a complete transcript of the November 23, 2022 hearing has been provided (No. 29) the portions of the colloquy which the undersigned believes are the basis for Mr. Allen's complaint are set forth immediately hereafter for the convenience of the Commission:

THE COURT: Let the record reflect that she was convicted back on September 7, ordered to do SCRAM. We got a notice from Scram, including documentation showing that she had tried to tamper with her device.

It was installed on October 7th, and it was already being tampered with on October 10th. And we've got proof from SCRAM violations provided. The second and third violations, so the second violation first. (Indecipherable).

THE COURT: It confirmed that both (Indecipherable) from October 13th to October 15th. That's all during the same time period.

Do you have copies of all this, Counsel?

MR. ALLEN: We do, Your Honor.

(Indecipherable voices recorded)

THE COURT: In terms of obstruction, there are hand prints from October 15th to October 16th. They wrote down October 5th and it was made inactive on October 16th. That's Scram.

So that's set for a petition to revoke. So you put the cart before the horse on doing a hearing.

Are you intending to deny the allegations, Counsel, and have a hearing or what?

MR. ALLEN: Well Your Honor, based on the allegations, what I would request for this morning is that we set this matter for a violation, probation violation hearing for time to be able to do an interview that's fair and representative.

And based on the allegations and the data that you had received in your report, we certainly have some questions that need to be answered as to whether or not the device was actually working properly. After looking at the data, it certainly appears that there could be an issue in that and that needs to be explored prior to appearing.

THE COURT: Let me give you just a little input, Counsel.

If she goes on the stand at a hearing later and lies, it's not going to be a fun time for her, I guarantee you.

MR. ALLEN: Understood, Your Honor.

THE COURT: So - and, and, right now, you know, she doesn't have much credibility with the Court. Because even

when she had an order to show cause date to come and show why, why she hadn't completed her SCRAM, she failed to appear for that court date.

MR. ALLEN: She did, Your Honor.

THE COURT: (Indecipherable) said she wasn't coming, but that still doesn't excuse the fact that she wasn't here when she was supposed to.

MR. ALLEN: Right, she didn't -

THE COURT: She already had issues with this Court. Not even wanting to show up when she's supposed to show up, and wants to blame it on - you know, for the first time, the first time she fails to appear for a court date, she says: Oh, I had problems with my device. I need to get it fixed.

MR. ALLEN: That's correct.

THE COURT: The first time she tells anybody that is when she fails to appear for a court date.

MR. ALLEN: Right.

THE COURT: So you can understand why she's not going to have any credibility with the Court at this point.

Obviously it's the State's burden of proof, and I'll listen to evidence. But if she gets on the stand and lies, the contempt - the contempt sanction is going to be higher, just so you know that.

MR. ALLEN: Understood, Your Honor. But just denying the allegations that there was alcohol consumed by Ms. Raefski while on home detention doesn't mean that she's actually lying. She testifies that she didn't consent to that consumed alcohol.

And also, as far as her failure to appear, there's no disputing that. That's obviously what happened. And she's posted a \$5,000.00 bond to be able to remain out of custody while this matter is now pending.

And quite frankly, Your Honor, she's

complied with every other single term in this court throughout the course of her case. She's never failed to appear other than for that order to show cause hearing.

THE COURT: Since I've been here, there's been two occasions that have this kind of stuff going on.

Everybody else has no problems with all with the SCRAM, no problems with tampering devices, no problems with alcohol being detected. There's two people that have this kind of stuff going on.

The odds are going to be kind of overwhelming that, you know, there's probably not something wrong with SCRAM since everybody else doesn't have a problem with it. And all of a sudden, its her.

And then she doesn't tell anybody that she has a problem with the device until she's failing to show up for her court date. That doesn't give her much credibility to start with.

(Indecipherable voices recorded)

THE COURT: (Indecipherable) evidence. I haven't made up my mind, obviously. I will listen to both sides first - -

MR. ALLEN: Understood.

THE COURT: - and then decide.

But I just want to give you a heads - up. Because we've had problems with some people on depositions who ultimately get on the stand and lie through their teeth.

Ask Mr. Yuva what happened to the last one who sat there and lied to us. And we had to have several witnesses testify as to why she was lying, and she finally admitted that she was lying. By that time it was too late. She got a bunch of extra jail time over it.

MR. ALLEN: Understood.

THE COURT: Right now she's facing just what she -

what she's supposed to do on a SCRAM but she didn't do jail time for the time she was supposed to be on jail time.

Mr. ALLEN: Right.

THE COURT: It can go up and down.

Just giving you that fair warning, Counsel. So you might want to have a chat with your client before you -

MR. ALLEN: Well -

THE COURT: I mean, I know you won't, but -

MR. ALLEN: Absolutely, Judge. And she's hired private counsel because she's taking this matter so seriously. She already served jail time in this case.

THE COURT: I know. But she had a suspended jail sentence (Indecipherable) SCRAM -

MR. ALLEN: Absolutely.

THE COURT: -- SCRAM on the condition that you don't mess with the device -

MR. ALLEN: Absolutely.

THE COURT: - and you don't have alcohol, both of which are shown in this case. Multiple. And not just on one occasion, multiple occasions.

MR. ALLEN: Right.

THE COURT: So if she's found in violation, she going to have to do the whole SCRAM period because she's violated it. So whatever time is suspended was the number of days on SCRAM. If that is proven by the prosecutor at a hearing, then that's what's going to be imposed at a minimum.

MR. ALLEN: Understood.

THE COURT: Plus the fact that she's violated her conditions of probation. That might come into play too.

(Indecipherable discussion in that area as well.

So I guess we'll just set it up for a -
for a petition to revoke hearing.

Mr. YUVA, do you have anything you wish to add?

MR. YUVA: (Indecipherable)

The remaining portion of this hearing is included in the transcript (No. 29).

Judge LaSota, having expressed his concerns about the Defendant's credibility, set a hearing date as requested. It was left to the Defendant and her counsel, Mr. Allen, to determine what to do and their choice was to file a Notice of Change of Judge for Cause. (No. 21).

In his complaint, Mr. Allen characterizes the statements made by the Court as "a tirade of comments, threats and advice." He asserts Judge LaSota pre-judged his client's credibility "without any basis in fact." He asserts that the Court implied that if the Defendant disputed the evidence from SCRAM it would consider that testimony as false.

The assertion that the Court's comments were a "tirade" or "threats" is simply not the case. Unquestionably, Judge LaSota's comments were a blunt, plain-spoken advisory that the Court had serious concerns about the Defendant's credibility because she had purposely chosen to not appear at a scheduled Court hearing for the SCRAM violations and gave notice of this about 17 minutes before that scheduled appearance. The Court's comments were explicitly based upon facts and circumstances appearing in the file and the matter of the Defendant's wilful non-appearance for a scheduled court date was undisputed.

As far as the assertion that the Defendant's testimony would be considered false, that is simply not true. At least twice, the Court stated that it would listen to the evidence from both sides. A Defendant is not entitled to a presumption that the Court's statements about its ability to fairly decide a matter are not true. However, the Defendant was entitled to question the ability of the Court to judge her matter fairly and the Court's statements provided her

with a basis to disqualify the judge if she believed he could not be fair. She exercised that right by filing a Notice of Change of Judge for Cause. (No. 21).

Upon receipt of the Notice of Change of Judge for Cause, the matter was transferred to a neighboring Justice Court for resolution of the Notice of Change of Judge for Cause. (No. 22). Thereafter, Judge LaSota recused himself (No. 23) making resolution of the Notice of Change of Judge for Cause unnecessary and the case was re-assigned to the associate judge in the Apache Junction Municipal Court (Michael McVey). Upon that assignment, the Defendant and Mr. Allen sought to disqualify Judge McVey (No. 24). That request was denied due to the fact that Judge McVey had been the judge who took the Defendant's plea. (No. 25). Thereafter, on January 25, the Defendant admitted the probation violations and was sentenced. (No. 26).

Concerning the Court's comments referenced above, it is important to note that *all of the matters referenced by the Court which prompted the Court's concerns about the Defendant, arose from Judge LaSota's knowledge of matters in the court file.* In the case of the SCRAM violations, there were three (3) separate and distinct violations all three of which alleged tampering with the device and two of which also showed alcohol use. Although these were just "allegations" a judge is not required to ignore his experience and the likelihood that a SCRAM device will have consecutive malfunctions of its equipment showing both tampering and alcohol use as opposed to a violation by a defendant is rather small. A review of the transcript demonstrates that Judge LaSota adverted to that experience in his comments. (No. 27, at p. 6, lines 1 - 15). Although not yet proven at a hearing, it was not unreasonable for this judge or any judge to form some preliminary opinion as to whether the three (3) SCRAM violations were innocent.

The other matter adverted to by the Court in its comments, the Defendant's wilful violation of the order requiring her appearance on November 14, 2022, is of particular significance. It is hard to imagine any judge would be pleased with a Defendant who, being on probation, purposely skips a scheduled court appearance for a probation violation a few minutes before it is scheduled to begin. There is no dispute that the Defendant wilfully violated the Court's order. Further, the timing of her alleged inability

to appear would raise a reasonable suspicion with even a gullible person. As stated above, the Defendant contacted the Court about 17 minutes before she was required to appear to advise that she was not coming. She chose to not appear despite being advised that a warrant for her arrest could issue. She had notice that witnesses from SCRAM would be called. It is not unreasonable for any judge to develop an unfavorable opinion of any defendant who knowingly and willingly violated the Court's order under these circumstances.

Judge LaSota posits that the source of alleged bias and prejudice is a significant factor in evaluating an issue such as this. The basis for this is that frequently a judge assigned to a case will unavoidably learn things about the matter and the defendant from the Court file and the proceedings before him. On occasion some of those things will reflect poorly on the Defendant and unavoidably impact the judge's view of the defendant. This is particularly true in a criminal case. Thus, as a general matter, a claim of bias arising out of the knowledge a judge acquires from his handling of a matter is not a basis for alleging bias, although that is not an absolute rule.

In *Liteky v. U.S.*, 510 U.S., 540 (1994) (Opinion attached as No. 30) Justice Scalia, writing for the Court, stated:

"Second, opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or prejudice motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. Thus, judicial remarks during the course of a trial that are critical or disproving of, or even hostile to counsel, the parties or their cases ordinarily do not support a bias or partiality challenge. They may do so if they review an opinion that derives from an extrajudicial source; and they will do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible."

* * *

Not establishing bias or partiality, however, are

expressions of impatience, dissatisfaction, annoyance and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display. A judges ordinary efforts of courtroom administration -- remain immune." *Liteky v. U.S.* 510 U.S. at 555-556. (*Emphasis supplied*)

It is respectfully submitted that the comments of Judge LaSota complained of here must be considered in the light described by Justice Scalia in *Litkey*. See also Rule 2.11(D) Arizona Rules of Judicial Conduct. It would be difficult to imagine any judge who becoming aware of the facts which Judge LaSota was aware of on November 23, 2022 would not have had some, if not all of the concerns which he expressed. It is respectfully submitted that Judge LaSota's expression of his thoughts and concerns were, in this case, understandable, appropriate and likely required. See Comment 5 to Rule 2.11.

In *Liteky*, the Court was considering the application of a federal statute (U.S.C. § 28-445) dealing with judicial recusal.² In discussing that statute, it commented on the fact that the statute "placed the obligation to identify the existence of those grounds [possible bias] on the judge himself, rather than requiring recusal only in response to a party affidavit." This suggestion that a judge may be required by facts or circumstance within his knowledge to reveal his concerns about a party or a lawyer appearing before him was largely the impetus for the Court's comments which prompted the complaint. Comment 5 to Rule 2.11 Code of Judicial Conduct indicates that Judge LaSota's decision to disclose his concerns to the Defendant on the record, was, at a minimum, appropriate (if not required) even if he believed that he could deal with the case impartially.

A review of the remarks set forth above demonstrates that during the colloquy between Judge LaSota and counsel, the judge twice expressed his willingness to listen to the evidence and the fact that he hadn't made up his mind. See No. 29 at p. 5 lines 9-12 and p. 6, lines 17-19.

The facts of this matter demonstrate the following:

² This statute is very similar to Rule 2.11, Arizona Code of Judicial Conduct.

(1) Judge LaSota, based upon his review of the file and his experience as a judge, had developed reasonable concerns in his mind about the Defendant's credibility; (2) Despite his concerns about the Defendant's credibility, he still believed that he could listen to the evidence and deal fairly with the defendant. This was the Court's state of mind when the matter was called on November 23, 2022. Judge LaSota's belief that despite his concerns about the Defendant, he could still be fair and impartial was the reason he did not disqualify himself.

When the hearing commenced on November 23, Judge LaSota had three options: (1) he could remain silent and proceed with the matter despite his concerns; (2) he could disqualify himself without comment and avoid expressing his concerns, despite the fact that he believed that he could still act impartially; (3) he could do what he did, which was to honestly express his concerns but also his belief that he could act impartially and leave the choice of what to do with the Defendant and her counsel.

From Judge LaSota's viewpoint, Option 3 was the most appropriate approach. Option 1 was not acceptable since he believed his concerns should necessarily be expressed before proceeding and concealing those concerns would clearly be unfair. Option 2 was rejected since he did not believe he should disqualify himself if he thought that he could still act impartially. Further, it seems apparent that Judge LaSota felt his concerns about the Defendant should be expressed to her and her counsel. Some might question why this option was not chosen since it is obviously the "safest" option for a judge. However, it is not unreasonable for a judge to refuse to disqualify himself if he believes he can act impartially and that circumstance is clearly anticipated by Comment No. 5 to Rule 2.11. Also, as stated above, he felt he was required to disclose his concerns.

To Judge LaSota, Option 3 offered the best alternative since it forewarned the Defendant and her counsel of the Court's concerns and created an explicit record of those concerns for the Defendant and her counsel to utilize if they believed that Judge LaSota should be disqualified. It also conformed with his belief that the information in the file itself created enough concerns about the Defendant that she

and her counsel should be aware of those concerns, regardless of who might be the judge on the matter.

Unquestionably, Judge LaSota's remarks about the Defendant and her credibility were blunt and to the point. And perhaps his "tone" conveyed that he was less than pleased with the Defendant's conduct in wilfully failing to appear as ordered. The words of Justice Scalia in *Liteky* describing such remarks such as dissatisfaction, annoyance and, perhaps, anger, could fairly be applied. However, that state of mind, considering the facts before him, was not unreasonable or without foundation.

The net result of the colloquy between Court and Counsel on November 23, 2022 was that upon filing of a Notice of Change of Judge for Cause, Judge LaSota disqualified himself and a new judge was assigned. The Defendant appeared before the new judge (Judge McVey) on January 25, 2023 and admitted the SCRAM violations set forth in the Petition to Revoke (No. 14) and thereafter was sentenced for those violations.

To summarize the Complaint with regard to Judge LaSota's colloquy with Mr. Allen: (1) When the matter was called on November 23, Judge LaSota, in good conscience, felt he could not proceed with the matter without advising of his concerns. Comment No. 5 to Rule 2.11 clearly demonstrates that this was appropriate; (2) That same exercise of conscience also satisfied him that he could still be fair; (3) The Defendant and her counsel did not agree; (4) Upon the filing of the Notice of Change of Judge for Cause (No. 21) Judge LaSota deferred to the concerns of the Defendant and her counsel and disqualified himself; (5) Had Judge LaSota not spoken as he did, the Defendant would never had been apprised of the Court's concerns nor a reason or opportunity to exercise her right to seek a change of judge. To the extent that Mr. Allen and the Defendant were concerned about the Court's "tone" in conveying its concerns about the Defendant's credibility, Justice Scalia's remarks set forth above and the nature of the information in the file, particularly the Defendant's failure to appear pursuant to a Court order, provide a more than adequate response.

There are additional issues raised in the Complaint which are also addressed here. Mr. Allen states that immediately after the hearing on November 23, 2022, he spoke

to the prosecutor (Mr. Eric Yuva) about what had transpired and that Mr. Yuva "agreed that Defendant was not going to receive a fair and impartial hearing after having just witnessed Judge's LaSota's comments and demeanor." This assertion is not true. The undersigned interviewed Mr. Yuva regarding this assertion. Mr. Yuva denied saying this and also advised that upon learning that Mr. Allen had made this representation to the Commission in his Complaint, he remonstrated with him and advised him that it was not true. If requested, Mr. Yuva will provide his affidavit or testimony to that effect.

Another facet of the Complaint which should be addressed is the Affidavit of the Defendant, Ms. Reafski. Ms. Raefski posits in her affidavit that she was unable to appear on November 14, 2022 "on short notice." The Court record in this case demonstrates that the Defendant was notified by email of the hearing on November 14, 2022 as well as a copy of the documents mailed to her the same day. Thus, the Defendant had seven (7) days notice of the November 14, 2022 hearing. The Commission may judge for itself whether this is "short notice."

Further regarding the Defendant herself and her concerns about the Court, Mr. Allen suggests in his Complaint that due to the demeanor displayed by Judge LaSota at the Revocation Arraignment Hearing on November 15, 2022, the Defendant had concerns about Judge LaSota's ability to be fair. Attached as an Exhibit (No. 28) is the recording of those proceedings. The Commission may judge for itself regarding the demeanor of Judge LaSota on that date.

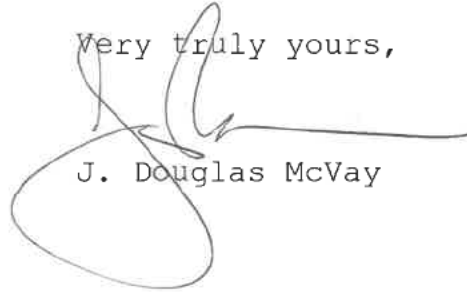
Lawyers are expected to always keep in mind their obligation of candor to the tribunal. Rule 2.11 of the Arizona Code of Judicial Conduct and particularly Comment No. 5 to that Rule impose upon a judge a somewhat similar obligation as it relates to possible bias and partiality. The comments of Judge LaSota's complained of here not only demonstrates that he was not only aware of his obligation of candor to the parties and counsel but was explicit and honest in detailing his concerns and the reasons for them.

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

Judicial Commission
Page 15
July 17, 2023

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,

A handwritten signature in black ink, appearing to be "J. Douglas McVay", with a large, stylized loop at the bottom.

J. Douglas McVay

JDM/sv

Enclosures

DOCUMENTS RE: CASE NO. 22-464

No. Document	Filed
INDEX TO COURT FILE STATE V. RAEFSKI	
1. Certificate of Completion	
2. Summons 10 Print Fingerprint Req. Criminal Complaint	5/5/22
3. DUI Plea Agreement & Hearing Notice Pre-Trial Conference	6/2/22
4. Notice of Right to Counsel & Waiver (signed)	6/2/22
5. Hearing Notice Pre-Trial Conf.	6/21/22
6. Motion for Appointment of Counsel (granted)	6/21/22
7. Hearing Notice - Sentencing	7/13/22
8. Interlock Proof of Installation	9/1/22
9. Guilty Plea Proceeding; Judgment & Sentence Order; Commitment Order; Payment Agreement; Proof of Restitution (blank); Payment Agreement (signed); Waiver of Right to Appeal, etc.; Order for Compliance; probation order; Commitment Order; SCRAM Info; MADD Information;	9/7/22
10. Certificate of Completion	9/21/22
11. SCRAM Install Certificate; SCRAM	

Notice of Non-Compliance (Tampering & alcohol use from 10/10/22 to 10/11/22	10/14/22
12. SCRAM Notice of Non-Compliance from 10-13-22 to 10/15/22 (Tampering & alcohol use)	10/19/22
13. SCRAM Notice of Non-Compliance from 10/15/22 to 10/16/22 (Tampering); Order to Show Cause	10/19/22
14. Petition to Revoke Probation and Order (Request for Summons)	10/26/22
15. Summons & Hearing Notice (appearance req. on 11/14/22	7/11/22
16. Release Order (\$5,000.00 Bond) & Bond receipt	11/15/22
17. Notice of Appearance (Tyler Allen) & Hearing Notice (Pre-Trial Conf) & Hearing Notice Prob. Revocation Pre-Trial Conference	11/16/22
18. Hearing Notice Probation Rev. (Signed by Deft)	11/23/22
19. Email to Apache Junction Munic. Court from Tyler Allen requesting audio recording	11/23/22
20. Request for Records by Tyler Allen	11/23/22
21. Notice of Change of Judge for Cause & Request for Oral Argument with Attachment (Deft's	

- | | |
|---|----------|
| Affidavit | 12/1/22 |
| 22. Minute Order transferring matter to Justice Court No. 6, Pinal Co. For determination of Notice of Change of Judge | 12/13/22 |
| 23. Minute Order Judge LaSota recuses himself from all further proceeding; matter reassigned to Judge Michael McVey; Deft's Change of Judge Request Declared Moot | 12/14/22 |
| 24. Notice of Change of Judge filed by Deft. Rule 10.2) re: Judge Michael McVey (Associate Judge of Apache Jct.Municipal Court) | 12/21/22 |
| 25. Minute Order denying Deft's Req. For Change of Judge (Judge McVey) | 1/3/23 |
| 26. Admission of Violation of Probation; Probation Violation Disposition Sheet; Commitment Order; Payment Agreement & Restitution Sheet | 1/25/23 |
| 27. Apache Junction Municipal Court Register of Actions for State v. Raefski | |

ADDITIONAL RELEVANT DOCUMENTS

- 28. Recording of 11/15/22 proceedings
- 29. Transcript of 11/23/22 proceedings
- 30. Opinion *Liteky v. U.S.* 510 U.S. 540 (1994)

1

Pathway Counseling

Substance Abuse Certificate of Completion

Client Full Name:

Denise Raefski

Client Date Of Birth:

Date of Completion:

4-10-22

Referral Agency/Name:

Client Id Number:

Program Assigned:

DUI Program 36 Hours

Pathway Counseling

18933 E San Tan Blvd #123

Total Number of Hours Completed:

36

Queen Creek, AZ 85142

☒ DUI Education + Pre/Post Test Completed

564 N Idaho Rd #10

Apache Junction, AZ 85119

480-235-6680

Staff Signature: *Ed McIntosh*

Ed McIntosh, MA LAC Executive Director

I approve this document

Signed: 04/10/2022 11:59 AM

Pathway Counseling

Substance Abuse Certificate of Completion

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Denise Raefski

Client Date Of Birth:

Date of Completion:

4-10-22

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Ed McIntosh, MA LAC Executive Director

I approve this document

Signed: 04/10/2022 11:59 AM

2

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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	Case No: M1149TR2022000238 Complaint No: 3239	SUMMONS (TEN PRINT FINGER PRINT REQUIRED)
--	--	---

TO: DENISE A RAEFSKI

[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.**

**Pursuant to Arizona Supreme Court Administrative Order 2020-75, court participants are required to wear
their own mask or face-covering and will be subject to COVID-19 health screening at BOTH the Police
Department for fingerprinting and all court appearances.**

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
COUNT 3- 28-1382A1 - DUI EXTREME BAC .15 - .19 1ST - MISD. 1ST DEGREE
COUNT 4- 28-1382A2 - DUI EXTREME BAC .20 OR MORE 1ST - MISD. 1ST DEGREE
DR#: 211104015
☐ DOMESTIC VIOLENCE

YOU ARE ORDERED TO REPORT on **06/02/2022** 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.

A. Douglas LaSota

Date: 05/05/2022

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.

Eric Yuva
 Assistant City Attorney
 City of Apache Junction
 300 East Superstition Boulevard
 Apache Junction, AZ 85119
 (480) 474-2604
 eyuva@apachejunctionaz.gov
 AZ Bar No. 023545
 Attorney for State

IN THE APACHE JUNCTION MUNICIPAL COURT #1149

COUNTY OF PINAL, STATE OF ARIZONA

STATE OF ARIZONA)
 Plaintiff,)

NO. TR 2022000238

CRIMINAL COMPLAINT

v.)

3239

DENISE A RAEFSKI,)
 Defendant.)

Mailing Address:

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

The complainant herein personally appears and, being duly sworn, complains of his 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 November 04, 2021, Defendant, while in the area of 1887 E. Broadway Ave., Apache Junction, Arizona, did drive or was in actual physical control of a vehicle while under the influence of any alcohol or drug and was impaired thereby to the slightest degree, in violation of A.R.S. Sections 28-1381(A)(1), 13-707 and 13-802, a class one misdemeanor.

[illegible]

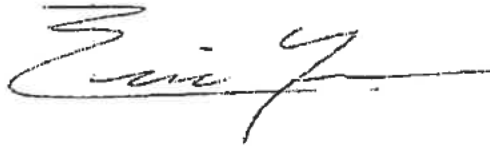
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Complainant

SUBSCRIBED AND SWORN TO before me this 3 of May, 2022.


Judge, Apache Junction City Court

XX Summons

Joel Eagleton- 381
Referring Officer

3

IN THE APACHE JUNCTION MUNICIPAL COURT
COUNTY OF PINAL, STATE OF ARIZONA

THE STATE OF ARIZONA,

Plaintiff,

vs.

Denise Raefski,

Defendant.

CASE NUMBER: TR2022000238

DUI 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 4 – **Super Extreme DUI .20 or more**, a class one misdemeanor in violation of A.R.S. §§28-1382(A) (2), 13-707 and 13-802, committed on ~~11/24/2021~~ ⁰⁴.

The maximum penalty is 6 months in jail, a \$2500 fine plus surcharges and assessments and 5 years probation. The mandatory minimum penalty with no prior DUI convictions is 45 days in jail, a \$500 fine plus surcharges, a \$250 assessment, two \$1000 assessments, completion of a substance abuse screening session and education and treatment program and the Defendant is required to equip any motor vehicle the Defendant operates with a certified ignition interlock device for 12 months. The Court at sentencing may suspend all but 14 consecutive days of jail if the Defendant equips any motor vehicle the Defendant operates with a certified ignition interlock device for 12 months. Unless the driving privileges of a Defendant convicted of DUI, with no prior convictions, has been suspended by the Motor Vehicle Division pursuant to ARS 28-1321 or 28-1385, said privileges shall be suspended by the Motor Vehicle Division upon notice of the conviction. If the Defendant was under the age of 18 years of age when the offense was committed, the Motor Vehicle Division will suspend the Defendant's driving privileges for 2 years upon notice of the conviction. The mandatory minimum penalty with a prior conviction within 84 months is 180 days jail, a \$1000 fine plus surcharges, a \$250 assessment, two \$1250 assessments, a one year revocation of driving privileges, completion of a substance abuse screening session, education and treatment, 30 hours community restitution work, and Defendant is required to equip any motor vehicle the Defendant operates with a certified ignition interlock device for not less than 12 months. A third conviction within 84 months or a conviction while the Defendant's driver license or driving privileges are suspended is a class 4 felony. ANY CONVICTION FOR A VIOLATION OCCURRING AFTER 8-2-2018 WILL RESULT IN MVD ORDERING THE DEFENDANT TO COMPLETE TRAFFIC SURVIVAL SCHOOL.

On the following understandings, terms and conditions:

1. **That the Defendant will receive the following sentence:**

The Defendant shall be placed on 24 months of unsupervised probation with the following terms:
45 consecutive days in jail (no 2 for 1) of which 31 days are suspended upon Defendant equipping any motor vehicle the Defendant operates with a certified ignition interlock device for a period of 12 months; Alcohol/Drug Abuse Screening and successful completion of education/counseling; Successfully complete Impact Panel at Mothers Against Drunk Driving; \$3,376.68 in fines, fees and assessments, plus a \$20.00

time payment fee if the amount cannot be paid on the day of sentence. 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. The State has no objection to Defendant serving 80 percent of jail term in the Court's home detention protocol. If Defendant is allowed to serve home detention, Defendant agrees to pay electronic monitoring fees.

2. That the parties stipulate to the following additional terms:

Defendant shall attend one Alcohol Impact Session sponsored by MADD. Written proof of attendance shall be provided to the court within 3 months. Failure to provide official proof of attendance will subject Defendant to serving suspended jail time. **AVOWAL:** The Defendant avows to the Court as part of this plea agreement that he/she has disclosed to the State the existence of any other pending, non-adjudicated DUI related arrests, charges, or citations in this or any other jurisdiction. The Defendant avows to the court that he/she has disclosed to the State the existence of any other DUI related incidents occurring within 84 months of the current violation date that resulted in a DUI related conviction in this or any other jurisdiction.

3. 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.

4. 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.

5. 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.**

6. 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.

7. 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.

8. **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.

9. **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 6/2/22

X Denise Rzepski 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 6/2/22

Kenneth M. Rzepski 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 6/2/22

Eric Yuva
Eric Yuva
City Prosecutor

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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238 Complaint Number: 3239	HEARING NOTICE-PRETRIAL CONFERENCE
--	--	---------------------------------------

This matter has been scheduled for Pre Trial Conference on 06/21/2022 at 9:00AM.

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: 06/02/2022

Judge Name: HON MICHAEL R. MCVEY

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 _____

4

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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	CASE NO: M1149TR2022000238 COMPLAINT NO: 3239	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
3. DUI EXTREME BAC .15 - .19 1ST Which is MISD. 1ST DEGREE
4. DUI EXTREME BAC .20 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: 06/02/2022 Defendant: Denise Raelphi 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: 06/02/2022 Judicial Officer's Signature

A. Douglas Le Sota

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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: M1149TR2022000238	HEARING NOTICE-PRETRIAL CONFERENCE
Vs	Complaint Number: 3239	
DENISE A RAEFSKI Defendant		

This matter has been scheduled for Pre Trial Conference on 07/13/2022 at 10:30AM.

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: 06/21/2022

Judge Name: HON A DOUGLAS LASOTA

Judge Signature: *A. Douglas La Sota*

Defendant Signature: *Denise Raefski*

Defendant Address:

☐ **Current Address on file:**

☐ **Current Phone number on file: :**

Check either/both above only if correct

Corrected Mailing _____

Corrected Phone Number _____

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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 DENISE A RAEFSKI Defendant	CASE NO: M1149TR2022000238 COMPLAINT NO: 3239	MOTION FOR APPOINTMENT OF COUNSEL
--	--	--------------------------------------

MOTION FOR APPOINTMENT OF COUNSEL

Defendant moves for the appointment of Counsel and declares that Defendant's financial circumstances will not allow the hiring of a private attorney in this case.

Signature: Denise RaeFSKI Date: 06/21/2022

ORDER

☒ Motion for Court Appointed Counsel is granted.
(Check if applicable)

☐ A financial assessment is ordered for a recommendation to the Court as to defendant's eligibility and any contribution amount to the cost of the court appointed attorney.

☐ \$ _____ for financial assessment.

☒ \$ \$125.00 for contribution to the cost of the court appointed attorney.

You MUST pay this fee BEFORE your next court date.

☒ Legal Services to be provided by KAREN NICELY

Phone No. _____

☐ Motion for court appointed attorney is denied.

A. Douglas LaSota

HON A DOUGLAS LASOTA
Judicial Officer

Date: 06/21/2022

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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 DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238 Complaint Number: 3239	Hearing Notice - SENTENCING
--	--	-----------------------------

This matter has been scheduled for a SENTENCING on 09/07/2022 at 11:00AM at the above address.

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 and / or driver license being suspended.

If you are found guilty, all fines and fees are due on the date of sentencing.

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 non-appearance 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, which will be enforced if necessary, by your arrest.

[] If you are found or plead responsible for disobeying a red- light traffic signal, including flashing stop signals, you will be ordered by the Motor Vehicle Division to successfully complete traffic survival school.

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

Contact the court if you need special accommodations, such as assistive devices or interpreters.

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

You are required to notify the Court of any change of address in order to continue receiving court notices.

Date: 07/13/2022

Judge Name: HON A DOUGLAS LASOTA

Judge Signature: A. Douglas La Sota

Defendant signature: Denise Raelfski

Defendant Address:

☒ **Current Address on file:** _____

☒ **Current Phone number on file:** _____

Check either/both above only if correct

Corrected Mailing _____

Corrected Phone Number _____

8



Mail Drop 530M
Ignition Interlock Unit
PO Box 2100
Phoenix AZ 85001-2100

IGNITION INTERLOCK PROOF OF INSTALLATION

99-0703 R08/19 azdot.gov

Customer Name: DENISE RAESFKI DOB: _____ AZ Customer #: _____
Manufacturer: LifeSafer Ignition Interlock Install Date: 9/1/2022 1:58:07 PM
Installing Location Name: Cre8tive AutoWorks
Address: 1015 N McQueen Road Suite 162 City: Gilbert State: AZ Zip: 85233

I understand the following (please initial):

- DL How to use the certified ignition interlock device and operating the motor vehicle the device is installed in.
- DL Cleaning and caring for the certified ignition interlock device.
- DL Identifying and addressing vehicle malfunctions or repairs that may affect the certified ignition interlock device.
Example: Changing the battery.
- DL How to obtain service and answers to any questions for the certified ignition interlock device.
- DL How drinking alcohol or the consumption or use of certain items before a test may result in a reading of fail.
- DL What will happen after failing a start-up breath alcohol test.
- DL What events or actions will result in a lock-out of the certified ignition interlock device.
- DL What actions will result in a violation under A.R.S. § 28-1461 and that all violations are automatically reported to MVD.
- DL What will happen after a participant has a set of three valid consecutive and substantiated missed rolling retests within an 18 minute period; and that a participant shall not avoid compliance with the rolling retest requirement by turning off a motor vehicles ignition. I also understand that I have (6) minutes to complete each rolling re-test.
- DL How the device shall not be removed, except by the device manufacturers certified technician.
- DL How noncompliance with a regularly scheduled calibrations shall result in suspension under A.R.S. § 28-1463 of the participants driver privilege until proof of compliance is submitted to MVD under A.R.S. § 28-1461; and the duration of the participants certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461.
- DL The interlock service center is a third party company and has no affiliation with MVD.
- DL I must always practice safe driving when using the device.
- DL A camera and a GPS system are required to be installed in my vehicle. Photographs of the entire cab, including passengers, will be captured once the breath sample is given.
- DL Regardless of my installation date, in order to begin my required interlock time with MVD, I must present MVD this proof of installation and ensure all other statutory requirements are met or the cause for the action is removed.

I comfortably demonstrate the following:

- DL A properly delivered breath sample.

I have received and understand the following:

- DL The manufacturers written instructions/operator manual.
- DL The ADOT Motor Vehicle Division Certified Ignition Interlock (CCID) and/or the Special Ignition Interlock Restricted Drivers License (SIIRDL) Brochure.

Technician Signature: _____

Technician ID#: 025LSMG00097 Date: 9/1/2022

Customer Signature: Denise Raesfki

Phone Number: _____

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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 DENISE A RAEFSKI Defendant	CASE NO: M1149TR2022000238	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: 28-1382A2 - MISD. 1ST DEGREE - DUI EXTREME BAC .20 OR MORE 1ST, CHARGE COUNT 04
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: First Offense 28-1382A2: Minimum: 45* days jail, completion of alcohol/drug screening and treatment, \$500 fine plus penalties and surcharges, \$250 DUI abatement fund fee, \$1000 prison construction fund fee, \$1000 public safety Fund Fee. Maximum: 60 months of probation, 180 days jail, alcohol screening and treatment, \$2500 fine plus penalties and surcharges, \$250 abatement fund fee, \$1000 prison construction fund fee, \$1000 public safety Fund Fee * Subsection I-31 days can be suspended if Defendant installs and keeps interlock in vehicle for 12 months, if HDP eligible, Defendant can serve 3 days in jail and 11 days on HPD.
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: 09/07/2022

Judge Name: Honorable Michael R. McVey

Judge Signature: 

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: 

Defendant attorney bar no- 

Defendant Attorney Signature:

Interpreter: _____

480-982-8250

STATE OF ARIZONA vs DENISE A RAEFSKI

Case Number : M1149TR2022000238

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ Amended

Date of Birth

Attorney for State State of Arizona Attorney for Defendant NICELY, KAREN

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): 3239

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 \$4,057.73 which includes the following:

CHARGE	DESC/CLASS	DISPOSITION	DISP.DATE	FINE AMT	REST.AMT
28-1381A1	DUI LIQUOR/DRUGS/VAPORS 1STMISD. 1ST DEGREE	44-CHARGE DISMISSED BY PROSECUTOR	09/07/2022		
28-1381A2	DUI LIQUOR BAC .08 OR MORE - 1STMISD. 1ST DEGREE	44-CHARGE DISMISSED BY PROSECUTOR	09/07/2022		
28-1382A1	DUI EXTREME BAC .15 - .19 1STMISD. 1ST DEGREE	44-CHARGE DISMISSED BY PROSECUTOR	09/07/2022		
28-1382A2	DUI EXTREME BAC .20 OR MORE 1STMISD. 1ST DEGREE	11-PLEA GUILTY/RESP SENT IMPOSED	09/07/2022	<u>\$3223.60</u>	

And the following Case Fees:

10% Surcharge - Prosecutor Recovery Fee	<u>\$8.60</u>
68% Surcharge - Prosecutor Recovery Fee	<u>\$58.48</u>
GPS Monitoring Fee	<u>\$200.05</u>
INCARCERATION FEES IMPOSED	<u>\$481.00</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 45 Jail Days Imposed Credit for 0 days time served
31 days of Jail Sentence is suspended Serve 14 days in jail
 Comments: TO SERVE 3 DAYS PCSO AND 11 DAYS HOME DETENTION

480-982-8250

RAEFSKI, DENISE A

Case Number : M1149TR2022000238

JUDGMENT AND SENTENCE ORDER

Assigned Courtroom :

☐ Amended

PROBATION

Defendant is placed on Unsupervised Probation for 24 months starting on 09/07/2022

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 12/07/2022.

Complete SCREENING & ORDERED TREATMENT screening/classes/treatment/service as directed, by 12/07/2022.

Comments:

FUTURE HEARING - NOT APPLICABLE

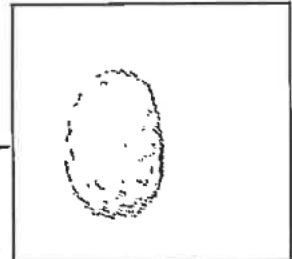
Appear at a _____ on _____ at _____ in Courtroom _____

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

Date

9/7/22
9/7/22
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: 1625 S SIXSHOOTER APACHE JUNCTION - ARIZONA 85119

☐ Current Phone Number on file: 201-983-3264

Check either/both above only if correct

Please provide correct Address and/or Phone Number:

Corrected Mailing

Address: _____

Corrected Primary Phone Number: _____

Denise Raelski
Defendant's Signature

9/7/22
Date

480-982-8250

RAEFSKI, DENISE A

Case Number : M1149TR2022000238

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.

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ, 85119
Phone: 480-982-8250 Fax: 480-982-4496 EMAIL: 1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant Date of Birth:	Case No: M1149TR2022000238	COMMITMENT ORDER
--	----------------------------	------------------

Date of Violation: 11/04/2021 Charge(s): 28-1382A2 - DUI EXTREME BAC .20 OR MORE 1ST

DR: AJP211104015

To the Sheriff of this County:

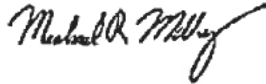
IT IS ORDERED that the above named Respondent/Defendant shall be confined to the PINAL COUNTY JAIL under the terms stated below

☒ [X] for a period of 3 days, Give Credit For: 0 Days Time Served, commencing 09/12/2022
☐ [] unless he/she purges the civil contempt by paying \$ _____ in cash.

IT IS FURTHER ORDERED that the Defendant shall not be released from custody during the period of incarceration except as specifically provided herein.

FURTHER ORDERED that the Defendant's term of commitment are as follows:

- ☒ [X] Defendant shall report to the Pinal County Jail, 971 Jason Lopez Circle Bldg. B, Florence, AZ on:
Date: 09/12/2022 Time: 10:00AM to serve his/her sentence.
- ☐ [] Defendant is eligible for work release provided that he/she meets the Sheriff Department's Work Release Program requirements.
- ☐ [] Defendant shall serve his/her time in custody on weekends ONLY. He/she shall surrender to the Pinal County Jail each Friday by ____ a.m./p.m. and shall be released at ____ a.m./p.m. the following Sunday.
- ☐ [] Defendant shall be released from the Pinal County Jail on the following days of the week to search for employment: _____, Defendant shall be released at 7:00 a.m. each day he/she is eligible for job search release and shall surrender at 7:00 p.m. each evening.
- ☐ [] _____




Judge Signature:

DATED: 09/07/2022

Judge Name: Honorable Michael R. McVey

I understand the terms of the above sentence and agree to appear at the time (s) indicated in a sober condition, with photo identification and a copy of this commitment order; and that failing to do so could subject me to contempt and a warrant being issued for my arrest. I also understand that I must provide my own transportation.

DATED: 09/07/2022


Defendant

- ☐ [] Defendant did appear as ordered.
☐ [] Defendant DID NOT appear as ordered.

DATED: _____

Sheriff's Officer

Badge #

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 DENISE A RAEFSKI DEFENDANT	CASE NO: M1149TR2022000238 COMPLAINT NO: 3239	PAYMENT AGREEMENT
--	---	--------------------------

Payment Agreement (This is NOT a receipt)

Created on: 09/07/2022 for the total amount of \$ 4077.73

MONTHLY payment due: \$150.00 **(or equivalent community service)** **MONTHLY** payment start date: 10/05/2022

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: _____

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.

[☒] 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.

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.

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.

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 tiwatkins@apachejunctionaz.gov

Parks and Recreation **CONTACT :** Matt King 480-474-5151 or email mking@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 DENISE A RAEFSKI DEFENDANT	CASE NO: M1149TR2022000238 COMPLAINT NO: 3239	PAYMENT AGREEMENT
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Payment Agreement (This is NOT a receipt)

Created on: 09/07/2022 for the total amount of \$ 4077.73

MONTHLY payment due: \$150.00 (or equivalent community service) MONTHLY payment start date: 10/05/2022

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 

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.

[☒] 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 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 #

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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

STATE OF ARIZONA	CASE NUMBER: M1149TR2022000238	WAIVER OF RIGHT TO APPEAL NOTICE OF RIGHT TO POST- CONVICTION RELIEF AND DOMESTIC VIOLENCE CONVICTION WARNINGS
Plaintiff		
Vs.	COMPLAINT NUMBER: 3239	
DENISE A RAEFSKI		
Defendant		

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: 09/07/2022

DEFENDANT SIGNATURE: Denise Raelshi

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 DENISE A RAEFSKI DEFENDANT	CASE NUMBER: M1149TR2022000238 COMPLAINT NUMBER: 3239	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 DENISE A RAEFSKI 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: 09/07/2022

Judge Signature:



Defendant Signature:



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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant DOB	Case Number: M1149TR2022000238 Complaint number: 3239	PROBATION (UNSUPERVISED)
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IT IS THE JUDGMENT OF THIS COURT THAT THE DEFENDANT IS GUILTY OF ARS 28-1382A2 - DUI EXTREME BAC .20 OR MORE 1ST AND IS PLACED ON 24 MONTHS OF UNSUPERVISED PROBATION STARTING ON 09/07/2022. 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 45 days (31 days suspended upon Defendant equipping vehicle with certified ignition interlock device for period of 12 months, successful completion screening and recommended counseling) in the County Jail as directed on commitment order.
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: 09/07/2022

JUDGE SIGNATURE: 

DATE: 09/07/2022

DEFENDANT SIGNATURE: 

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ, 85119
Phone: 480-982-8250 Fax: 480-982-4496 EMAIL: 1149@courts.az.gov

STATE OF ARIZONA Plaintiff	Case No: M1149TR2022000238	COMMITMENT ORDER
Vs		
DENISE A RAEFSKI		
Defendant Date of Birth: _____		

Date of Violation: 11/04/2021 Charge(s) : 28-1382A2 - DUI EXTREME BAC .20 OR MORE 1ST

DR: AJP211104015

To the Sheriff of this County:


IT IS ORDERED that the above named Respondent/Defendant shall be confined to the PINAL COUNTY JAIL under the terms stated below

☒ [X] for a period of 3 days, Give Credit For: 0 Days Time Served, commencing 09/12/2022
☐ [] unless he/she purges the civil contempt by paying \$ _____ in cash.

IT IS FURTHER ORDERED that the Defendant shall not be released from custody during the period of incarceration except as specifically provided herein.

FURTHER ORDERED that the Defendant's term of commitment are as follows:

- ☒ [X] Defendant shall report to the Pinal County Jail, 971 Jason Lopez Circle Bldg. B, Florence, AZ on:
Date: 09/12/2022 Time: 10:00AM to serve his/her sentence.
- ☐ [] Defendant is eligible for work release provided that he/she meets the Sheriff Department's Work Release Program requirements.
- ☐ [] Defendant shall serve his/her time in custody on weekends ONLY. He/she shall surrender to the Pinal County Jail each Friday by _____ a.m./p.m. and shall be released at _____ a.m./p.m. the following Sunday.
- ☐ [] Defendant shall be released from the Pinal County Jail on the following days of the week to search for employment: _____, Defendant shall be released at 7:00 a.m. each day he/she is eligible for job search release and shall surrender at 7:00 p.m. each evening.
- ☐ [] _____



Judge Signature:

DATED: 09/07/2022

Judge Name: Honorable Michael R. McVey

I understand the terms of the above sentence and agree to appear at the time (s) indicated in a sober condition, with photo identification and a copy of this commitment order; and that failing to do so could subject me to contempt and a warrant being issued for my arrest. I also understand that I must provide my own transportation.

DATED: 09/07/2022


Defendant

- ☐ [] Defendant did appear as ordered.
☐ [] Defendant DID NOT appear as ordered.

DATED: _____

Sheriff's Officer

Badge # _____



SCRAM OF ARIZONA REFERRAL ORDER
IN HOME DETENTION AND/OR ALCOHOL MONITORING

APACHE JUNCTION MUNICIPAL COURT

For enrollment: Call: 602-753-2161

Date: 09/07/2022

Defendant: DENISE A RAEFSKI

Arrest No: NA

Case No: M1149TR2022000238

Charges: 28-1382A2 - MISD. 1ST DEGREE - DUI EXTREME BAC .20 OR MORE 1ST, CHARGE COUNT 04

D.O.B.:

Phone #:

Address:

City/State/Zip:

Attorney of Record: Karen Nicely

Program Requirements: (Select all that apply)

- ☐ SCRAM- Alcohol Monitoring
☒ SCRAMx- Alcohol Monitoring & Home Detention
☐ GPS- Electronic Monitoring/Tracking
☐ GPS- Electronic Monitoring with Home Detention
☐ Remote Breath Handheld Device

Requested Time Out: (Select all that apply)

- ☒ Work Hours/week TBD by Provider
☒ School Hours/week TBD by Provider
☒ Treatment Hours/week TBD by Provider
☒ Religious Hours/week TBD by Provider
☐ Other (Please specify below)

Time Ordered to Serve: (Select all that apply)

Duration: # _11_ Days ☐ Months ☐ Years

) _____

- ☐ Summary Probation
☐ Pre-Trial—Until notification to release
☐ Formal Probation
☐ Order to Remove Device

Additional Orders for Installation:

Contact provider on or before: _____

(WITHIN 2 DAYS OF RELEASE JAIL, to serve 3 days PCSO 9/12/22)

Failure to contact provider by the date ordered
may result in a warrant issued for your arrest.

Special Installation Conditions:

Supervising Officer (Please indicate person to be notified for reporting and/or violations):

Contact Name: APACHE JUNCTION MUNICIPAL COURT

Contact Address: 300 E SUPERSTITION BLVD

Phone: 480-982-8250

E-mail: 1149@COURTS.AZ.GOV

Requested Reporting:

☒ Client Enrollment ☒ Client Completion ☒ Violations ☐ Other Reporting Frequency:

BY ORDER OF JUDGE: HONORABLE A DOUGLAS LASOTA



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
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		

Visit maddvip.org to register for a panel

To reschedule a class or for more information, call the MADD Help Desk at 800-426-6233

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					



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 usará 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

10



Certificate

Print This Page



Certificate of Completion

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

Denise Raefski

Completed: 09/20/2022 08:54:16 PM

Case Number: 165fa01e-f119-48b5-bbe2-457e7e8c2f8

Completed at <https://on-line.maddvip.org>

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

SHARING VICTIM STORIES to PREVENT DRUNK DRIVING

Alex Otte

Alex Otte

Mother's Against Drunk Driving
National President

871327 165fa01e-f119-48b5-bbe2-457e7e8c2f8 09/20/2022 08:55:16 PM

Contact MADD at VIPSupport@madd.org with any questions



To find a MADD Victim Impact Panel near you, please visit [maddvip.org](https://www.maddvip.org) (<https://www.madd.org/>). For further assistance regarding the Online VIP, please visit our FAQ Page (<https://on-line.maddvip.org/faq/>) or call 877.ASK.MADD during normal business hours.

Resources

FIND A VICTIM IMPACT PANEL (<https://www.maddvip.org/>)

FAQ (<https://on-line.maddvip.org/faq/>)

PRIVACY POLICY (<https://www.maddvip.org/privacy-policy/>)

Mother's Against Drunk Driving
511 E. John Carpenter Freeway

11

From: Andrea Hunt <ahunt@scramaz.com>
Sent: Friday, October 14, 2022 5:42 AM
To: Apache Junction Municipal Court - Public
Cc: Kelli MacKinnon
Subject: SCRAM Program Installation Certificate for Denise Raefski, Case Number TR2022-000238
Attachments: DeniseRaefskiInstallationCert.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. **

Good morning,

Please see the attached SCRAM Program Installation Certificate for Denise Raefski, Case Number TR2022-000238.

Thank you,



Andrea Hunt | Agent | c. 928-326-3125 | www.scramaz.com

375 Lake Havasu Ave. Suite D, Lake Havasu City AZ 86404

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County: Pinal County

Court: Apache Junction Municipal Court

Re: Denise Raefski

Case No.: TR2022-000238

CERTIFICATE OF INSTALLATION

SCRAM of Arizona, Inc. hereby certifies Denise Raefski has enrolled in the following program(s) as of the 7th day of October 2022:

KM	SCRAM (Continuous Alcohol Monitoring)
KM	SCRAMx (Home Detention and Continuous Alcohol Monitoring)
	Remote Breath
	Electronic Monitoring (Home Detention)
	Electronic Monitoring (GPS)
	Drug Patch

By: Kelli MacKinnon
SCRAM of Arizona Representative

Date: October 7th, 2022

www.scramaz.com

From: Kelli MacKinnon <kmackinnon@scramaz.com>
Sent: Friday, October 14, 2022 1:16 PM
To: Apache Junction Municipal Court - Public
Cc: Andrea Hunt
Subject: SCRAM Program Violation Report: Denise Raefski, Case #: TR2022-000238
Attachments: DRaefskiNonComplianceReport 10142022.pdf

Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

The SCRAM of Arizona Program Tamper Violation is below for **Denise Raefski, Case #: TR2022-000238.**

Ms. Denise Raefski was in non-compliance with the SCRAM of Arizona Program during the following time period:

Confirmed Tamper: Confirmed obstruction/tampering from **10/10/2022 at 1:21 AM to 10/11/2022 at 6:30 AM.** Alcohol is detected during this same time period.

Ms. Denise Raefski was enrolled in the SCRAM of Arizona Program on 10/5/2022 and is still currently active on the program.

Thank you,



Kelli MacKinnon | State Program Manager | d. 602.739.1529 | f. 877.737.9009 | www.scramaz.com

2 North Central Ave, 18th Floor, Phoenix, AZ 85004

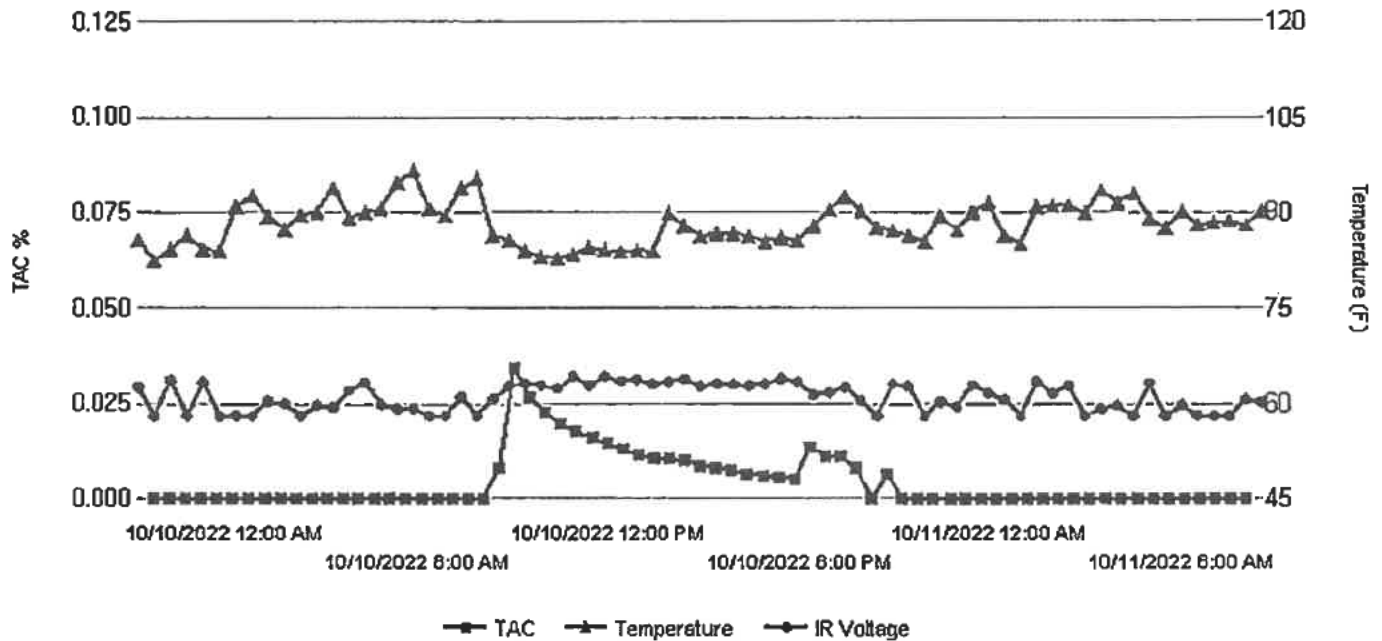
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Confirmed Tamper

When the SCRAM CAM Bracelet was placed on the client, the IR sensor established an initial IR baseline reading. Variation outside of the acceptable variance is an indication of non-compliance and may point toward an attempt to defeat the technology of the CAM Bracelet and prevent alcohol testing.

The graph below isolates the confirmed tamper event

Overlay Graph



Alert Status

Alert has been determined to be a confirmed violation.

******CONFIDENTIAL******

Report for: SCRAM of Arizona

Report Name: SCRAM System Non-Compliance Report

Report Date: 10/14/2022

Readings From: 10/9/2022 - 10/11/2022

Offender Name: Denise Raefski

Case Number: TR2022-000238

Report Prepared By:

Alcohol Monitoring Systems, Inc

12

From: Kelli MacKinnon <kmackinnon@scramaz.com>
Sent: Wednesday, October 19, 2022 4:02 PM
To: Apache Junction Municipal Court - Public; White, Robbin
Cc: Andrea Hunt
Subject: SCRAM Program Violation Report: Denise Raefski, Case #: TR2022-000238 part 1`
Attachments: DRaefskiNonComplianceReport part 1 10192022.pdf

CAUTION. This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

The SCRAM of Arizona Program Tamper Violation is below for **Denise Raefski, Case #: TR2022-000238,**

Ms. Denise Raefski was in non-compliance with the SCRAM of Arizona Program during the following time period:

Confirmed Multi-Day Tampering: Confirmed obstruction/tampering from **10/13/2022 at 7:17 PM to 10/15/2022 at 8:27 AM.** Alcohol is detected during this same time period.

Ms. Denise Raefski was enrolled in the SCRAM of Arizona Program on 10/5/2022 and was made inactive on 10/16/2022.

Thank you,



Kelli MacKinnon | State Program Manager | d. 602.739.1529 | f. 877.737.9009 | www.scramaz.com

2 North Central Ave, 18th Floor, Phoenix, AZ 85004

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******CONFIDENTIAL******

Report for: SCRAM of Arizona

Report Name: SCRAM System Non-Compliance Report

Report Date: 10/19/2022

Readings From: 10/13/2022 - 10/15/2022

Offender Name: Denise Raefski

Case Number: TR2022-000238

Report Prepared By:

Alcohol Monitoring Systems, Inc

Technology

The SCRAM System uses an electrochemical fuel cell to detect alcohol. The fuel cell is the same one used in Drager's Alco-test Breath Devices. At a predetermined interval, a pump in the CAM Bracelet pulls a controlled sample to the alcohol sensor for analysis. The amount of reaction of the fuel cell is interpreted and a Trans-dermal Alcohol Concentration (TAC) is calculated. This calculation is an estimation of the Blood Alcohol Concentration (BAC).

Tamper Technology is contained within the CAM Bracelet and is used to detect several different types of tampers: obstructions, removals, cut straps and damage. The technology used to detect removals and obstruction material is the Infrared (IR) sensor. Combinations of the IR sensor, temperature sensor and the fuel cell voltage can be used to confirm obstructions and removals.

The IR sensor is used to make certain the CAM Bracelet is on the client and to detect materials being placed between the CAM Bracelet and the leg, potentially blocking the faceplate. The IR sensor, which is contained in the SCRAM CAM Bracelet, provides an IR beam between the CAM Bracelet and the leg of the client; the reflection of this beam is then measured in volts.

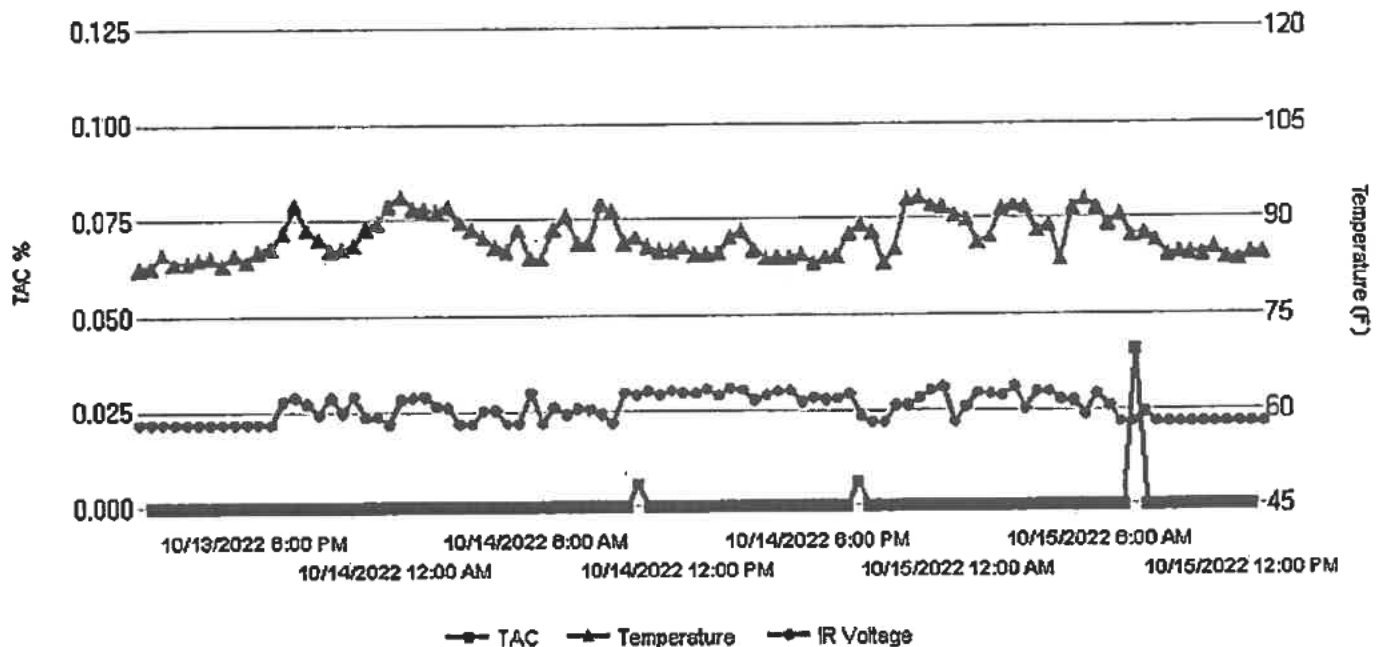
The temperature sensor monitors the CAM Bracelet temperature to detect possible tampers and removals. The temperature sensor is located in the CAM Bracelet, thus impacted by the body's warming effect and the environmental temperature.

Confirmed Tamper

When the SCRAM CAM Bracelet was placed on the client, the IR sensor established an initial IR baseline reading. Variation outside of the acceptable variance is an indication of non-compliance and may point toward an attempt to defeat the technology of the CAM Bracelet and prevent alcohol testing.

The graph below isolates the confirmed tamper event

Overlay Graph



Alert Status

Alert has been determined to be a confirmed violation.

13

From: Kelli MacKinnon <kmackinnon@scramaz.com>
Sent: Wednesday, October 19, 2022 4:30 PM
To: Apache Junction Municipal Court - Public; White, Robbin
Cc: Andrea Hunt
Subject: SCRAM Program Violation Report: Denise Raefski, Case #: TR2022-000238 part 2
Attachments: DRaefskiNonComplianceReport 10192022 part 2.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

The SCRAM of Arizona Program Tamper Violation is below for **Denise Raefski, Case #: TR2022-000238.**

Ms. Denise Raefski was in non-compliance with the SCRAM of Arizona Program during the following time period:

Confirmed Tampering: Confirmed obstruction/tampering from **10/15/2022 at 9:00 PM to 10/16/2022 at 6:02 AM.**

Ms. Denise Raefski was enrolled in the SCRAM of Arizona Program on 10/5/2022 and was made inactive on 10/16/2022 at 1:30pm.

Thank you,



Kelli MacKinnon | State Program Manager | d. 602.739.1529 | f. 877.737.9009 | www.scramaz.com

2 North Central Ave, 18th Floor, Phoenix, AZ 85004

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Technology

The SCRAM System uses an electrochemical fuel cell to detect alcohol. The fuel cell is the same one used in Drager's Alco-test Breath Devices. At a predetermined interval, a pump in the CAM Bracelet pulls a controlled sample to the alcohol sensor for analysis. The amount of reaction of the fuel cell is interpreted and a Trans-dermal Alcohol Concentration (TAC) is calculated. This calculation is an estimation of the Blood Alcohol Concentration (BAC).

Tamper Technology is contained within the CAM Bracelet and is used to detect several different types of tampers: obstructions, removals, cut straps and damage. The technology used to detect removals and obstruction material is the Infrared (IR) sensor. Combinations of the IR sensor, temperature sensor and the fuel cell voltage can be used to confirm obstructions and removals.

The IR sensor is used to make certain the CAM Bracelet is on the client and to detect materials being placed between the CAM Bracelet and the leg, potentially blocking the faceplate. The IR sensor, which is contained in the SCRAM CAM Bracelet, provides an IR beam between the CAM Bracelet and the leg of the client; the reflection of this beam is then measured in volts.

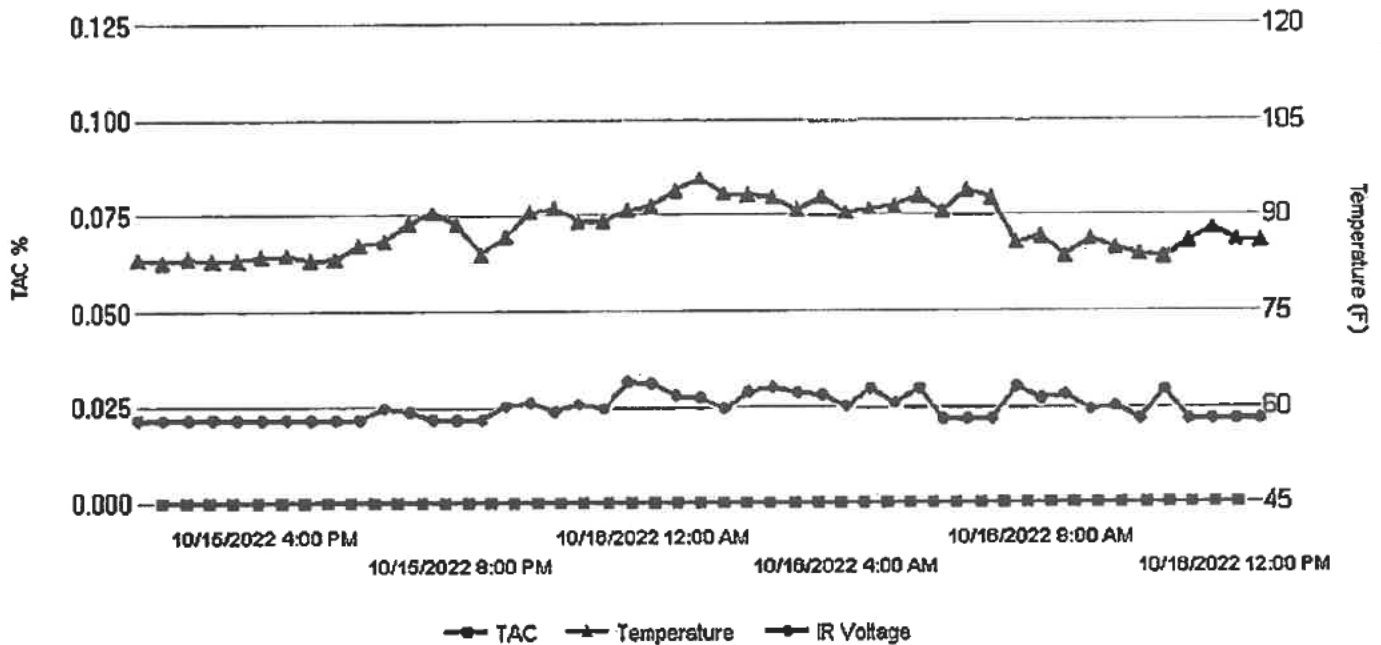
The temperature sensor monitors the CAM Bracelet temperature to detect possible tampers and removals. The temperature sensor is located in the CAM Bracelet, thus impacted by the body's warming effect and the environmental temperature.

Confirmed Tamper

When the SCRAM CAM Bracelet was placed on the client, the IR sensor established an initial IR baseline reading. Variation outside of the acceptable variance is an indication of non-compliance and may point toward an attempt to defeat the technology of the CAM Bracelet and prevent alcohol testing.

The graph below isolates the confirmed tamper event

Overlay Graph



Alert Status

Alert has been determined to be a confirmed violation.

******CONFIDENTIAL******

Report for: SCRAM of Arizona

Report Name: SCRAM System Non-Compliance Report

Report Date: 10/19/2022

Readings From: 10/15/2022 - 10/16/2022

Offender Name: Denise Raefski

Case Number: TR2022-000238

Report Prepared By:

Alcohol Monitoring Systems, Inc

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 DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238	ORDER TO SHOW CAUSE
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ORDER TO SHOW CAUSE

THE STATE OF ARIZONA TO DEFENDANT

An Order to Show Cause Hearing has been set for the following:

FAILURE TO REMAIN COMPLIANT WITH SCRAM OF ARIZONA PROGRAM DUE TO ALCOHOL DETECTION.

IT IS ORDERED THAT A REPRESENTATIVE FROM SCRAM TO APPEAR AND PROVIDE STATUS OF DEFENDANT ENROLLMENT. SCRAM REPRESENTATIVE MAY APPEAR TELEPHONICALLY BY CALLING 480-982-8250.

YOU ARE HEREBY ORDERED TO APPEAR before the APACHE JUNCTION MUNICIPAL COURT for an Order to Show Cause Hearing on 11/14/2022 at 3:00PM in COURT ROOM

If you are required to pay fines, penalties, fees or other financial obligations as a result of a judgement 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 or an attorney or visit the following website www.ajcity.net/court.

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

IF YOU FAIL TO APPEAR AS REQUIRED, A WARRANT WILL BE ISSUED FOR YOUR ARREST

Date: 10/19/2022

Judge Name: HONORABLE A. DOUGLAS LASOTA

Judge Signature: 

APACHE JUNCTION MUNICIPAL COURT
300 E. Superstition Blvd., Apache Junction, AZ 85119
(480) 982-8250

STATE OF ARIZONA,

Plaintiff,

v.

DENISE A RAEFSKI,

Defendant.

NO. TR2022000238

PETITION TO REVOKE PROBATION AND
ORDER

PETITION TO REVOKE

The undersigned on oath states that the above-named Defendant has not complied with all the written terms and conditions of the probation order, namely Defendant has failed to:

- ☐ Provide proof of screen and/or successful completion of counseling within allotted timeframe.
- ☐ Complete CAT.
- ☐ Provide proof of completion of community restitution within allotted timeframe.
- ☐ Provide proof of completion of essay within allotted timeframe.
- ☐ Provide proof of attendance at AA/NA according to the schedule set out in the plea agreement.
- ☐ Remain current on fine/restitution payments.
- ☐ Remain law abiding, in that Defendant on or about _____ committed conduct constituting a violation of A.R.S. §§ _____
- ☐ Serve jail time as ordered by the court.
- ☒ Other: Comply with SCRAM of Arizona due to the detection of alcohol and device tampering _____

Based on the foregoing, the State requests that Defendant's probation be revoked and that a ☐ summons ☐ warrant be issued
OR ☐ notes that a warrant previously issued is currently outstanding.

BY: _____
Eric Yuva, City Prosecutor

Dated: 10/26/22

SUBSCRIBED AND SWORN TO this 26 day of Oct, 2022.

A. G. S. _____
Judge/Clerk/Notary Public

ORDER

IT IS HEREBY ORDERED THAT:

- ☒ Summons to issue for appearance.
- ☐ Warrant to issue for appearance.
- ☐ Warrant or summons was previously issued and is currently outstanding.
- ☐ Other: _____

BY: A. G. S. _____
Judge

Dated: 10/26/22

15

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 DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238	ORDER TO SHOW CAUSE
--	--------------------------------	----------------------------

ORDER TO SHOW CAUSE

THE STATE OF ARIZONA TO DEFENDANT

An Order to Show Cause Hearing has been set for the following:

FAILURE TO REMAIN COMPLIANT WITH SCRAM OF ARIZONA PROGRAM DUE TO ALCOHOL DETECTION.

IT IS ORDERED THAT A REPRESENTATIVE FROM SCRAM TO APPEAR AND PROVIDE STATUS OF DEFENDANT ENROLLMENT. SCRAM REPRESENTATIVE MAY APPEAR TELEPHONICALLY BY CALLING 480-982-8250.

YOU ARE HEREBY ORDERED TO APPEAR before the APACHE JUNCTION MUNICIPAL COURT for an Order to Show Cause Hearing on 11/14/2022 at 3:00PM in COURT ROOM

If you are required to pay fines, penalties, fees or other financial obligations as a result of a judgement 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 or an attorney or visit the following website www.ajcity.net/court.

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

IF YOU FAIL TO APPEAR AS REQUIRED, A WARRANT WILL BE ISSUED FOR YOUR ARREST

Date: 10/19/2022

Judge Name: HONORABLE A. DOUGLAS LASOTA

Judge Signature: 

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

<p>STATE OF ARIZONA Plaintiff</p> <p>Vs</p> <p>DENISE A RAEFSKI</p> <p>Defendant</p>	<p>Case: M1149TR2022000238</p> <p>Complaint: 3239</p>	<p style="text-align: center;">SUMMONS</p> <p style="text-align: center;">(Fingerprint –Not Required)</p>
--	---	--

TO: DENISE A RAEFSKI

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

A PROBATION VIOLATION ARRAIGNMENT FROM A CONVICTION FOR:

COUNT 4- 28-1382A2 - DUI EXTREME BAC .20 OR MORE 1ST - MISD. 1ST DEGREE

DR: 211104015

YOU ARE ORDERED TO REPORT on 11/14/2022 at 3:00PM 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: 11/07/2022

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 advance of a scheduled court proceeding.

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 DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238 Complaint Number: 3239	Hearing Notice - PROBATION REVOCATION ARRAIGNMENT
--	--	--

This matter has been scheduled for a PROBATION REVOCATION ARRAIGNMENT on 11/14/2022 at 3:00PM at the above address.

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 and / or driver license being suspended.

If you are found guilty, all fines and fees are due on the date of sentencing.

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 non-appearance 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, which will be enforced if necessary, by your arrest.

[] If you are found or plead responsible for disobeying a red- light traffic signal, including flashing stop signals, you will be ordered by the Motor Vehicle Division to successfully complete traffic survival school.

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

Contact the court if you need special accommodations, such as assistive devices or interpreters.

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

You are required to notify the Court of any change of address in order to continue receiving court notices.

Date: 11/07/2022

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 _____

16

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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	Case No: M1149TR2022000238 Complaint No: 3239 Booking No: _____	RELEASE ORDER
--	---	----------------------

Defendant DOB: _____

Complaint number – 3239, Violation code - 28-1381A1,28-1381A2,28-1382A1,28-1382A2

Release Type - APPEARANCE BOND \$5000.00 CASH

BOND: If you cannot post a bond of you will remain in custody until your next court hearing. The Court finds a bond is necessary to secure the defendant's appearance or protect other persons or the community from risk of harm by the defendant. An Attorney is appointed for all Defendants held in custody.

If you are released from jail, you must follow all release conditions and appear at court as indicated below:

MANDATORY AND STANDARD CONDITIONS OF RELEASE:

- [X] 1. Appear at APACHE JUNCTION MUNICIPAL COURT on: 11/23/2022 8:30:00 AM , and attend all future court hearings.
- [X] 2. Violate no federal, state or local criminal law.
- [X] 3. Not leave the State of Arizona without written permission from the court.
[] Defendant may leave the State of Arizona provided defendant returns for court dates.
- [X] 4. Diligently pursue any appeal if released from custody after judgment and sentence have been imposed.
- [X] 5. Maintain contact with your attorney. _____
- [X] 6. Provide a current address and phone number to the Court and to your attorney and immediately notify both of any changes.
- [] 7. Not threaten or initiate any type of contact with the alleged victim(s). _____
- [X] 8. Not drive a motor vehicle without a valid driver's license in your possession. _____
- [] 9. Not threaten or initiate any type of contact with any person as specified here: _____
- [X] 10. Not possess weapons as specified here: _____
- [X] 11. Not consume any alcoholic beverages. _____
- [X] 12. Not go to scene of the alleged crime. _____
Not go to locations as specified here: _____

CONSEQUENCES OF VIOLATING THIS ORDER: You have the right to be present at your trial and at all other proceedings in your case. If you fail to appear the court may issue a warrant for your arrest and/or hold the trial or proceeding in your absence.

If you violate any condition of an appearance bond, the court may order the bond and any related security deposit forfeited to the State of Arizona. In addition, the court may issue a warrant for your arrest upon learning of any violation of the conditions of release. After a hearing, if the court finds that you have not complied with the release conditions, the court may modify the conditions or revoke the release altogether.

ACKNOWLEDGEMENT: I fully understand and will comply with all release conditions indicated above and further understand the consequences should I violate any part of this order.

In addition to imposing the Release Conditions, I have examined the statement of the arresting officer and find that the information contained in the release questionnaire:

☒ Is sufficient to find probable cause for the arrest at this time

☐ Is not sufficient to find probable cause at this time

Date: 11/15/2022

JUDGE NAME

HON A DOUGLAS LASOTA

JUDGE SIGNATURE

A. Douglas La Sota

Defendant Signature: _____

Date: 11/15/2022

Address _____

Phone No. _____

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

STATE OF ARIZONA,
Plaintiff

vs

IMMEDIATE RELEASE ORDER

DENISE A RAEFSKI
Defendant

Date of Birth:

Bond posted at AJMC #1149- B1282

CASE # M1149TR2022000238	VIOLATION CODE:
CASE #	VIOLATION CODE:
CASE #	VIOLATION CODE:
CASE #	VIOLATION CODE:

This hold having been resolved, it is hereby ordered that the defendant be released on the case(s) listed above. If the matter has not been resolved, defendant is to report to the court within five business days of release from custody.

Dated: 11/15/2022

A. Douglas La Sota

HON A DOUGLAS LASOTA
Municipal Judge

STATE OF ARIZONA

vs

CASE NUMBER:

BOND RECEIPT

AJACS BOND

RECEIPT NUMBER:

B1282

DEFENDANT

Denise Baetski

M1149TB2022000238

Date: 11-15-22

AJACS BOND ID# 11672

Amount Posted: \$5000.00

How Paid/Location Posted:

CC - @ ASMC

Received by:

Dee

Bond Poster Information

PRINTED Name:

Mailing Address

Apt/Space#

City/State/ZIP

Telephone Number

TO BE READ BY PERSON POSTING BOND-Select one of the options below:

☒ If the defendant has a pending criminal charge or outstanding obligations, this bond secures attendance at future court dates. Should the defendant fail to appear at any future court date for this case, the bond may be forfeited pursuant to 7.6 Arizona Rules of Criminal Procedure. Any bond refund is issued by check and sent to the name of the person posting the bond at the address listed above. Bond refunds can take up to thirty (30) days to process.

Signature of Bond Poster

☐ If you sign below, this bond is transferred to the defendant to be used to satisfy any outstanding court fine, fee, surcharges or restitution amount owed. Any amount of bond not applied or forfeited will be refunded to (select one) bond poster/defendant. If you sign at this line, you will not receive a refund of the bond money if there are any outstanding obligations for the defendant to the court.

Signature of Bond Poster

NOTICE FOR DEFENDANT

Posting this bond does not satisfy the defendant's required appearance on this case.

[] The defendant is ordered to appear: 11-23-22 at 8:15 am ~~pm~~

at the Apache Junction Municipal Court, 300 E Superstition Blvd., Apache Junction AZ (480)982-8250.

[] The defendant is ordered to appear at the Apache Junction Municipal Court, 300 E Superstition Blvd., Apache Junction AZ at 8:30am or 1:30pm Monday through Thursday within ten (10) days.

If the defendant fails to appear in court as ordered for any proceeding, the bond may be forfeited, the proceeding may be held in their absence, the defendant may be charged with the crime of failure to appear and an arrest warrant may be issued.

17

1 **TYLER M. ALLEN** (030202)
2 **TOBIN LAW OFFICE, LLC**
3 2045 S. Vineyard Suite 125
4 Mesa, AZ 85210
5 Phone: 480.447.4837
6 Fax: 480.447.4837
7 admin@tobinlawoffice.com
8 Attorney for Defendant

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IN THE APACHE JUNCTION MUNICIPAL COURT
PINAL COUNTY, STATE OF ARIZONA

STATE OF ARIZONA,

Plaintiff,

vs.

DENISE A RAEFSKI,

Defendant.

Case No: TR-2022000238

NOTICE OF APPEARANCE

Undersigned counsel ("Counsel"), hereby notices his appearance for Defendant in the above-captioned matter.

Respectfully Submitted November 16, 2022.

/s/ Tyler M. Allen

Tyler M. Allen
Attorney for Defendant

ORIGINAL of the foregoing filed this November 16, 2022 to:

Apache Junction Municipal Court
1149@courts.az.gov

COPY of the foregoing emailed this November 16, 2022 to:

Apache Junction City Prosecutor
ajcityprosecutor@ajcity.net

1 By: Tyler M. Allen

2 /s/ Tyler M. Allen

3 Tyler M. Allen

4 Attorney for Defendant

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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238 Complaint Number: 3239	HEARING NOTICE-PRETRIAL CONFERENCE
--	--	---

This matter has been scheduled for Pre Trial Conference on 12/20/2022 at 9:30AM.

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: 11/16/2022

Judge Name: HONORABLE 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 BOULEVARD, APACHE JUNCTION, AZ 85119 PH - 480-982-8250 EMAIL:
1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238 Complaint Number: 3239	Hearing Notice - PROBATION REVOCATION PRE-TRIAL CONFERENCE
--	--	--

PLEASE DISREGARD PREVIOUS EMAIL. CLERICAL ERROR

This matter has been scheduled for a PROBATION REVOCATION PRE-TRIAL CONFERENCE on 11/23/2022 at 8:15AM at the above address.

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 and / or driver license being suspended.

If you are found guilty, all fines and fees are due on the date of sentencing.

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 non-appearance 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, which will be enforced if necessary, by your arrest.

[] If you are found or plead responsible for disobeying a red- light traffic signal, including flashing stop signals, you will be ordered by the Motor Vehicle Division to successfully complete traffic survival school.

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

Contact the court if you need special accommodations, such as assistive devices or interpreters.

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

You are required to notify the Court of any change of address in order to continue receiving court notices.

Date: 11/16/2022

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 _____

18

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	Case Number: M1149TR2022000238	Hearing Notice - PROBATION REVOCATION ARRAIGNMENT
Vs	Complaint Number: 3239	
DENISE A RAEFSKI Defendant		

This matter has been scheduled for a PROBATION REVOCATION ARRAIGNMENT on 12/21/2022 at 4:00PM at the above address.

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 and / or driver license being suspended.

If you are found guilty, all fines and fees are due on the date of sentencing.

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 non-appearance 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, which will be enforced if necessary, by your arrest.

[] If you are found or plead responsible for disobeying a red- light traffic signal, including flashing stop signals, you will be ordered by the Motor Vehicle Division to successfully complete traffic survival school.

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

Contact the court if you need special accommodations, such as assistive devices or interpreters.

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

You are required to notify the Court of any change of address in order to continue receiving court notices.

Date: 11/23/2022

Judge Name: HON A DOUGLAS LASOTA

Judge Signature:

A. Douglas La Sota

Defendant signature:

Denise Raefer

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 EMAIL:
1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	Case Number: M1149TR2022000238 Complaint Number: 3239	Hearing Notice - PROBATION REVOCATION ARRAIGNMENT
--	--	--

This matter has been scheduled for a PROBATION REVOCATION ARRAIGNMENT on 12/21/2022 at 4:00PM at the above address.

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 and / or driver license being suspended.

If you are found guilty, all fines and fees are due on the date of sentencing.

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 non-appearance 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, which will be enforced if necessary, by your arrest.

[] If you are found or plead responsible for disobeying a red- light traffic signal, including flashing stop signals, you will be ordered by the Motor Vehicle Division to successfully complete traffic survival school.

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

Contact the court if you need special accommodations, such as assistive devices or interpreters.

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

You are required to notify the Court of any change of address in order to continue receiving court notices.

Date: 11/23/2022

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 _____

19

Lefke, DeeAnn

From: Tyler Allen <tyler@tobinlawoffice.com>
Sent: Wednesday, November 23, 2022 4:14 PM
To: Apache Junction Municipal Court - Public
Cc: eyuva@apachejunctionaz.gov
Subject: Records Request for State of Arizona vs. Denise Raefski (TR-2022000238)
Attachments: Records Request - 2.pdf; Records Request - 1.pdf

 This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Attached is a records request for the probation revocation pre-trial conference held in TR-2022000238 this morning, November 23, 2022 between the approximate times of 8:45 a.m. and 9:45 a.m.

I am requesting the complete audio record between those times. Please contact me with any questions or to discuss this request further. I will mail the original request with a check for \$17.00.

Regards,

Tyler M. Allen
2045 S. Vineyard Suite 125
Mesa, Arizona 85210
Phone: 480.447.4837
www.tobinlawoffice.com

State of Arizona vs. Denise Raefski (TR-2028000238)

- record to include all comments and discussion held by Judge Douglas LaSota. These comments are to include Judge LaSota's advisement to Defendant and Counsel that Defendant "better not lie if she testifies..." and statements made by Judge LaSota concerning the Defendant's credibility or lack thereof due to her failure to appear at a previous Order to Show Cause Hearing.

Defendant and Counsel are requesting a complete audio record that includes all comments made by Judge LaSota during the hearing.

20



City of Apache Junction

Home of the Superstition Mountains

REQUEST FOR PUBLIC RECORD

IN ACCORDANCE WITH ARIZONA REVISED STATUTES § 39-121.01, I HEREBY REQUEST COPIES OF THE FOLLOWING ITEMS OF PUBLIC RECORD.

(TR-2022000238)

- 1 A clear copy of the audio record in State of
- 2 Arizona vs. Denise Raefski from the Probation
- 3 Revocation Pre-Trial Conference on November 23, 2022
- 4 from approximately 8:45 a.m. through 9:45 a.m.
- 5 Defendant requests a complete copy of the audio
(see other side)

(Use other side for more)

Signature

Printed Name

Tyler M. Allen

Phone Number

480-447-4837

Date

11/23/2022

CHECK ONE:

☒ These reproductions of public record will not be used for a commercial purpose. *

☐ These reproductions of public record will be used for the following commercial purpose. *

* "Commercial purpose" means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from such public records for the purpose of solicitation or for any purpose in which the purchase can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record. (ARS § 39-121.03D)

APPROVED BY: _____

DATE: _____

RECEIVED BY: _____

DATE: _____

Pursuant to ARS § 22-404B "Except as otherwise provided by law, fees for the Municipal Court

shall be established and classified as follows:"

Minimum clerk fee \$17.00

Research in locating a document \$17.00

Record duplication \$17.00

Per page fee, copies of any documents per page \$0.50.

21

1 TYLER M. ALLEN (030202)
2 TOBIN LAW OFFICE, LLC
3 2045 S. Vineyard Suite 125
4 Mesa, AZ 85210
5 Phone: 480.447.4837
6 Fax: 480.447.4837
7 admin@tobinlawoffice.com
8 Attorney for Defendant

FILED DEC 1 '22 RM 8124

Apache Junction Municipal

6 IN THE APACHE JUNCTION MUNICIPAL COURT
7 PINAL COUNTY, STATE OF ARIZONA

8 STATE OF ARIZONA,

Case No: TR-2022000238

9 Plaintiff,

10 vs.

NOTICE OF CHANGE OF JUDGE FOR
CAUSE PURSUANT TO ARIZ.R.CRIM.P
RULE 10.1

11 DENISE A RAEFSKI,

12 Defendant.

(ORAL ARGUMENT REQUESTED)

13
14 Defendant, by and through undersigned Counsel, hereby requests this matter be reassigned
15 to a judge other than the Honorable A. Douglas LaSota for cause and pursuant to Rule 10.1
16 Ariz.R.Crim.P.

17 For the reasons set forth below, in addition to the attached Affidavit, Judge LaSota's
18 comments, threats and admonishments about Defendant's anticipated, future testimony made on
19 the record at a Probation Revocation Pre-Trial Conference on November 23, 2022, have made it
20 abundantly clear that Defendant will not receive a fair and impartial Probation Revocation Hearing.

21 Allowing Judge LaSota to continue to preside over this matter will further violate
22 Defendant's Due Process rights under the 14th Amendment of the United States Constitution, and
23 Article II, subsections 4 and 24 of the Arizona Constitution.

24 Defendant also requests this Court conduct a hearing prior to any trial setting so that
25 evidence may be presented and oral argument may be made pursuant to Rule 16, Ariz.R.Crim.P.

1 This Motion is supported by the attached Memorandum of Points and Authorities, the
2 attached Affidavit of Denise Raefski, and all other matters of record, which are incorporated herein
3 by this reference.

4 Respectfully Submitted November 30, 2022.

5 /s/ Tyler M. Allen

6 Tyler M. Allen

7 Attorney for Defendant

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **I.**

10 **STATEMENT OF FACTS**

11 (An audio recording or transcript of the proceedings from November 23, 2022 has not been
12 made available by the time of the filing of this motion and therefore statements herein have
13 been set forth as closely as possible based on Defendant and Counsel's recollection and notes.)

14 The facts alleged in the attached Verified Affidavit of Denise Raefski are incorporated
15 herein by this reference.

16 Defendant was sentenced in this matter on September 7, 2022 with terms to include
17 fourteen (14) days of jail confinement whereby the court allowed Defendant to serve eleven
18 (11) of the fourteen (14) days on home detention/electronic monitoring. In addition,
19 Defendant was ordered to serve a term of unsupervised probation for twenty-four (24) months
20 to begin on the date of sentencing. The eleven (11) days of home detention was monitored
21 through Scram of Arizona which is the specific agency the court requires all Defendant's to
22 utilize for completing home detention/electronic monitoring.

23 After serving the three (3) days of jail confinement and eleven (11) days of home
24 detention/electronic monitoring, Defendant received a Petition to Revoke Probation filed by
25

1 the State and an Order to Show Cause notice from this court who also set a Probation
2 Revocation Arraignment on November 14, 2022 at 3:00 p.m.

3 On November 14, 2022, Defendant was having issues with her certified ignition
4 interlock device that was also ordered to be installed pursuant to her terms of sentencing in
5 this matter and the ignition interlock provider she was under contract with advised that the
6 only time available to assist with correcting the interlock was at the same time set as the
7 Probation Revocation Arraignment. Defendant contacted the court and requested a
8 continuance so she could make her ignition interlock appointment and continue to drive for
9 work purposes. A clerk with the court advised Defendant to submit a request in writing for a
10 continuance, which Defendant was unable to do, and appear the following morning for the
11 court's walk-in calendar to appear for this matter. Defendant followed the instructions of the
12 court staff.

13 When Defendant appeared the following morning, Judge LaSota had issued a warrant
14 and took Defendant into custody based on her failure to appear the previous afternoon. Judge
15 LaSota ordered a \$5,000.00 cash bond that Defendant was able to post with her family's
16 assistance. The court set a Probation Revocation Pre-Trial Conference on November 23, 2022
17 at 8:15 a.m.

18 Due to the demeanor Judge LaSota exhibited at the Probation Revocation Arraignment,
19 Defendant felt it was necessary to retain private counsel for further representation in this
20 matter.
21

22 Defendant and undersigned Counsel timely appeared for the Probation Revocation
23 Pre-Trial Conference on November 23, 2022 with the State represented by the Apache
24 Junction Municipal Prosecutor, Eric Yuva, who was present in the courtroom. When Judge
25 LaSota called the case on the record, he immediately asked the parties what the intent was on

1 handling the probation matter and asked Defense Counsel if Defendant was entering a denial
2 as to the allegations contained in the State's Petition to Revoke.

3 When Defense Counsel informed the court that Defendant was entering a denial and
4 requested a Probation Revocation Hearing to present evidence and dispute the State's
5 allegations, Judge LaSota immediately launched into a tirade of comments, threats and advice
6 concerning Defendant's potential testimony. In pre-judging Defendant's credibility without
7 any basis in fact, Judge LaSota repeatedly advised that should Defendant "take the stand and
8 lie, things will not go well for her." Later Judge LaSota would again threaten Defendant with
9 additional jail if she "lied." The inference was made clear that the court would consider any
10 testimony by Defendant a "lie" that is adverse to the testimony and evidence presented by
11 Scram of Arizona and their representative. Judge LaSota then read aloud the specific
12 allegations against Defendant including emails and information directly sent to the court from
13 Scram of Arizona.

14 While Judge LaSota reviewed the information and allegations on the record, he
15 continuously made comments that inferred he had already weighed the credibility and pre-
16 judged the evidence as he followed with another threat that "if Defendant takes the stand and
17 lies, this will get worse for her." In addition, Judge LaSota commented that Defendant already
18 lacks credibility from the court's perspective due to her failure to timely appear at the
19 Probation Revocation Arraignment. Judge LaSota's made it clear in his inference that if
20 Defendant testified to the contrary of the State's witnesses and evidence, he would not only
21 impose jail confinement to cover the original eleven (11) days of home detention, but he
22 would also impose additional jail.

23 The comment about anticipating Defendant being untruthful on the stand caused
24 Defendant to be fearful to dispute the allegations submitted to the court by Scram of Arizona
25

1 and present evidence to the contrary. Defendant advised Defense Counsel after the hearing
2 adjourned that she felt Judge LaSota has "already made up his mind" and decided the
3 allegations even before a Probation Revocation Hearing commences. In addition, and even
4 more egregiously, Defendant is fearful to take the witness stand at a future hearing and
5 exercise her right to testify based on Judge LaSota's comments and demeanor.

6 After the Probation Revocation Pre-Trial Conference, the Prosecutor spoke with
7 Defense Counsel outside the courtroom and agreed that Defendant was not going to receive a
8 fair and impartial hearing after having just witnessed Judge LaSota's comments and demeanor.

9
10 II.

11 LAW AND ANALYSIS

12 A.

13 THE RECORD SHOWS BY A PREPONDERANCE OF THE EVIDENCE THAT A
14 NOTICE OF CHANGE OF JUDGE FOR CAUSE PURSUANT TO RULE 10.1
15 ARIZ.R.CRIM.P. IS NECESSARY

16 The right to a fair and impartial trial before a fair and impartial judge is a valuable
17 substantive right originating in the common law and recognized by statute in both criminal
18 and civil cases. (Marsin v. Udall, 78 Ariz. 309, 279 P.2d 721 (Ariz. 1955).)

19 Based on Judge LaSota's comments, tone, and demeanor at the Probation Revocation
20 Pre-Trial Conference, the Prosecutor, Defense Counsel and Defendant all conclude that Judge
21 LaSota would not provide a fair and impartial hearing at the Probation Revocation Hearing.

22 In addition, Defendant is a named witness in a Judicial Complaint filed against Judge
23 LaSota by Defendant's counsel. It is anticipated that the Commission on Judicial Conduct will
24 contact Defendant to gather information about Judge LaSota and may also request that Defendant
25 appear for any judicial hearings the Commission feels are appropriate. Based upon the allegations

1 contained in the Judicial Complaint, this will place Defendant in an antagonistic position opposite
2 to that of Judge LaSota.

3 "A party is entitled to a change of judge if the party shows that the assigned judge's
4 interest or prejudice would prevent a fair and impartial hearing or trial." (Subsection (a), Rule
5 10.1, Ariz.R.Crim.P.)

6 Furthermore, pursuant to subsection (b)(1), Rule 10.1, Ariz.R.Crim.P., "a party
7 seeking a change of judge for cause must file a motion no later than 10 days after discovering
8 that grounds exist but may not file a motion after a hearing or trial begins. The motion must
9 state specific grounds for the change of judge and be supported by an affidavit:.."

10 Pursuant to subsection (b)(2), Rule 10.1, Ariz.R.Crim.P., "if a party files a timely
11 motion for change of judge, the judge should not proceed, except to enter necessary temporary
12 orders before the action can be transferred to the presiding judge or the presiding judge's
13 designee. If the named judge is the presiding judge, that judge must assign the motion to
14 another judge."

15 Here, Judge LaSota's comments giving reasonable inference clearly show that he will
16 not be a fair and impartial magistrate at Defendant's future Probation Revocation Hearing. A
17 review of the record will clearly show by a preponderance of the evidence that Judge LaSota
18 has pre-judged the evidence and witnesses' credibility in this case.

19 Furthermore, Judge LaSota made it precisely clear that if Defendant disputes the
20 allegations or testifies to the contrary of the witness from Scram of Arizona or any other
21 evidence presented, Judge LaSota will consider that to be untruthful testimony and impose
22 not only jail for the 11 days of home detention but additional jail for disputing and contesting
23 the State's allegations.
24
25

1 Defendant, through the 14th Amendment of the U.S. Constitution and Article II,
2 subsections 4 and 24 of the Arizona Constitution, has fundamental Due Process rights which
3 includes, among others, the right to testify at a hearing in her defense and the right to a fair
4 and impartial hearing. In criminal prosecutions, the accused has a right to testify in his own
5 behalf. (State v. Hester, 703 P.2d 518, 145 Ariz. 574 (Ariz. App. 1985), citing Ariz. Const.
6 article 2, § 24, 1 A.R.S.; State v. Noble, 109 Ariz. 539, 514 P.2d 460 (1973).)

7 Judge LaSota has violated those rights by giving blunt inference through his comments
8 that clearly establish that Defendant will not be receiving a fair and impartial hearing and,
9 furthermore, have influenced Defendant's choice on whether to testify and present evidence
10 in her defense out of fear of incarceration if she doesn't testify in accordance with what Judge
11 LaSota apparently considers to be the truth.

12 It is a cornerstone to our American justice system and pillar upon which our justice
13 system is founded that a judge/magistrate shall remain fair and impartial when presiding over
14 trials and hearings of the accused.

15 The right to a fair trial is a foundation stone upon which our present judicial
16 system rests. Necessarily included in this right is the right to have the trial
17 presided over by a judge who is completely impartial and free of bias or
18 prejudice. (State v. Neil, 102 Ariz. 110, 425 P.2d 842 (Ariz. 1967).)

19 A judge/magistrate should never give the appearance of impropriety or influence a
20 witness, let alone the Defendant in a criminal case, to choose whether or not to testify at a trial
21 and/or hearing based on comments of that judge and their subsequent fear of retaliation and
22 the threat of additional incarceration if the Defendant/witness does not testify in accordance
23 with what the judge believes to be true before hearing or taking any evidence.

24 A copy of the record will clearly show that the comments and demeanor of Judge
25 LaSota prove that he has an interest or prejudice that will prevent a fair and impartial hearing
in this matter.

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II.

CONCLUSION

In sum and for the reasons stated herein and supported by the attached Affidavit, Defendant gives Notice of Change of Judge for cause pursuant to Rule 10.1, Ariz.R.Crim.P., and requests this matter be assigned to a judge/magistrate other than the Honorable A. Douglas LaSota.

ORIGINAL of the foregoing filed this November 30, 2022 to:

Apache Junction Municipal Court
1149@courts.az.gov

COPY of the foregoing emailed this November 30, 2022 to:

Apache Junction City Prosecutor
ajcityprosecutor@ajcity.net

By: Tyler M. Allen

/s/ Tyler M. Allen

Tyler M. Allen
Attorney for Defendant

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4 Exhibit A
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7 “Affidavit of Denise Raefski”
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AFFIDAVIT OF DENISE RAEFSKI

I, Denise Raefski, hereby do affirm and swear under penalty of perjury that the following is true and accurate to best of my knowledge:

- Based on what I witnessed at a Probation Revocation Pre-Trial Conference on November 23, 2022 at the Apache Junction Municipal Court, I have reason to believe and do believe that I cannot have a fair and impartial hearing before the Honorable A. Douglas LaSota by reason of the prejudice, bias or other interest of such judge/magistrate.
- Judge LaSota gave the inference, through his comments and demeanor, that I would be considered a "liar" by the court if I testified to anything adverse or contrary to the State's witnesses and evidence.
- Judge LaSota said that if I took the witness stand and "lied", consequences "would get worse" for me and inferred that I would be sentenced to additional jail for testifying to my own observations and personal knowledge.
- Judge LaSota stated on the record that I do not have any credibility with the court because I was unable to appear on short notice for the Probation Revocation Arraignment on November 14, 2022 due to a scheduling conflict, although I followed the clerk's instructions and appeared the next morning on November 15, 2022 to address this matter.
- I am fearful and do not want to exercise my Constitutional right to testify based on the comments of Judge LaSota as he made me feel that I would not be able to present any defense or evidence on my own behalf that conflicts with the State's witnesses and evidence and if I did so, he would make me serve more jail time.
- It appeared to me based on his comments at the hearing that Judge LaSota has already made his decision on whether I have violated probation without letting me present any evidence or taking any evidence from any party in this matter.
- I believe Judge LaSota reviewed the documentation sent from Scram of Arizona to the Court and has pre-judged the case and will not entertain any arguments or evidence in rebuttal therefore preventing me from a fair and impartial hearing.

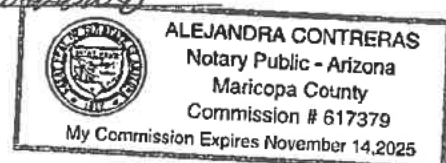
The above is true and accurate to the best of my knowledge.

Dated this 30 day of November, 2022.

Denise Raefski
Denise Raefski

Subscribed and sworn before me this 30th day of November, 2022.

Alejandra Contreras
Notary Public



22

APACHE JUNCTION MUNICIPAL COURT #1149
300 E SUPERSTITION BLVD, APACHE JUNCTION, AZ 85119
(480)982-8250 FAX (480)982-4496

STATE OF ARIZONA
Plaintiff

Case Number: M1149TR2022000238

VS

MINUTE ENTRY/ORDER

DENISE A RAEFSKI

Defendant.

The Court having received a "NOTICE OF CHANGE OF JUDGE FOR CAUSE PURSUANT TO ARIZ.R.CRIM.P RULE 10.1",


IT IS HEREBY ORDERED:

The Court takes the following action pursuant to Rule 10.1(b)(2):

The above-mentioned motion is transferred to the Hon. Douglas Coleman, J.P. Precinct 6, Apache Junction, AZ, for determination of the ruling pursuant to Rule 10.1. Pursuant to Rule 10.1(c), "The hearing judge will then return the matter to the presiding judge."

Court staff shall provide to Judge Coleman (along with this order) a copy of the Defendant's pleading, a copy of the Register of Actions from the court file, any response filed by the state and a copy of the recording of the court proceedings from the PTR matter held on November 23, 2022. Staff shall also provide a copy of the relevant Petition to Revoke and any further documents requested by Judge Coleman.

Dated: 12/13/2022


HON A. DOUGLAS LA SOTA
Presiding Judge

Date 12/13/2022
copies mailed/delivered to:

Counsel for Defendant: Tyler M. Allen, 2045 S. Vineyard, Suite 125, Mesa, AZ 85210

Counsel for the State: Eric Yuva, Apache Junction City Prosecutor, 300 E. Superstition Blvd., Apache Junction, AZ 85110-2825

23

APACHE JUNCTION MUNICIPAL COURT #1149
300 E SUPERSTITION BLVD, APACHE JUNCTION, AZ 85119
(480)982-8250 FAX (480)982-4496

STATE OF ARIZONA
Plaintiff

Case Number: M1149TR2022000238

vs

MINUTE ENTRY/ORDER

DENISE A RAEFSKI

Defendant.

This court has always been committed to providing the defendant a fair and impartial hearing, and nothing stated by the Court in prior hearings should be interpreted to the contrary.

However, in the interests of preserving public confidence in the impartiality of this court,

IT IS HEREBY ORDERED that Judge LaSota hereby recuses himself from all further proceedings in this case.

IT IS FURTHER ORDERED reassigning this case to Judge McVey for all further proceedings and the defendant's motion is now moot.

Due to Judge McVey's unavailability on December 21, 2022 at 4:00 pm,

IT IS FURTHER ORDERED resetting the matter to January 25, 2023 at 3:00 pm.

Because the continuance is for the benefit of the defendant,
IT IS FURTHER ORDERED excluding all time between December 21, 2022 and January 25, 2023.

Dated this 14th day of December 2023.

A. Douglas LaSota

Hon. A. Douglas LaSota
Presiding Magistrate

Date _____
copies mailed/delivered to:

Plaintiff: _____

Defendant: _____

24

1 **TYLER M. ALLEN (030202)**
2 **TOBIN LAW OFFICE, LLC**
3 2045 S. Vineyard Suite 125
4 Mesa, AZ 85210
5 Phone: 480.447.4837
6 Fax: 480.447.4837
7 admin@tobinlawoffice.com
8 Attorney for Defendant

9
10 IN THE APACHE JUNCTION MUNICIPAL COURT
11 PINAL COUNTY, STATE OF ARIZONA

12 STATE OF ARIZONA,

13 Plaintiff,

14 vs.

15 DENISE A RAEFSKI,

16 Defendant.

Case No: TR-2022000238

**NOTICE OF CHANGE OF JUDGE
PURSUANT TO RULE 10.2,
ARIZ.R.CRIM.P.**

17 Comes now Defendant, by and through undersigned Counsel, pursuant to Rule 10.2,
18 Ariz.R.Crim.P., and hereby requests this matter be reassigned to a judge other than the **Honorable**
19 **Michael R. McVey**. Defendant and Counsel received actual notice of the assignment of this case
20 to Judge Michael R. McVey on December 14, 2022.

21 This request is made in good faith and not:

- 22 1. For the purpose of delay;
- 23 2. To obtain a severance;
- 24 3. To interfere with the reasonable case management practices of a judge;
- 25 4. To remove a judge for reasons of race, gender or religious affiliation;
5. For the purpose of using the rule against a particular judge in a blanket fashion by a
prosecuting agency, defender group or law firm (State v. City Court of Tucson, 150
Ariz. 99, 722 P.2d 267 (1986));
6. To obtain a more convenient geographical location; or

- 1
2 7. To obtain advantage or avoid disadvantage in connection with a plea bargain or at
3 sentencing, except as permitted under Rule 17.4(g).

4 Respectfully Submitted December 21, 2022.

5 /s/ Tyler M. Allen

6 Tyler M. Allen

7 Attorney for Defendant

8 ORIGINAL of the foregoing filed this December 21, 2022 to:

9 **Apache Junction Municipal Court**

10 1149@courts.az.gov

11 COPY of the foregoing emailed this December 21, 2022 to:

12 **Apache Junction City Prosecutor**

13 ajcityprosecutor@ajcity.net

14 By: Tyler M. Allen

15 /s/ Tyler M. Allen

16 Tyler M. Allen

17 Attorney for Defendant

25

APACHE JUNCTION MUNICIPAL COURT #1149
300 E SUPERSTITION BLVD, APACHE JUNCTION, AZ 85119
(480)982-8250 FAX (480)982-4496

STATE OF ARIZONA
Plaintiff

Case Number: M1149TR2022000238

vs

MINUTE ENTRY/ORDER

DENISE A RAEFSKI

Defendant.

THE COURT HAS REVIEWED DEFENDANT'S DECEMBER 22, 2022 MOTION FOR CHANGE OF JUDGE PURSUANT TO RULE 10.2, ARIZONA RULES OF CRIMINAL PROCEDURE (ARCR.P).

DEFENDANT APPEARED BEFORE JUDGE MCVEY FOR SENTENCING ON SEPTEMBER 7, 2022. ACCORDINGLY SHE WAIVED HER RIGHT TO NOTICE JUDGE MCVEY IN THIS CASE. SEE, RULE 10.2: "A PARTY LOSES THE RIGHT TO A CHANGE OF JUDGE UNDER THIS RULE IF THE PARTY PARTICIPATES BEFORE THAT JUDGE IN ANY CONTESTED MATTER IN THE CASE, A PROCEEDING UNDER RULE 17, OR THE BEGINNING OF TRIAL." THE MOTION FOR CHANGE OF JUDGE AS A MATTER OF RIGHT PURSUANT TO RULE 10.2, ARCR.P IS DENIED.

THE PROBATION REVOCATION HEARING NOW SCHEDULED FOR JANUARY 25, 2023 IS AFFIRMED.

Dated: 01/03/2023


HON MICHAEL R MCVEY
Judge

Date 1-3-23
copies mailed/delivered to:

Plaintiff: ✓

Defendant: ✓

DeS Atty: ✓

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

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant	CASE NUMBER: M1149TR2022000238	ADMISSION OF VIOLATION OF PROBATION
--	-----------------------------------	--

1. Defendant understands the nature of the allegations in this case
2. Defendant desires to admit to a violation of the terms and conditions of probation
3. Defendant understand the range of penalty is : 28-1382A2: Minimum: 45* days jail, completion of alcohol/drug screening and treatment, \$500 fine plus penalties and surcharges, \$250 DUI abatement fund fee, \$1000 prison construction fund fee, \$1000 public safety Fund Fee. Maximum: 60 months of probation, 180 days jail, alcohol screening and treatment, \$2500 fine plus penalties and surcharges, \$250 abatement fund fee, \$1000 prison construction fund fee, \$1000 public safety Fund Fee * Subsection I-31 days can be suspended if Defendant installs and keeps interlock in vehicle for 12 months, if HDP eligible, Defendant can serve 3 days in jail and 11 days on HPD.
4. Defendant understands the following constitutional rights which he/she gives up by making this admission of violation of the terms and conditions of probation:
 - a) The right to a hearing by the Court sitting without a jury
 - b) The right to the assistance of an attorney free of charge, if he/she cannot afford one
 - c) The right to confront the witnesses against him/her and to cross-examine them as to the truthfulness of their testimony.
 - d) The right to present evidence in his/her behalf and to have the Court compel the attendance of witnesses of his/her choosing to appear and testify free of charge
 - e) The right to remain silent, not to incriminate himself /herself, and to be presumed not to have violated probation until a violation is proven by a preponderance of the evidence.
 - f) The right to direct appeal.
5. Defendant wishes to give up the constitutional rights of which he/she has been advised.
6. The Court finds that there is a basis in fact for believing the defendant has violated probation
7. The admission is voluntary and not the result of force, threats or promises [other than a plea agreement]

I CERTIFY THAT THE JUDGE PERSONALLY ADVISED ME OF THE MATTERS NOTED ABOVE, THAT I UNDERSTAND THE CONSTITUTIONAL RIGHTS I GIVE UP BY MAKING THIS ADMISSION, AND THAT I DESIRE TO ADMIT THE VIOLATION OF THE PROBATION.

I Desire to make this admission without the assistance of an attorney

Date : 01/25/2023

Defendant's Signature Denise Raefski

Defendant Attorney Name: [Signature] Bar no: 030202

ON THE BASIS OF THESE FINDINGS, I CONCLUDE THAT DEFENDANT KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY ENTERS HIS/HER ADMISSION AND ACCEPT THE ADMISSION

Date 01/25/2023

Judge Signature

Michael R. Miller

STATE OF ARIZONA vs DENISE A RAEFSKI

Case Number : M1149TR2022000238

PROBATION VIOLATION DISPOSITION

Attorney for Defendant: ALLEN, TYLER M

Assigned Courtroom :

☐ AmendedThe original terms and conditions of probation were imposed on 09/07/2022☐ A probation violation hearing was held and the Court found by preponderance of the evidence that Defendant violated his/her probation.☒ Defendant admitted certain alleged probation violations and the Court found Defendant violated his/her probation.

The Court finds that reinstatement on probation is appropriate.

IT IS THE JUDGMENT AND SENTENCE OF THE COURT THAT:Defendant is reinstated on probation until 09/07/2024 . The defendant must comply with all terms of the sentence as noted below. All other terms and conditions stated in the original probation order remain in effect, except as follows:Complaint Number(s): 3239**FINES, SANCTIONS, AND FEES**The TOTAL amount imposed on this case is \$5,467.73 which includes the following:

CHARGE	DISPOSITION	DISP.DATE	FINE AMT	RESTITUTION
28-1382A2	11-PLEA GUILTY/RESP SENT IMPOSED	09/07/2022	<u>\$3223.60</u>	

And the following Case Fees:

10% Surcharge - Prosecutor Recovery Fee	<u>\$8.60</u>
JCEF TIME PAYMENT FEE	<u>\$20.00</u>
68% Surcharge - Prosecutor Recovery Fee	<u>\$58.48</u>
Prosecutor Recovery Fee	<u>\$86.00</u>
Indigent Assessment Fee	<u>\$125.00</u>
GPS Monitoring Fee	<u>\$200.05</u>
INCARCERATION FEES IMPOSED	<u>\$481.00</u>
INCARCERATION FEES IMPOSED	<u>\$1265.00</u>

The TOTAL BALANCE DUE on this case as of the current date is \$4,742.73**INCARCERATION**A total of 14 Jail Days ImposedCredit for 3 days time served0 days of Jail Sentence is postponedServe 11 days in jailComments: TO SERVE 3 DAYS PCSO AND 11 DAYS HOME DETENTIONI - TO SERVE (5) 48 HOURS INCREMENT BLOCKS AND 1 (24) HOURS BLOCK FOR TOTAL 11 DAYS TO SERVE

You must file a notice of appeal within 20 days from conviction or lose the right to appeal.

You must file any petition for post-conviction relief within 90 days from today or lose the right to post conviction relief.

Other Orders:

STATE OF ARIZONA vs DENISE A RAEFSKI

Case Number : M1149TR2022000238

PROBATION VIOLATION DISPOSITION

Attorney for Defendant: ALLEN, TYLER M

Assigned Courtroom :

☐ Amended

Judge

Date

☐ 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: _____

Denise Raefski
Defendant's Signature

Date

1/25/23

Defense Counsel

Date

1/25/23

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.

APACHE JUNCTION MUNICIPAL COURT
300 E SUPERSTITION BOULEVARD, APACHE JUNCTION, AZ, 85119
Phone: 480-982-8250 Fax: 480-982-4496 EMAIL: 1149@courts.az.gov

STATE OF ARIZONA Plaintiff Vs DENISE A RAEFSKI Defendant Date of Birth: _____	Case No: M1149TR2022000238	COMMITMENT ORDER
--	----------------------------	-------------------------

Date of Violation: 11/04/2021 Charge(s): 28-1382A2 - DUI EXTREME BAC .20 OR MORE 1ST

DR: AJP211104015

To the Sheriff of this County:

IT IS ORDERED that the above named Respondent/Defendant shall be confined to the PINAL COUNTY JAIL under the terms stated below

☒ [X] for a period of 14 days, Give Credit For: 3 Days Time Served, commencing 02/02/2023

☐ [] unless he/she purges the civil contempt by paying \$ _____ in cash.

IT IS FURTHER ORDERED that the Defendant shall not be released from custody during the period of incarceration except as specifically provided herein.

FURTHER ORDERED that the Defendant's term of commitment are as follows:

☒ [X] Defendant shall report to the Pinal County Jail, 971 Jason Lopez Circle Bldg. B, Florence, AZ on:

Date: 02/02/2023 Time: 9:00AM to START his/her sentence.

** NO 2 FOR 1 **

☐ [] Defendant is eligible for work release provided that he/she meets the Sheriff Department's Work Release Program requirements.

☐ [] Defendant shall serve his/her time in custody on weekends ONLY. He/she shall surrender to the Pinal County Jail each Friday by ____ a.m./p.m. and shall be released at ____ a.m./p.m. the following Sunday.

☒ [X] TO SERVE (5) 48 HOURS INCREMENT BLOCKS AND 1 (24) HOURS BLOCK FOR TOTAL 11 DAYS AS LISTED:

02/02/2023 AT 9:00 A.M. 48 HOURS

02/09/2023 AT 9:00 A.M. 48 HOURS

02/16/2023 AT 9:00 A.M. 48 HOURS

02/23/2023 AT 9:00 A.M. 48 HOURS

03/02/2023 AT 9:00 A.M. 48 HOURS

03/09/2023 AT 9:00 A.M. 24 HOURS

*** NO 2 FOR 1 ***



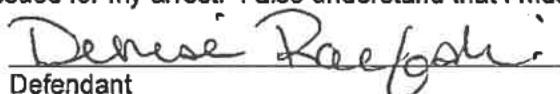
Judge Signature:

DATED: 01/25/2023

Judge Name: Honorable Michael R. McVey

I understand the terms of the above sentence and agree to appear at the time (s) indicated in a sober condition, with photo identification and a copy of this commitment order; and that failing to do so could subject me to contempt and a warrant being issued for my arrest. I also understand that I must provide my own transportation.

DATED: 01/25/2023


Defendant

☐ [] Defendant did appear as ordered.

☐ [] Defendant DID NOT appear as ordered.

DATED: _____

Sheriff's Officer

Badge # _____

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 DENISE A RAEFSKI DEFENDANT	CASE NO: M1149TR2022000238 COMPLAINT NO: 3239	PAYMENT AGREEMENT
--	---	--------------------------

Payment Agreement (This is NOT a receipt)

Created on: 01/25/2023 for the total amount of \$ 4742.73

MONTHLY payment due: \$150.00 (or equivalent community service) MONTHLY payment start date: 02/05/2023

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: Denise Raebski

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.

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.

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 \$14.00 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.

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.

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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

Code Community Compliance Officer CONTACT: William (Bill) Miller 480-474-2673 or wmiller@apachejunctionaz.gov

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 DENISE A RAEFSKI DEFENDANT	CASE NO: M1149TR2022000238 COMPLAINT NO: 3239	PAYMENT AGREEMENT
--	---	-------------------

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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

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Code Community Compliance Officer **CONTACT:** William (Bill) Miller 480-474-2673 or wmiller@apachejunctionaz.gov

Date Stamped	Party	TA	Description	Comment	Satisfied Date	User ID	Charge(s)	
05/30/2023 04:20 PM	RAEFSKI, DENISE A		Receipt# F00015577 generated for the amount of \$ 150.00	<FAREIT:93333771[R]:2023-08-30 18:20:20[C]:93333771>		INTERFACES		
06/02/2023 04:13 PM	RAEFSKI, DENISE A		Receipt# F00015582 generated for the amount of \$ 150.00	<FAREIT:93314721[R]:2023-08-02 18:15:50[C]:93314721>		INTERFACES		
04/01/2023 12:11 PM	RAEFSKI, DENISE A		Receipt# F00015229 generated for the amount of \$ 150.00	<FAREIT:93291857[R]:2023-04-01 12:11:10[C]:93291857>		INTERFACES		
03/03/2023 12:41 PM	RAEFSKI, DENISE A		INCARCERATION COMPLIANT	CONFIRMED PCSO THAT DID SERVE 11 DAYS ON ASSIGNED WEEKENDS ON COMMITMENT ORDER		RWHITE	28-1382A2 (4)	
03/09/2023 10:03 PM			INCARCERATION ORDER REVIEW			SYSTEMUSER		
03/08/2023 10:24 AM	RAEFSKI, DENISE A		Receipt# F00014893 generated for the amount of \$ 150.00	<FAREIT:91272772[R]:2023-03-08 10:24:00[C]:91272772>		INTERFACES		
02/13/2023 03:32 PM			EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#1480131/1/2023 08:22:07	RAEFSKI - SIGNED PROBATION VIOLATION		CREYNOLDS		
02/09/2023 02:24 PM	RAEFSKI, DENISE A		Receipt# F00014559 generated for the amount of \$ 150.00	<FAREIT:93251198[R]:2023-02-08 14:24:30[C]:93251198>		INTERFACES		
01/29/2023 05:42 AM	RAEFSKI, DENISE A		Disbursement # 52117 made for the amount of \$ 5000.00	BOND B1281 DISB 52117 CK REQ 729 1-28-23		RAPPELO		
01/29/2023 05:41 AM	RAEFSKI, DENISE A		CASH BOND EXONERATED for the amount of \$5000.00	EXON TO POSTER		RAPPELO		
01/29/2023 05:41 AM	RAEFSKI, DENISE A		Bond # -11072 Reviewed			RAPPELO		
01/25/2023 08:09 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1382A2 (4)	
01/25/2023 08:09 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1382A1 (3)	
01/25/2023 08:09 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1381A2 (2)	
01/25/2023 08:08 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1381A1 (1)	
01/25/2023 04:32 PM			EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#083711/1/15/2022 10:56:13	EXONERATE BOND M1140TR2022000238 DENISE RAEFSKI		RWHITE		
01/25/2023 03:47 PM	RAEFSKI, DENISE A ET AL		HEARING HELD			MMCVEYFC	28-1381A1 (1)	
01/23/2023 03:46 PM	RAEFSKI, DENISE A ET AL		HEARING HELD			MMCVEYFC	28-1381A1 (1)	
01/25/2023 03:42 PM	RAEFSKI, DENISE A		Contract# TPC8225-2 created for the amount of \$ 4742.73	\$150.00 2/5/2023		BLCERON		
01/25/2023 03:41 PM	RAEFSKI, DENISE A		Payment Contract# TPC8225-1 Terminated			RWHITE		
01/25/2023 03:35 PM	RAEFSKI, DENISE A ET AL		HEARING HELD			MMCVEY	28-1381A1 (1)	
01/25/2023 03:32 PM			ORDER	D ADMITS PROBATION VIOLATION. REINSTITATED ON PROBATION WITH ALL PREVIOUS TERMS, EXCEPT D TO NOW TO COMPLETE 14 DAY SENTENCE IN PCSO. D TO SERVE 11 DAYS IN FIVE 48- HOUR BLOCKS, AND ONE FINAL 24 HOUR BLOCKS, EACH THURSDAY, BEGINNING ON 2/2/2023 AT 9 A.M. D RESPONSIBLE FOR JAIL FEES.		MMCVEYFC		
01/25/2023 03:31 PM	RAEFSKI, DENISE A		INCARCERATION ORDERED			RWHITEFC	28-1382A2 (4)	
01/25/2023 03:31 PM	RAEFSKI, DENISE A		PROBATION REINSTITATED - PROBATION VIOLATION DISPOSITION FORM GENERATED			RWHITEFC	28-1382A2 (4)	
01/25/2023 03:31 PM	RAEFSKI, DENISE A		Case Fee "INCARCERATION FEES IMPOSED" imposed in the amount of \$1265.00	Case Fees assessed from Case Worksheet		RWHITEFC		
01/03/2023 10:46 AM	RAEFSKI, DENISE A		Receipt# F00014172 generated for the amount of \$ 150.00	<FAREIT:93229317[R]:2023-01-05 10:46:50[C]:93229317>		INTERFACES		
01/04/2023 01:21 PM			EMAIL SENT WITH ATTACHED DOCUMENT -CRIMINAL CALENDAR NOTICE 12/14/2022 17:10:04	RAEFSKI - MOTION REPONSE		CREYNOLDS		
01/03/2023 09:02 AM			EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#143913/2023 09:01:03	RAEFSKI JUDGE RULING ON DEFENDANT'S MOTION FILED 12-22-2022		DLEPKE		
01/03/2023 08:10 AM			ORDER	THE COURT HAS REVIEWED DEFENDANT'S DECEMBER 22, 2022 MOTION FOR CHANGE OF JUDGE PURSUANT TO RULE 10.2, ARIZONA RULES OF CRIMINAL PROCEDURE (ARCR.P). DEFENDANT APPEARED BEFORE JUDGE MCVEY FOR SENTENCING ON SEPTEMBER 7, 2022. ACCORDINGLY SHE WAIVED HER RIGHT TO NOTICE JUDGE MCVEY IN THIS CASE. SEE RULE 10.2: "A PARTY LOSES THE RIGHT TO A CHANGE OF JUDGE UNDER THIS RULE IF THE PARTY PARTICIPATES BEFORE THAT JUDGE IN ANY CONTESTED MATTER IN THE CASE, A PROCEEDING UNDER RULE 17, OR THE BEGINNING OF TRIAL." THE MOTION FOR CHANGE OF JUDGE AS A MATTER OF RIGHT PURSUANT TO RULE 10.2, ARCR.P IS DENIED. THE PROBATION REVOCATION HEARING NOW SCHEDULED FOR JANUARY 25, 2023 IS AFFIRMED.		MMCVEYFC		
12/22/2022 08:08 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1382A2 (4)	
12/22/2022 08:05 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1382A1 (3)	
12/22/2022 08:05 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1381A2 (2)	
12/22/2022 08:04 PM	RAEFSKI, DENISE A		ADRS SUCCESSFUL			INTERFACES	28-1381A1 (1)	
12/22/2022 12:28 PM			EMAIL SENT WITH ATTACHED DOCUMENT: -RAEFSKI12-2212/22/2022 12:24:14	RAEFSKI 2ND CHNGE OF JUDGE RGST		ASNYDER		
12/22/2022 12:22 PM	ALLEN, TYLER M		MOTION FILED	SECOND NOTICE OF CHANGE OF JUDGE		ASNYDER		
12/22/2022 09:31 AM			EMAIL SENT WITH ATTACHED DOCUMENT -36 HRS DUI PROVIDED 9-7-2212/22/2022 09:30:32	RAEFSKI COMPLETION 36 HRS DUI TREATMENT PROVIDED 9-7-22		RWHITE		
12/22/2022 09:30 AM	RAEFSKI, DENISE A		COURT MANDATE COMPLIANT - DUI TREATMENT	COMPLETION 36 HRS DUI TREATMENT PROVIDED 9-7-22		RWHITE	28-1382A2 (4)	
12/22/2022 09:29 AM	RAEFSKI, DENISE A		DUI TREATMENT COURT MANDATE ORDERED. DUE DATE: 04/10/2022			RWHITE	28-1382A2 (4)	
12/22/2022 06:26 AM	RAEFSKI, DENISE A		COURT MANDATE COMPLIANT - SCREENING & ORDERED TREATMENT	NO SCREENING JUST 36 HR COMPLETED TURNED IN AT SENTENCING BUT NOT RESULTED TILL NOW		RWHITE	28-1382A2 (4)	
12/17/2022 12:06 AM			COURT MANDATE ORDER REVIEW			SYSTEMUSER		
12/14/2022 06:16 PM			EMAIL SENT WITH ATTACHED DOCUMENT -MINUTE ENTRY ORDER 12/14/2022 18:57:10	RAEFSKI Probation Revocation Hearing Rescheduled		BLCERON		
12/14/2022 06:11 PM			EMAIL SENT WITH ATTACHED DOCUMENT -MINUTE ENTRY ORDER 12/14/2022 18:57:10	RAEFSKI Motion to Change Judge Granted, Hearing Rescheduled		BLCERON		
12/14/2022 06:09 PM	RAEFSKI, DENISE A ET AL		PROBATION REVOCATION HEARING CONTINUED TO 01/25/2023 AT 3:00PM IN COURT ROOM			BLCERON	28-1381A1 (1)	
12/13/2022 02:16 PM			EMAIL SENT WITH ATTACHED DOCUMENT -Image154712/13/2022 14:13:55	RAEFSKI - JUDGE LASOTA ORDER		CREYNOLDS		
12/13/2022 12:46 PM			ORDER	PREPARED MINUTE ENTRY ORDER SENDING STATED DOCUMENTS AND DISC OF COURT PROCEEDINGS TO JUDGE COLEMAN FOR DETERMINATION OF CHANGE OF JUDGE FOR CAUSE MOTION. DELIVER TO JUDGE COLEMAN TODAY. COPIES TO PROSECUTOR AND DEFENSE COUNSEL.		ALASOTA		
12/01/2022 04:39 AM			EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#094912/1/2022 08:37:10	RAEFSKI NOTICE OF CHANGE OF JUDGE FOR CAUSE		DLEPKE		
12/01/2022 08:33 AM	ALLEN, TYLER M		REASSIGN JUDGE FOR CAUSE REQUESTED	NOTICE OF CHANGE OF JUDGE FOR CAUSE PURSUANT TO ARIZ.R.CRM.P RULE 10-1- ORAL ARGUMENT REQUESTED		DLEPKE		
12/01/2022 08:33 AM	RAEFSKI, DENISE A		MISCELLANEOUS	DEF ATTY PAID FOR COPY OF RECORDING		DLEPKE		
11/28/2022 09:06 AM	ALLEN, TYLER M		REQUEST FOR DOCUMENTS	EMAILED IN REQUEST FOR AUDIO RECORDING ON 11-23-2022 AT 9:05 - 9:45 AM		DLEPKE		
11/27/2022 07:59 PM	RAEFSKI, DENISE A		Receipt# F00013740 generated for the amount of \$ 150.00	<FAREIT:93203541[R]:2022-11-27 19:58:30[C]:93203541>		INTERFACES		
11/23/2022 10:52 AM			EMAIL SENT WITH ATTACHED DOCUMENT -Image133711/23/2022 10:52:21	RAEFSKI PTR HEARING		BLCERONFC		
11/23/2022 09:47 AM	RAEFSKI, DENISE A ET AL		HEARING HELD			ALASOTA	28-1381A1 (1)	
11/23/2022 09:46 AM			ORDER	SET FOR HEARING 12/21/22 AT 4. LINE UP SCRAM TELEPHONIC. D WAIVES TIME FOR HEARING WITHIN 7-21 DAYS. EXCL. TIME.		ALASOTA		
11/23/2022 09:38 AM	RAEFSKI, DENISE A ET AL		PROBATION REVOCATION ARRAIGNMENT SCHEDULED ON 12/21/2022 AT 4:00PM IN COURT ROOM			BLCERONFC	28-1381A1 (1)	
11/23/2022 09:14 AM			ORDER	PTC. SET FOR HRG WITHIN 21 DAYS. DENIAL ENTERED. PER SCRAM TO STAFF. D FILED BETTER BUSINESS BUREAU COMPLAINT AGAINST SCRAM. SCRAM CAN ADDRESS THAT ISSUE AT HEARING.		ALASOTA		
11/16/2022 03:01 PM			EMAIL SENT WITH ATTACHED DOCUMENT -CRIMINAL CALENDAR NOTICE 11/16/2022 14:57:33	RAEFSKI PROBATION REVOCATION PTC		ASNYDERFC		
11/16/2022 02:57 PM	RAEFSKI, DENISE A ET AL		PROBATION REVOCATION PRETRIAL CONFERENCE SCHEDULED ON 11/23/2022 AT 8:15AM IN COURT ROOM			ASNYDERFC	28-1381A1 (1)	
11/16/2022 02:55 PM	RAEFSKI, DENISE A ET AL		HEARING VACATED: 12/29/2022 AT 9:30AM IN COURT ROOM			ASNYDERFC	28-1381A1 (1)	
11/16/2022 02:13 PM			EMAIL SENT WITH ATTACHED DOCUMENT -HEARING NOTICE-PRE	RAEFSKI NEW PTC DATE		ASNYDERFC		

DATE/TIME	RAEFSKI, DENISE A ET AL	Y Comment	Y Satisfied Date	Y User ID	Y Charge(s)	Y
11/16/2022 02:10 PM	RAEFSKI, DENISE A ET AL	PRETRIAL CONFERENCE SCHEDULED ON 12/20/2022 AT 9:30AM IN COURT ROOM		ASNYDERFC	28-1381A1 (1)	
11/16/2022 02:09 PM	ALLEN, TYLER M	ALLEN, TYLER M SPN-10086432 assigned as PRIVATE to DEFENDANT RAEFSKI, DENISE A on 11/16/2022 2:09:01 PM		ASNYDERFC		
11/16/2022 02:07 PM	RAEFSKI, DENISE A	RAEFSKI, DENISE A ended Pro Se designation on 11/16/2022 2:07:47 P		ALASOTA		
11/16/2022 02:02 PM	RAEFSKI, DENISE A	NOTICE OF APPEARANCE FILED		ASNYDERFC	CREYNOLDS	
11/16/2022 12:24 PM		EMAIL SENT WITH ATTACHED DOCUMENT IMMEDIATE RELEASE ORDER 11/16/2022 10:54:42	RAEFSKI, DENISE - ORDER TO APPEAR TELEPHONICALLY			
11/16/2022 10:55 AM		EMAIL SENT WITH ATTACHED DOCUMENT IMMEDIATE RELEASE ORDER 11/16/2022 10:54:42	RAEFSKI, IMMEDIATE RO			
11/16/2022 10:40 AM	RAEFSKI, DENISE A	Receipt# B00001282 generated for the amount of \$ 5000.00 for Bond ID 11672		OLEFKE		
11/16/2022 09:26 AM	RAEFSKI, DENISE A ET AL	IO-IN-CUSTODY SCHEDULED ON 11/23/2022 AT 8:15AM IN COURT ROOM		OLEFKE	28-1381A1 (1)	
11/16/2022 09:26 AM	RAEFSKI, DENISE A ET AL	HEARING HELD		ALASOTA	28-1381A1 (1)	
11/16/2022 09:22 AM	RAEFSKI, DENISE A	BOND SET IN THE AMOUNT OF \$ 5000.00		ALASOTA		
11/16/2022 09:21 AM	RAEFSKI, DENISE A	RELEASE ORDER ISSUED	\$5,000 CASH BOND.	ALASOTA	28-1382A2 (4)	
11/16/2022 09:19 AM		ORDER	ARR ON PTR. O TAKEN INTO CUSTODY SET FOR PTR PTC ON 11/23/22 AT 8:15 AM. \$5,000 CASH BOND. SET SCRAM TO TESTIFY ON 11/23/22.	ALASOTA		
11/16/2022 09:16 AM	RAEFSKI, DENISE A ET AL	WALK-INS SCHEDULED ON 11/16/2022 AT 8:30AM IN COURT ROOM		ASNYDERFC	28-1381A1 (1)	
11/14/2022 04:23 PM	RAEFSKI, DENISE A	FAILURE TO APPEAR		ALASOTA	28-1382A2 (4)	
11/14/2022 04:22 PM	RAEFSKI, DENISE A	FAILURE TO APPEAR		ALASOTA	28-1382A2 (4)	
11/14/2022 04:19 PM	RAEFSKI, DENISE A	WARRANT ORDERED PER Rule 26.12C Post-Adjudication Warrant	\$5,000 CASH BOND. MULTIPLE SCRAM VIOLATIONS ALLEGED AND SCRAM WAS READY TO TESTIFY TODAY. ARREST IF ENTERS BUILDING. MUST POST BOND AND SET FOR WED AM SETTING 10.	ALASOTA	28-1382A2 (4)	
11/14/2022 02:43 PM	RAEFSKI, DENISE A	TELEPHONE	CLD IN, SD CNT MAKE COURT AT 3. BREATHALIZER NOT WORKING AND NEEDS TO GO TO THE PLACE TO GET IT FIXED, ADV HER TO EMAIL REQ AND IF SHE MISSES COURT CANNOT GRNTEE NO WRRNT, ADV CN CM IN AT WLK IN TIME	ASNYDER		
11/07/2022 08:26 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1382A2 (4)	
11/07/2022 08:25 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1382A1 (3)	
11/07/2022 08:25 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1381A2 (2)	
11/07/2022 08:24 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1381A1 (1)	
11/07/2022 10:02 AM		EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#66611/7/2022 09:55:25	RAEFSKI PTR AND SUMMONS	RWHITE		
11/07/2022 09:50 AM	RAEFSKI, DENISE A ET AL	PROBATION REVOCATION ARRAIGNMENT SCHEDULED ON 11/14/2022 AT 3:00PM IN COURT ROOM	MAILED SUMMONS AND PTR TO DEF	RWHITE	28-1381A1 (1)	
11/07/2022 09:54 AM	RAEFSKI, DENISE A	PETITION TO REVOKE FILED	PTR FILED. FOR: FAILURE TO COMPLY WITH SCRAM OF AZ DUE TO THE DETECTION OF ALCOHOL AND DEVICE TAMPERING	RWHITE	28-1382A2 (4)	
10/20/2022 07:11 AM		EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#49218/19/2022 08:33:05	RAEFSKI 3 SCRAM VIOLATIONS	RWHITE		
10/20/2022 07:07 AM	RAEFSKI, DENISE A	PROOF FILED	2ND AND 3RD SCRAM VIOLATION PROVIDED OSC SET FOR 11-14 3PM	RWHITE	28-1382A2 (4)	
10/19/2022 08:40 AM		EMAIL SENT WITH ATTACHED DOCUMENT -SUMM-ORDER TO SHOW CAUSE 10/19/2022 08:34:50	RAEFSKI Order to Show Cause APACHE JUNCTION MUNICIPAL COURT	RWHITE		
10/19/2022 08:34 AM	RAEFSKI, DENISE A ET AL	ORDER TO SHOW CAUSE HEARING SCHEDULED ON 11/14/2022 AT 3:00PM IN COURT ROOM		RWHITE	28-1381A1 (1)	
10/19/2022 08:30 AM	RAEFSKI, DENISE A	INCARCERATION NON-COMPLIANT	3 DAYS PCSO COMPLETED 9/15/22 HOME DETENTION VIOLATION: SCRAM INSTALLED 10-7-22 - REPORT FROM SCRAM OF TAMPER VIOLATION ON 10/10/22	RWHITE	28-1382A2 (4)	
10/16/2022 08:02 AM	RAEFSKI, DENISE A	Receipt# F00013325 generated for the amount of \$ 150.00	<FARE[T:03178664[R:2022-10-16 08:02:00[C:93178664]	INTERFACES		
10/06/2022 03:10 PM	RAEFSKI, DENISE A	MISCELLANEOUS	3 DAYS SERVED PCSO 9-12 TO 9-15	RWHITE		
10/04/2022 08:18 AM	RAEFSKI, DENISE A	Receipt# F00013205 generated for the amount of \$ 150.00	<FARE[T:03168866[R:2022-10-04 08:18:50[C:93168866]	INTERFACES		
09/28/2022 10:04 PM		INCARCERATION ORDER REVIEW		SYSTEMUSER		
09/22/2022 01:49 PM		EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#2876/22/2022 13:48:54	RAEFSKI MADD CERTIFICATE	RWHITE		
09/22/2022 01:48 PM	RAEFSKI, DENISE A	COURT MANDATE COMPLIANT - MADD VICTIM IMPACT PANEL	MADD CERTIFICATE	RWHITE	28-1382A2 (4)	
09/07/2022 09:11 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1382A2 (4)	
09/07/2022 08:11 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1382A1 (3)	
09/07/2022 08:11 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1381A2 (2)	
09/07/2022 08:10 PM	RAEFSKI, DENISE A	ADRS SUCCESSFUL		INTERFACES	28-1381A1 (1)	
09/07/2022 07:31 PM	RAEFSKI, DENISE A	DLCP POST DISPOSITION AUTO SEND		SYSTEMUSER		
09/07/2022 03:44 PM		EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#2109/7/2022 15:42:17	RAEFSKI, DENISE, SCRAM AND COMMITMENT FROM	OLEFKE		
09/07/2022 03:40 PM		EMAIL SENT WITH ATTACHED DOCUMENT -Black and White#2099/7/2022 15:39:17	RAEFSKI SIGNED SENTENCING DOCS	OLEFKE		
09/07/2022 11:34 AM	RAEFSKI, DENISE A	Contract# TPC9226-1 created for the amount of \$ 4377.75	\$160.00 10-05-2022	OLEFKE		
09/07/2022 11:34 AM	RAEFSKI, DENISE A	TPF Assessed		RWHITE		
09/07/2022 11:25 AM	RAEFSKI, DENISE A	PLEA - GUILTY/RESPONSIBLE WITH A PLEA DATE 9/7/2022 11:22:54 AM	Plea Event- Case Worksheet	RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	SCREENING & ORDERED TREATMENT COURT MANDATE ORDERED. DUE DATE: 12/07/2022		RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	MADD VICTIM IMPACT PANEL COURT MANDATE ORDERED. DUE DATE: 12/07/2022		RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	UNSUPERVISED PROBATION ORDERED		RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	INCARCERATION ORDERED		RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	DISPOSITION SET: 11-PEA GUILTY/RESP SENT IMPOSED. DATE: 09/07/2022		RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	DISPOSITION SET: 44-CHARGE DISMISSED BY PROSECUTOR. DATE: 09/07/2022		RWHITE	28-1382A1 (3)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	DISPOSITION SET: 44-CHARGE DISMISSED BY PROSECUTOR. DATE: 09/07/2022		RWHITE	28-1381A2 (2)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	DISPOSITION SET: 44-CHARGE DISMISSED BY PROSECUTOR. DATE: 09/07/2022		RWHITE	28-1381A1 (1)	
09/07/2022 11:26 AM	RAEFSKI, DENISE A	Case Fee "INCARCERATION FEES IMPOSED" imposed in the amount of \$481.00	Case Fees assessed from Case Worksheet	RWHITE		
09/07/2022 11:25 AM	RAEFSKI, DENISE A	Case Fee "GPS Monitoring Fee" imposed in the amount of \$200.05	Case Fees assessed from Case Worksheet	RWHITE		
09/07/2022 11:25 AM	RAEFSKI, DENISE A	Fees/Fines Receivable# 190016 generated for amount \$1000		RWHITE	28-1382A2 (4)	
09/07/2022 11:25 AM	RAEFSKI, DENISE A	Fees/Fines Receivable# 190017 generated for amount \$1000		RWHITE	28-1382A2 (4)	

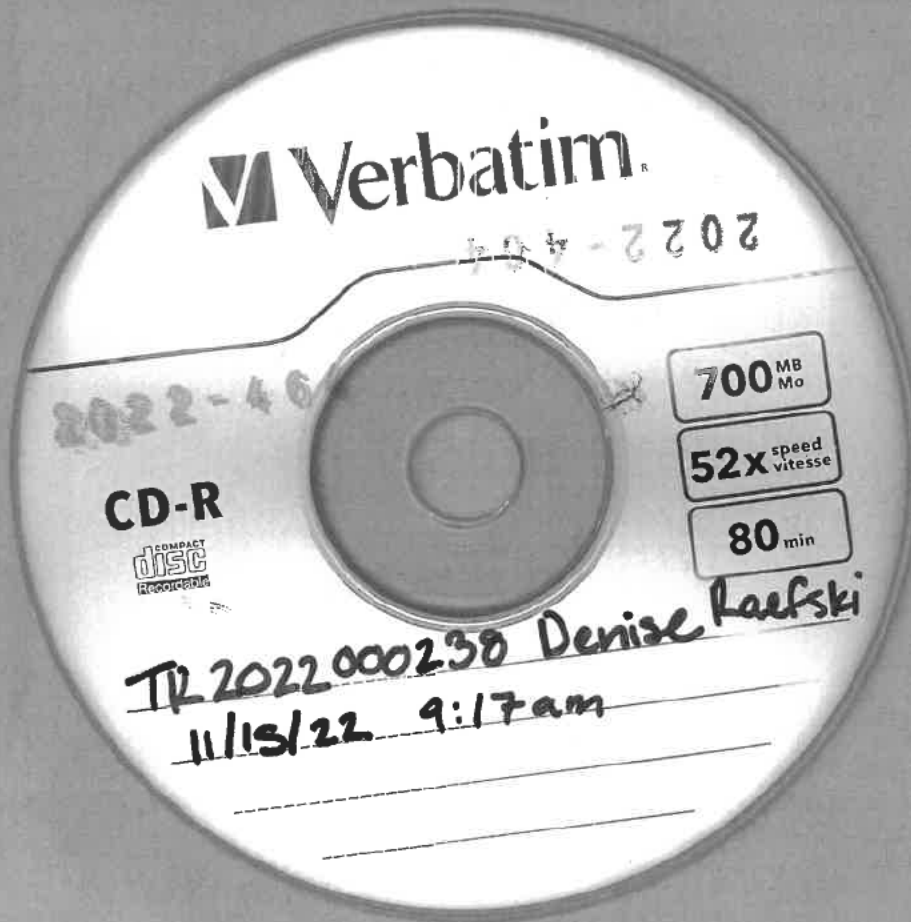
Case Description	Case ID	Description	Comment	Satisfied Date	User ID	Charge(s)	
09/07/2022 11:28 AM	RAEFSKI, DENISE A	Fees/Fines Receivable# 190019 generated for amount \$250			RWHITE	28-1382A2 (4)	
09/07/2022 11:28 AM	RAEFSKI, DENISE A	Fees/Fines Receivable# 190016 generated for amount \$35.0			RWHITE	28-1382A2 (4)	
09/07/2022 11:28 AM	RAEFSKI, DENISE A	Fees/Fines Receivable# 190014 generated for amount \$930			RWHITE	28-1382A2 (4)	
09/07/2022 11:22 AM	RAEFSKI, DENISE A	PROSECUTOR RECOVERY FEE IMPOSED			RWHITE		
09/07/2022 11:19 AM	RAEFSKI, DENISE A	PROOF FILED	DEF COMPLETED 36 HOURS DUI PROGRAM WITH PATHWAY COUNSELING		DLEFKEFC	28-1382A2 (4)	
09/07/2022 11:13 AM		ORDER	D SENTENCED PER PLEA ON 9/7/2022. FINE OF \$3,376.88 + TP FEE OF \$20. TO BE PAID AT RATE OF \$150/ MONTH BEGINNING 10/5/2022 AND ON OR BEFORE THE 5TH DAY OF EACH SUCCEEDING MONTH. D TO REPORT TO PCSO TO SERVE 72 HOURS BEGINNING 9/12/2022 AT 10 AM. D ELIGIBLE FOR HOME DETENTION FOR BALANCE OF SENTENCE. JAIL FEES ASSESSED. D RESP FOR HOME DETENTION FEES. ELIGIBLE FOR CS TO PAY FINE.		MMCVEY		
09/07/2022 11:13 AM	RAEFSKI, DENISE A ET AL	HEARING HELD			MMCVEY	28-1381A1 (1)	
09/07/2022 10:58 AM	RAEFSKI, DENISE A	PROOF FILED	PROOF OF INTERLOCK		DLEFKEFC	28-1382A2 (4)	
07/13/2022 11:56 AM		EMAIL SENT WITH ATTACHED DOCUMENT -FRONT-OL134287/13/2022 11:54:42	RAEFSKI, SIGNED SENTENCING DOCS		DLEFKE		
07/13/2022 11:23 AM	RAEFSKI, DENISE A ET AL	SENTENCING SCHEDULED ON 09/07/2022 AT 11:00AM IN COURT ROOM			DLEFKEFC	28-1381A1 (1)	
07/13/2022 11:21 AM	RAEFSKI, DENISE A ET AL	HEARING HELD			ALASOTA	28-1381A1 (1)	
07/13/2022 11:18 AM		ORDER	D COP 0 PER PA + PLEA ACCEPTED AND ENTERED OF RECORD. SET FOR SENT IN 6 WEEKS.		ALASOTA		
07/13/2022 11:06 AM		PLEA AGREEMENT FILED	PLEA SIGNED, MS NICELY APPT.		DLEFKEFC	28-1382A2 (4)	
06/21/2022 01:07 PM		EMAIL SENT WITH ATTACHED DOCUMENT -Court28296/5/2022 17:03:01	RAEFSKI PTC AND LONG FORM		BLCERON		
06/21/2022 01:05 PM	RAEFSKI, DENISE A	DEFENDANT'S FINANCIAL STATEMENT FILED			BLCERON		
06/21/2022 09:43 AM	RAEFSKI, DENISE A	Receipt# P00044688 generated for the amount of \$ 125.00			DLEFKEFC		
06/21/2022 09:40 AM	RAEFSKI, DENISE A ET AL	PRETRIAL CONFERENCE SCHEDULED ON 07/13/2022 AT 10:30AM IN COURT ROOM			BLCERONFC	28-1381A1 (1)	
06/21/2022 09:38 AM	RAEFSKI, DENISE A	Case Fee "Indigent Assessment Fee" Imposed in the amount of \$125.00	Case Fees assessed from Case Worksheet		BLCERONFC		
06/21/2022 09:38 AM	NICELY, KAREN	NICELY, KAREN BPN 10073310 assigned as PUBLIC DEFENDER to DEFENDANT RAEFSKI, DENISE A on 6/21/2022 9:38:19 AM			BLCERONFC		
06/21/2022 09:38 AM	RAEFSKI, DENISE A ET AL	Case assigned to COURT ROOM			BLCERONFC		
06/21/2022 09:35 AM	RAEFSKI, DENISE A ET AL	HEARING HELD			ALASOTA	28-1381A1 (1)	
06/21/2022 09:32 AM		ORDER	D REQUESTS PD AND COMPLETES FINANCIAL. APPOINT PD. ASSESS FEE. TO PAY TODAY. SET PTC. EXCL. TIME.		ALASOTA		
06/02/2022 09:10 AM		EMAIL SENT WITH ATTACHED DOCUMENT -AH130068/2/2022 09:10:08	RAEFSKI PTC AND SIGNED WAIVER		BLCERON		
06/02/2022 08:22 AM	RAEFSKI, DENISE A ET AL	HEARING HELD			MMCVEY	28-1381A1 (1)	
06/02/2022 08:21 AM	RAEFSKI, DENISE A ET AL	PRETRIAL CONFERENCE SCHEDULED ON 06/21/2022 AT 9:00AM IN COURT ROOM			BLCERONFC	28-1381A1 (1)	
06/02/2022 08:21 AM		ORDER	ARR. NG PLEA ENTERED. SET FOR PTC ON 6/21/2022. D TO SIGN WAIVER.		MMCVEY		
06/02/2022 07:24 AM		COUNSEL - RIGHT TO COUNSEL - WAIVE	STATE REQUEST		BLCERON		
05/26/2022 11:46 AM	RAEFSKI, DENISE A	ARREST RECORD FILED			BLCERON		
05/05/2022 08:03 PM		EMAIL SENT WITH ATTACHED DOCUMENT -Court28296/5/2022 17:03:01	RAEFSKI LF AND SUMMONS		CREYNOLDS		
05/05/2022 04:42 PM	RAEFSKI, DENISE A ET AL	LONG FORM ARRAIGNMENT SCHEDULED ON 06/02/2022 AT 8:00AM IN COURT ROOM			CREYNOLDS	28-1381A1 (1)	
05/05/2022 04:42 PM	RAEFSKI, DENISE A	LONG FORM COMPLAINT FILED			CREYNOLDS		
05/05/2022 04:42 PM	RAEFSKI, DENISE A	FINGERPRINTS ORDERED			CREYNOLDS		

28

Resp Attach 28-CD
(11/15/22 Proceedings)

2022-464

JUL 17 2023



29

1 **APPEARANCES:**

2 **For the State:**

MR. ERIC YUVA
City of Apache
Junction Attorney's Office

4 **For the Defendant:**

MR. TYLER M. ALLEN
Queen Creek Law Firm

6 **BEFORE THE HONORABLE A. DOUGLAS LaSOTA**

7 *****

8 Apache Junction, Arizona

9 November 23, 2022

10 9:08 o'clock a.m.

12 THE COURT: It looks like (Indecipherable).

13 Counsel, please identify for the record,
14 please.

15 MR. ALLEN: Certainly. Good morning, Your
16 Honor. Tyler Allen on behalf of Denise Raefski, who is
17 also present in the courtroom.

18 THE COURT: Let the record reflect that she was
19 convicted back on September 7th, ordered to do SCRAM. We
20 got a notice from SCRAM, including documentation showing
21 that she had tried to tamper with her device.

22 It was installed on October 7th, and it was
23 already being tampered with on October 10th. And we've
24 got proof filed from SCRAM. The second and third SCRAM
25 violations provided. The second and third violations, so

1 the second violation first. (Indecipherable).

2 (Indecipherable voices recorded.)

3 THE COURT: It confirmed that both
4 (Indecipherable) from October 13th to October 15th.
5 That's all during the same time period.

6 Do you have copies of all this, Counsel?

7 MR. ALLEN: We do, Your Honor.

8 (Indecipherable voices recorded.)

9 THE COURT: In terms of obstruction, there are
10 handprints from October 15th to October 16th. They wrote
11 down October 5th, and it was made inactive on October
12 16th. That's SCRAM.

13 So that's set for a petition to revoke. So
14 you put the cart before the horse on doing a hearing.

15 Are you intending to deny the allegations,
16 Counsel, and have a hearing or what?

17 MR. ALLEN: Well, Your Honor, based on the
18 allegations, what I would request for this morning is
19 that we set this matter for a violation, probation
20 violation hearing for time to be able to do an interview
21 that's fair and representative.

22 And based on the allegations and the data
23 that you had received in your report, we certainly have
24 some questions that need to be answered as to whether or
25 not the device was actually working properly. After

1 looking at the data, it certainly appears that there
2 could be an issue in that and that needs to be explored
3 prior to appearing.

4 THE COURT: Let me give you just a little input,
5 Counsel.

6 If she goes on the stand at a hearing later
7 and lies, it's not going to be a fun time for her, I
8 guarantee you.

9 MR. ALLEN: Understood, Your Honor.

10 THE COURT: So -- and, and, right now, you know,
11 she doesn't have much credibility with the Court.
12 Because even when she had an order to show cause date to
13 come and show why, why there was issues and why she
14 hadn't completed her SCRAM, she failed to appear for that
15 court date.

16 MR. ALLEN: She did, Your Honor.

17 THE COURT: (Indecipherable) said she wasn't
18 coming, but that still doesn't excuse the fact that she
19 wasn't here when she was supposed to.

20 MR. ALLEN: Right. She didn't --

21 THE COURT: She already has issues with this
22 Court. Not even wanting to show up when she's supposed
23 to show up, and she wants to blame it on -- you know, for
24 the first time, the first time when she fails to appear
25 for a court date, she says: Oh, I had problems with my

1 device. I need to go get it fixed.

2 MR. ALLEN: That's correct.

3 THE COURT: The first time she tells anybody
4 that is when she's failed to appear for a court date.

5 MR. ALLEN: Right.

6 THE COURT: So you can understand why she's not
7 going to have any credibility with the Court at this
8 point.

9 Obviously it's the State's burden of proof,
10 and I'll listen to evidence. But if she gets on the
11 stand and lies, the contempt -- the contempt sanction is
12 going to be even higher, just so you know that.

13 MR. ALLEN: Understood, Your Honor. But just
14 denying the allegation that there was alcohol consumed by
15 Ms. Raefski while on home detention doesn't mean that
16 she's actually lying. She testifies that she didn't
17 consent to that consumed alcohol.

18 And, also, as far as her failure to appear,
19 there's no disputing that. That's obviously what
20 happened. And she posted a \$5,000 bond to be able to
21 remain out of custody while this matter is now pending.

22 And quite frankly, Your Honor, she's
23 complied with every other single term in this court
24 throughout the course of her case. She's never failed to
25 appear other than for that order to show cause hearing.

1 THE COURT: Since I've been here, there's been
2 two occasions that have this kind of stuff going on.

3 Everybody else has no problems at all with
4 the SCRAM, no problems with tampering on devices, no
5 problems with alcohol being detected. There's two people
6 that have this kind of stuff going on.

7 The odds are going to be kind of
8 overwhelming that, you know, there's probably not
9 something wrong with SCRAM since everybody else doesn't
10 have a problem with it. And all of a sudden it's just
11 her.

12 And then she doesn't tell anybody that she
13 has a problem with the device until she's failing to show
14 up for her court date. That doesn't give her much
15 credibility to start with.

16 (Indecipherable voices recorded.)

17 THE COURT: (Indecipherable) evidence. I
18 haven't made up my mind, obviously. I will listen to
19 both sides first --

20 MR. ALLEN: Understood.

21 THE COURT: -- and then decide.

22 But I just want to give you a heads-up.
23 Because we've had problems with some people on
24 depositions who ultimately get on the stand and lie
25 through their teeth.

1 Ask Mr. Yuva what happened to the last one
2 who sat there and lied to us. And we had to have several
3 witnesses testify as to why she was lying, and she
4 finally admitted that she was lying. By that time it was
5 too late. She got a bunch of extra jail time over it.

6 MR. ALLEN: Understood.

7 THE COURT: Right now she's facing just what
8 she -- what she's supposed to do on a SCRAM, but she
9 didn't do jail time for the time that she was supposed to
10 be on jail time.

11 MR. ALLEN: Right.

12 THE COURT: It can go up and down.

13 Just giving you that fair warning,
14 Counsel. So you might want to have a chat with your
15 client before you --

16 MR. ALLEN: Well --

17 THE COURT: I mean, I know you won't, but --

18 MR. ALLEN: Absolutely, Judge. And she's hired
19 private counsel because she's taking this matter so
20 seriously. She already served jail time in this case.

21 THE COURT: I know. But she had a suspended
22 jail sentence (Indecipherable) SCRAM --

23 MR. ALLEN: Absolutely.

24 THE COURT: -- SCRAM on the condition that you
25 don't mess with the device --

1 MR. ALLEN: Absolutely.

2 THE COURT: -- and you don't have alcohol, both
3 of which are shown in this case. Multiple. And not just
4 on one occasion, multiple occasions.

5 MR. ALLEN: Right.

6 THE COURT: So if she's found in violation,
7 she's going to have to do the whole SCRAM period because
8 she's violated it. So whatever time is suspended was the
9 number of days on SCRAM. If that is proven by the
10 prosecutor at a hearing, then that's what's going to be
11 imposed at a minimum.

12 MR. ALLEN: Understood.

13 THE COURT: Plus the fact that she's violated
14 her conditions of probation. That might come into play
15 too. (Indecipherable) discussion in that area as well.

16 So I guess we'll just set it for a -- for a
17 petition to revoke hearing.

18 Mr. Yuva, do you have anything you wish to
19 add?

20 MR. YUVA: (Indecipherable).

21 THE COURT: All right. We'll have a date before
22 you in just a couple of minutes, Counsel. We'll have to
23 check your availability when we set it, okay?

24 MR. ALLEN: Understood. Thank you.

25 (The proceedings recessed at 9:13)

1 o'clock a.m. and continued at 9:35 o'clock a.m.)

2 THE COURT: What do you have set, Counsel?

3 MR. ALLEN: I have multiple cases on a contract
4 that I have in Scottsdale.

5 THE COURT: What days do you have contracts?

6 MR. ALLEN: I'm sorry, Judge. I already have
7 cases set.

8 THE COURT: I'm just -- I going to try
9 (Indecipherable) the Christmas season and everything,
10 so...

11 MR. ALLEN: I understand it. I would request
12 that if we need do it on a, excuse me, a Thursday
13 morning, if we could do January 12th.

14 THE COURT: Well, it doesn't have to be
15 necessarily a Thursday morning. Sometimes we do a
16 Thursday afternoon, sometimes we do a Wednesday
17 afternoon.

18 MR. ALLEN: Understood.

19 THE COURT: It depends on what's open on our --
20 on our calendar. Unfortunately, I have like traffic
21 cases through January, because everybody and their
22 brother is fighting those on some things.

23 MR. ALLEN: Right. I could certainly make
24 December 21st work, if that -- the Court has
25 availability, which is the day prior.

1 THE COURT: 2000 -- is there something
2 (Indecipherable)?

3 THE CLERK: You have a court hearing in the
4 afternoon.

5 Would you like January 4th in the
6 afternoon? It's a Wednesday.

7 THE COURT: We have to check the screen.

8 (Simultaneous voices recorded.)

9 THE COURT: (Indecipherable), an hour? It
10 shouldn't take more than an hour, right, Counsel?

11 MR. ALLEN: I hope not.

12 THE COURT: How about the 21st at 4:00 o'clock?

13 MR. ALLEN: Understood.

14 THE COURT: Will you double-check the
15 (Indecipherable) and make sure that (Indecipherable) is
16 available too. We'll get a date here in just a minute.
17 (Indecipherable) to find out the 21st at 4:00 is okay.

18 THE CLERK: The accident. Guess how much he's
19 going to be out. A week and a half.

20 THE COURT: Counsel, are you going to be able to
21 wait? You're right, we have a trial within
22 (Indecipherable) days; is that correct?

23 MR. ALLEN: Correct.

24 THE COURT: It will be just a couple of
25 minutes. She's got to check the screen out and make sure

1 that that person is available at that time, okay?

2 MR. ALLEN: Understood.

3 (The proceedings concluded at 9:39

4 o'clock a.m.

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) ss.
3


4 BE IT KNOWN that the foregoing transcript was
5 prepared from electronic recording by me, JOHN M. COZZA,
6 RPR, a Certified Reporter, No. 50126, for the State of
7 Arizona; that I was the preparer of this transcript but
8 was not present in person at the proceedings.

9 The above-mentioned Court Reporter does not
10 certify that the electronic recording itself is accurate
11 or complete. Where the recording was unintelligible,
12 inaudible, or garbled, the parenthetical "Indecipherable"
13 was inserted.

14 I CERTIFY that the foregoing pages are a true
15 and correct transcript of the electronic recording, all
16 done to the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related to
18 any of the parties hereto, nor am I in any way interested
19 in the outcome hereof.

20 DATED at Mesa, Arizona, this 28th day of June,
21 2023.

22
23 
24 John M. Cozza
25 Certified Reporter
No. 50126.

30

Syllabus

LITEKY ET AL. v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT

No. 92-6921. Argued November 3, 1993—Decided March 7, 1994

Before and during petitioners' 1991 trial on federal criminal charges, the District Judge denied defense motions that he recuse himself pursuant to 28 U. S. C. § 455(a), which requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The first motion was based on rulings and statements this same judge made, which allegedly displayed impatience, disregard, and animosity toward the defense, during and after petitioner Bourgeois' 1983 bench trial on similar charges. The second motion was founded on the judge's admonishment of Bourgeois' counsel and co-defendants in front of the jury at the 1991 trial. In affirming petitioners' convictions, the Court of Appeals agreed with the District Judge that matters arising from judicial proceedings are not a proper basis for recusal.

Held: Required recusal under § 455(a) is subject to the limitation that has come to be known as the "extrajudicial source" doctrine. Pp. 543-556.

(a) The doctrine—see *United States v. Grinnell Corp.*, 384 U. S. 563, 583—applies to § 455(a). It was developed under § 144, which requires disqualification for "personal bias or prejudice." That phrase is repeated as a recusal ground in § 455(b)(1), and § 455(a), addressing disqualification for appearance of partiality, also covers "bias or prejudice." The absence of the word "personal" in § 455(a) does not preclude the doctrine's application, since the textual basis for the doctrine is the pejorative connotation of the words "bias or prejudice," which indicate a judicial predisposition that is *wrongful* or *inappropriate*. Similarly, because the term "partiality" refers only to such favoritism as is, for some reason, wrongful or inappropriate, § 455(a)'s requirement of recusal *whenever* there exists a genuine question concerning a judge's impartiality does not preclude the doctrine's application. A contrary finding would cause the statute, in a significant sense, to contradict itself, since (petitioners acknowledge) § 455(b)(1) embodies the doctrine, and § 455(a) duplicates § 455(b)'s protection with regard to "bias and prejudice." Pp. 543-553.

(b) However, it is better to speak of the existence of an "extrajudicial source" *factor*, than of a *doctrine*, because the presence of such a source does not necessarily establish bias, and its absence does not necessarily

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preclude bias. The consequences of that factor are twofold for purposes of this case. First, judicial rulings alone almost never constitute valid basis for a bias or partiality recusal motion. See *Grinnell, supra*, at 583. Apart from surrounding comments or accompanying opinion, they cannot possibly show reliance on an extrajudicial source; and, absent such reliance, they require recusal only when they evidence such deep-seated favoritism or antagonism as would make fair judgment impossible. Second, opinions formed by the judge on the basis of facts introduced or events occurring during current or prior proceedings are not grounds for a recusal motion unless they display a similar degree of favoritism or antagonism. Pp. 554–556.

(c) Application of the foregoing principles to the facts of this case demonstrates that none of the grounds petitioners assert required disqualification. They all consist of judicial rulings, routine trial administration efforts, and ordinary admonishments (whether or not legally supportable) to counsel and to witnesses. All occurred in the course of judicial proceedings, and neither (1) relied upon knowledge acquired outside such proceedings nor (2) displayed deep-seated and unequivocal antagonism that would render fair judgment impossible. P. 556.

973 F. 2d 910, affirmed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, THOMAS, and GINSBURG, JJ., joined. KENNEDY, J., filed an opinion concurring in the judgment, in which BLACKMUN, STEVENS, and SOUTER, JJ., joined, *post*, p. 557.

Peter Thompson, by appointment of the Court, 509 U. S. 920, argued the cause and filed briefs for petitioners.

Thomas G. Hungar argued the cause for the United States. With him on the brief were *Solicitor General Days*, *Acting Assistant Attorney General Keeney*, *Deputy Solicitor General Bryson*, and *Joel M. Gershowitz*.

JUSTICE SCALIA delivered the opinion of the Court.

Section 455(a) of Title 28 of the United States Code requires a federal judge to “disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” This case presents the question whether required recusal under this provision is subject to the limitation that has come to be known as the “extrajudicial source” doctrine.

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I

In the 1991 trial at issue here, petitioners were charged with willful destruction of property of the United States in violation of 18 U. S. C. § 1361. The indictment alleged that they had committed acts of vandalism, including the spilling of human blood on walls and various objects, at the Fort Benning Military Reservation. Before trial petitioners moved to disqualify the District Judge pursuant to 28 U. S. C. § 455(a). The motion relied on events that had occurred during and immediately after an earlier trial, involving petitioner Bourgeois, before the same District Judge.

In the 1983 bench trial, Bourgeois, a Catholic priest of the Maryknoll order, had been tried and convicted of various misdemeanors committed during a protest action, also on the federal enclave of Fort Benning. Petitioners claimed that recusal was required in the present case because the judge had displayed "impatience, disregard for the defense and animosity" toward Bourgeois, Bourgeois' codefendants, and their beliefs. The alleged evidence of that included the following words and acts by the judge: stating at the outset of the trial that its purpose was to try a criminal case and not to provide a political forum; observing after Bourgeois' opening statement (which described the purpose of his protest) that the statement ought to have been directed toward the anticipated evidentiary showing; limiting defense counsel's cross-examination; questioning witnesses; periodically cautioning defense counsel to confine his questions to issues material to trial; similarly admonishing witnesses to keep answers responsive to actual questions directed to material issues; admonishing Bourgeois that closing argument was not a time for "making a speech" in a "political forum"; and giving Bourgeois what petitioners considered to be an excessive sentence. The final asserted ground for disqualification—and the one that counsel for petitioners described at oral argument as the most serious—was the judge's interruption of the closing argument of one of Bourgeois' codefendants,

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instructing him to cease the introduction of new facts, and to restrict himself to discussion of evidence already presented.

The District Judge denied petitioners' disqualification motion, stating that matters arising from judicial proceedings were not a proper basis for recusal. At the outset of the trial, Bourgeois' counsel informed the judge that he intended to focus his defense on the political motivation for petitioners' actions, which was to protest United States Government involvement in El Salvador. The judge said that he would allow petitioners to state their political purposes in opening argument and to testify about them as well, but that he would not allow long speeches or discussions concerning Government policy. When, in the course of opening argument, Bourgeois' counsel began to explain the circumstances surrounding certain events in El Salvador, the prosecutor objected, and the judge stated that he would not allow discussion about events in El Salvador. He then instructed defense counsel to limit his remarks to what he expected the evidence to show. At the close of the prosecution's case, Bourgeois renewed his disqualification motion, adding as grounds for it the District Judge's "admonishing [him] in front of the jury" regarding the opening statement, and the District Judge's unspecified "admonishing [of] others," in particular Bourgeois' two *pro se* codefendants. The motion was again denied. Petitioners were convicted of the offense charged.

Petitioners appealed, claiming that the District Judge violated 28 U.S.C. § 455(a) in refusing to recuse himself. The Eleventh Circuit affirmed the convictions, agreeing with the District Court that "matters arising out of the course of judicial proceedings are not a proper basis for recusal." 973 F.2d 910 (1992). We granted certiorari. 508 U.S. 939 (1993).

II

Required judicial recusal for bias did not exist in England at the time of Blackstone. 3 W. Blackstone, Commentaries

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*361. Since 1792, federal statutes have compelled district judges to recuse themselves when they have an interest in the suit, or have been counsel to a party. See Act of May 8, 1792, ch. 36, § 11, 1 Stat. 278. In 1821, the basis of recusal was expanded to include all judicial relationship or connection with a party that would in the judge's opinion make it improper to sit. Act of Mar. 3, 1821, ch. 51, 3 Stat. 643. Not until 1911, however, was a provision enacted requiring district-judge recusal for bias *in general*. In its current form, codified at 28 U. S. C. § 144, that provision reads as follows:

"Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

"The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith."

Under § 144 and its predecessor, there came to be generally applied in the courts of appeals a doctrine, more standard in its formulation than clear in its application, requiring—to take its classic formulation found in an oft-cited opinion by Justice Douglas for this Court—that "[t]he alleged bias and prejudice to be disqualifying [under § 144] must stem from an extrajudicial source." *United States v. Grinnell Corp.*, 384 U. S. 563, 583 (1966). We say that the doctrine was less than entirely clear in its application for

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several reasons. First, *Grinnell* (the only opinion of ours to recite the doctrine) clearly meant by “extrajudicial source” a source outside the judicial proceeding at hand—which would include as extrajudicial sources earlier judicial proceedings conducted by the same judge (as are at issue here).¹ Yet many, perhaps most, Courts of Appeals considered knowledge (and the resulting attitudes) that a judge properly acquired in an earlier proceeding *not* to be “extrajudicial.” See, e.g., *Lyons v. United States*, 325 F. 2d 370, 376 (CA9), cert. denied, 377 U.S. 969 (1964); *Craven v. United States*, 22 F. 2d 605, 607–608 (CA1 1927). Secondly, the doctrine was often quoted as justifying the refusal to consider trial *rulings* as the basis for § 144 recusal. See, e.g., *Toth v. Trans World Airlines, Inc.*, 862 F. 2d 1381, 1387–1388 (CA9 1988); *Liberty Lobby, Inc. v. Dow Jones & Co.*, 838 F. 2d 1287, 1301 (CA DC), cert. denied, 488 U.S. 825 (1988). But trial *rulings* have a judicial *expression* rather than a judicial *source*. They may well be based upon extrajudicial knowledge or motives. Cf. *In re International Business Machines Corp.*, 618 F. 2d 923, 928, n. 6 (CA2 1980). And finally, even in cases in which the “source” of the bias or prejudice was clearly the proceedings themselves (for example, testimony introduced or an event occurring at trial which produced unsuppressible judicial animosity), the supposed doctrine would not necessarily be applied. See, e.g., *Davis v. Board of School Comm’rs of Mobile County*, 517 F. 2d 1044, 1051 (CA5 1975) (doctrine has “pervasive bias” exception), cert. denied, 425 U.S. 944 (1976);

¹That is clear when the language from *Grinnell* excerpted above is expanded to include its entire context: “The alleged bias and prejudice to be disqualifying must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. *Berger v. United States*, 255 U.S. 22, 31. Any adverse attitudes that [the district judge in the present case] evinced toward the defendants were based on his study of the depositions and briefs which the parties had requested him to make.” 384 U.S., at 583. The cited case, *Berger*, had found recusal required on the basis of judicial remarks made in an earlier proceeding.

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Rice v. McKenzie, 581 F. 2d 1114, 1118 (CA4 1978) (doctrine "has always had limitations").

Whatever the precise contours of the "extrajudicial source" doctrine (a subject to which we will revert shortly), it is the contention of petitioners that the doctrine has no application to § 455(a). Most Courts of Appeals to consider the matter have rejected this contention, see *United States v. Barry*, 961 F. 2d 260, 263 (CA4 1992); *United States v. Sammons*, 918 F. 2d 592, 599 (CA6 1990); *McWhorter v. Birmingham*, 906 F. 2d 674, 678 (CA11 1990); *United States v. Mitchell*, 886 F. 2d 667, 671 (CA4 1989); *United States v. Merkt*, 794 F. 2d 950, 960 (CA5 1986), cert. denied, 480 U. S. 946 (1987); *Johnson v. Trueblood*, 629 F. 2d 287, 290-291 (CA3 1980), cert. denied, 450 U. S. 999 (1981); *United States v. Sibla*, 624 F. 2d 864, 869 (CA9 1980). Some, however, have agreed with it, see *United States v. Chantal*, 902 F. 2d 1018, 1023-1024 (CA1 1990); cf. *United States v. Coven*, 662 F. 2d 162, 168-169 (CA2 1981) (semble), cert. denied, 456 U. S. 916 (1982). To understand the arguments pro and con it is necessary to appreciate the major changes in prior law effected by the revision of § 455 in 1974.

Before 1974, § 455 was nothing more than the then-current version of the 1821 prohibition against a judge's presiding who has an interest in the case or a relationship to a party. It read, quite simply:

"Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein." 28 U. S. C. § 455 (1970 ed.).

The 1974 revision made massive changes, so that § 455 now reads as follows:

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“(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

“(b) He shall also disqualify himself in the following circumstances:

“(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

“(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

“(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

“(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

“(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

“(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

“(ii) Is acting as a lawyer in the proceeding;

“(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

“(iv) Is to the judge’s knowledge likely to be a material witness in the proceeding.”

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Almost all of the revision (paragraphs (b)(2) through (b)(5)) merely rendered objective and spelled out in detail the "interest" and "relationship" grounds of recusal that had previously been covered by § 455. But the other two paragraphs of the revision brought into § 455 elements of general "bias and prejudice" recusal that had previously been addressed only by § 144. Specifically, paragraph (b)(1) entirely duplicated the grounds of recusal set forth in § 144 ("bias or prejudice"), but (1) made them applicable to *all* justices, judges, and magistrates (and not just district judges), and (2) placed the obligation to identify the existence of those grounds upon the judge himself, rather than requiring recusal only in response to a party affidavit.

Subsection (a), the provision at issue here, was an entirely new "catchall" recusal provision, covering both "interest or relationship" and "bias or prejudice" grounds, see *Liljeberg v. Health Services Acquisition Corp.*, 486 U. S. 847 (1988)—but requiring them *all* to be evaluated on an *objective* basis, so that what matters is not the reality of bias or prejudice but its appearance. Quite simply and quite universally, recusal was required whenever "impartiality might reasonably be questioned."

What effect these changes had upon the "extrajudicial source" doctrine—whether they in effect render it obsolete, of continuing relevance only to § 144, which seems to be properly invocable only when § 455(a) can be invoked anyway—depends upon what the basis for that doctrine was. Petitioners suggest that it consisted of the limitation of § 144 to "*personal* bias or prejudice," bias or prejudice officially acquired being different from "personal" bias or prejudice. And, petitioners point out, while § 455(b)(1) retains the phrase "personal bias or prejudice," § 455(a) proscribes all partiality, not merely the "personal" sort.

It is true that a number of Courts of Appeals have relied upon the word "personal" in restricting § 144 to extrajudicial sources, see, e. g., *Craven v. United States*, 22 F. 2d 605, 607—

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608 (CA1 1927); *Ferrari v. United States*, 169 F. 2d 353, 355 (CA9 1948). And several cases have cited the absence of that word as a reason for excluding that restriction from §455(a), see *United States v. Coven*, *supra*, at 168, cert. denied, 456 U. S. 916 (1982); *Panzardi-Alvarez v. United States*, 879 F. 2d 975, 983–984, and n. 6 (CA1), cert. denied, 493 U. S. 1082 (1989). It seems to us, however, that that mistakes the basis for the “extrajudicial source” doctrine. Petitioners’ suggestion that we relied upon the word “personal” in our *Grinnell* opinion is simply in error. The only reason *Grinnell* gave for its “extrajudicial source” holding was citation of our opinion almost half a century earlier in *Berger v. United States*, 255 U. S. 22 (1921). But that case, and the case which it in turn cited, *Ex parte American Steel Barrel Co.*, 230 U. S. 35 (1913), relied not upon the word “personal” in § 144, but upon its provision requiring the recusal affidavit to be filed 10 days before the beginning of the court term. That requirement was the reason we found it obvious in *Berger* that the affidavit “must be based upon facts antedating the trial, not those occurring during the trial,” 255 U. S., at 34; and the reason we said in *American Steel Barrel* that the recusal statute “was never intended to enable a discontented litigant to oust a judge because of adverse rulings made, . . . but to prevent his future action in the pending cause,” 230 U. S., at 44.

In our view, the proper (though unexpressed) rationale for *Grinnell*, and the basis of the modern “extrajudicial source” doctrine, is not the statutory term “personal”—for several reasons. First and foremost, that explanation is simply not the semantic success it pretends to be. Bias and prejudice seem to us not divided into the “personal” kind, which is offensive, and the official kind, which is perfectly all right. As generally used, these are pejorative terms, describing dispositions that are *never* appropriate. It is common to speak of “personal bias” or “personal prejudice” without meaning the adjective to do anything except emphasize the

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idiosyncratic nature of bias and prejudice, and certainly without implying that there is some other "nonpersonal," benign category of those mental states. In a similar vein, one speaks of an individual's "personal preference," without implying that he could also have a "nonpersonal preference." Secondly, interpreting the term "personal" to create a complete dichotomy between court-acquired and extrinsically acquired bias produces results so intolerable as to be absurd. Imagine, for example, a lengthy trial in which the presiding judge for the first time learns of an obscure religious sect, and acquires a passionate hatred for all its adherents. This would be "official" rather than "personal" bias, and would provide no basis for the judge's recusing himself.

It seems to us that the origin of the "extrajudicial source" doctrine, and the key to understanding its flexible scope (or the so-called "exceptions" to it), is simply the pejorative connotation of the words "bias or prejudice." Not *all* unfavorable disposition towards an individual (or his case) is properly described by those terms. One would not say, for example, that world opinion is biased or prejudiced against Adolf Hitler. The words connote a favorable or unfavorable disposition or opinion that is somehow *wrongful* or *inappropriate*, either because it is undeserved, or because it rests upon knowledge that the subject ought not to possess (for example, a criminal juror who has been biased or prejudiced by receipt of inadmissible evidence concerning the defendant's prior criminal activities), or because it is excessive in degree (for example, a criminal juror who is so inflamed by properly admitted evidence of a defendant's prior criminal activities that he will vote guilty regardless of the facts). The "extrajudicial source" doctrine is one application of this pejorativeness requirement to the terms "bias" and "prejudice" as they are used in §§ 144 and 455(b)(1) with specific reference to the work of judges.

The judge who presides at a trial may, upon completion of the evidence, be exceedingly ill disposed towards the defend-

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ant, who has been shown to be a thoroughly reprehensible person. But the judge is not thereby recusable for bias or prejudice, since his knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings, and are indeed sometimes (as in a bench trial) necessary to completion of the judge's task. As Judge Jerome Frank pithily put it: "Impartiality is not gullibility. Disinterestedness does not mean child-like innocence. If the judge did not form judgments of the actors in those court-house dramas called trials, he could never render decisions." *In re J. P. Linahan, Inc.*, 138 F. 2d 650, 654 (CA2 1943). Also not subject to deprecatory characterization as "bias" or "prejudice" are opinions held by judges as a result of what they learned in earlier proceedings. It has long been regarded as normal and proper for a judge to sit in the same case upon its remand, and to sit in successive trials involving the same defendant.

It is wrong in theory, though it may not be too far off the mark as a practical matter, to suggest, as many opinions have, that "extrajudicial source" is the *only* basis for establishing disqualifying bias or prejudice. It is the *only common* basis, but not the exclusive one, since it is not the *exclusive* reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable predisposition can also deserve to be characterized as "bias" or "prejudice" because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. (That explains what some courts have called the "pervasive bias" exception to the "extrajudicial source" doctrine. See, e. g., *Davis v. Board of School Comm'rs of Mobile County*, 517 F. 2d 1044, 1051 (CA5 1975), cert. denied, 425 U. S. 944 (1976).)

With this understanding of the "extrajudicial source" limitation in §§144 and 455(b)(1), we turn to the question whether it appears in §455(a) as well. Petitioners' argument for the negative based upon the mere absence of the

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word "personal" is, for the reasons described above, not persuasive. Petitioners also rely upon the categorical nature of § 455's language: Recusal is required *whenever* there exists a genuine question concerning a judge's impartiality, and not merely when the question arises from an extrajudicial source. A similar "plain-language" argument could be made, however, with regard to §§ 144 and 455(b)(1): They apply *whenever* bias or prejudice exists, and not merely when it derives from an extrajudicial source. As we have described, the latter argument is invalid because the pejorative connotation of the terms "bias" and "prejudice" demands that they be applied only to judicial predispositions that go beyond what is normal and acceptable. We think there is an equivalent pejorative connotation, with equivalent consequences, to the term "partiality." See American Heritage Dictionary 1319 (3d ed. 1992) ("partiality" defined as "[f]avorable prejudice or bias"). A prospective juror in an insurance-claim case may be stricken as partial if he always votes for insurance companies; but not if he always votes for the party whom the terms of the contract support. "Partiality" does not refer to all favoritism, but only to such as is, for some reason, wrongful or inappropriate. Impartiality is not gullibility. Moreover, even if the pejorative connotation of "partiality" were not enough to import the "extrajudicial source" doctrine into § 455(a), the "reasonableness" limitation (recusal is required only if the judge's impartiality "might *reasonably* be questioned") would have the same effect. To demand the sort of "child-like innocence" that elimination of the "extrajudicial source" limitation would require is not reasonable.

Declining to find in the language of § 455(a) a limitation which (petitioners acknowledge) is contained in the language of § 455(b)(1) would cause the statute, in a significant sense, to contradict itself. As we have described, § 455(a) expands the protection of § 455(b), but duplicates some of its protection as well—not only with regard to bias and prejudice but also with regard to interest and relationship. Within the

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area of overlap, it is unreasonable to interpret § 455(a) (unless the language *requires* it) as implicitly eliminating a limitation explicitly set forth in § 455(b). It would obviously be wrong, for example, to hold that “impartiality could reasonably be questioned” simply because one of the parties is in the fourth degree of relationship to the judge. Section 455(b)(5), which addresses the matter of relationship specifically, ends the disability at the *third* degree of relationship, and that should obviously govern for purposes of § 455(a) as well. Similarly, § 455(b)(1), which addresses the matter of personal bias and prejudice specifically, contains the “extra-judicial source” limitation—and *that* limitation (since nothing in the text contradicts it) should govern for purposes of § 455(a) as well.²

²JUSTICE KENNEDY asserts that what we have said in this paragraph contradicts the proposition, established in *Liljeberg v. Health Services Acquisition Corp.*, 486 U. S. 847 (1988), that “subsections (a) and (b), while addressing many of the same underlying circumstances, are autonomous in operation.” *Post*, at 566. *Liljeberg* established no such thing. It established that subsection (a) requires recusal in some circumstances where subsection (b) does not—but that is something quite different from “autonomy,” which in the context in which JUSTICE KENNEDY uses it means that the one subsection is to be interpreted and applied without reference to the other.

It is correct that subsection (a) has a “broader reach” than subsection (b), *post*, at 567, but the provisions obviously have some ground in common as well, and should not be applied inconsistently there. *Liljeberg* concerned a respect in which subsection (a) *did* go beyond (b). Since subsection (a) deals with the *objective appearance* of partiality, any limitations contained in (b) that consist of a subjective-knowledge requirement are obviously inapplicable. Subsection (a) also goes beyond (b) in another important respect: It covers *all* aspects of partiality, and not merely those specifically addressed in subsection (b). However, when one of those aspects addressed in (b) is at issue, it is poor statutory construction to interpret (a) as nullifying the limitations (b) provides, except to the extent the text requires. Thus, as we have said, under subsection (a) as under (b)(5), fourth degree of kinship will not do.

What is at issue in the present case is an aspect of “partiality” already addressed in (b), personal bias or prejudice. The “objective appearance” principle of subsection (a) makes irrelevant the subjective limitation of

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Petitioners suggest that applying the "extrajudicial source" limitation to §455(a) will cause disqualification of a trial judge to be more easily obtainable upon remand of a case by an appellate court than upon direct motion. We do not see why that necessarily follows; and if it does, why it is necessarily bad. Federal appellate courts' ability to assign a case to a different judge on remand rests not on the recusal statutes alone, but on the appellate courts' statutory power to "require such further proceedings to be had as may be just under the circumstances," 28 U. S. C. §2106. That may permit a different standard, and there may be pragmatic reasons for a different standard. We do not say so—but merely say that the standards applied on remand are irrelevant to the question before us here.

For all these reasons, we think that the "extrajudicial source" doctrine, as we have described it, applies to §455(a). As we have described it, however, there is not much doctrine to the doctrine. The fact that an opinion held by a judge derives from a source outside judicial proceedings is not a *necessary* condition for "bias or prejudice" recusal, since predispositions developed during the course of a trial will sometimes (albeit rarely) suffice. Nor is it a *sufficient* condition for "bias or prejudice" recusal, since *some* opinions acquired outside the context of judicial proceedings (for example, the judge's view of the law acquired in scholarly reading) will *not* suffice. Since neither the presence of an extrajudicial source necessarily establishes bias, nor the absence of an extrajudicial source necessarily precludes bias, it would be

(b)(1): The judge does not have to be *subjectively* biased or prejudiced, so long as he *appears* to be so. But nothing in subsection (a) eliminates the longstanding limitation of (b)(1), that "personal bias or prejudice" does not consist of a disposition that fails to satisfy the "extrajudicial source" doctrine. The objective appearance of an adverse disposition attributable to information acquired in a prior trial is not an objective appearance of personal bias or prejudice, and hence not an objective appearance of improper partiality.

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better to speak of the existence of a significant (and often determinative) “extrajudicial source” *factor*, than of an “extrajudicial source” *doctrine*, in recusal jurisprudence.

The facts of the present case do not require us to describe the consequences of that factor in complete detail. It is enough for present purposes to say the following: First, judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. See *United States v. Grinnell Corp.*, 384 U. S., at 583. In and of themselves (*i. e.*, apart from surrounding comments or accompanying opinion), they cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required (as discussed below) when no extrajudicial source is involved. Almost invariably, they are proper grounds for appeal, not for recusal. Second, opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge. They *may* do so if they reveal an opinion that derives from an extrajudicial source; and they *will* do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible. An example of the latter (and perhaps of the former as well) is the statement that was alleged to have been made by the District Judge in *Berger v. United States*, 255 U. S. 22 (1921), a World War I espionage case against German-American defendants: “One must have a very judicial mind, indeed, not [to be] prejudiced against the German Americans” because their “hearts are reeking with disloyalty.” *Id.*, at 28 (internal quotation marks omitted). *Not* establishing bias or partiality, however, are expressions of impatience, dissatisfaction, annoy-

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ance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display. A judge's ordinary efforts at courtroom administration—even a stern and short-tempered judge's ordinary efforts at courtroom administration—remain immune.

III

Applying the principles we have discussed to the facts of the present case is not difficult. None of the grounds petitioners assert required disqualification. As we have described, petitioners' first recusal motion was based on rulings made, and statements uttered, by the District Judge during and after the 1983 trial; and petitioner Bourgeois' second recusal motion was founded on the judge's admonishment of Bourgeois' counsel and codefendants. In their briefs here, petitioners have referred to additional manifestations of alleged bias in the District Judge's conduct of the trial below, including the questions he put to certain witnesses, his alleged "anti-defendant tone," his cutting off of testimony said to be relevant to defendants' state of mind, and his post-trial refusal to allow petitioners to appeal *in forma pauperis*.³

All of these grounds are inadequate under the principles we have described above: They consist of judicial rulings, routine trial administration efforts, and ordinary admonishments (whether or not legally supportable) to counsel and to witnesses. All occurred in the course of judicial proceedings, and neither (1) relied upon knowledge acquired outside such proceedings nor (2) displayed deep-seated and unequivocal antagonism that would render fair judgment impossible.

The judgment of the Court of Appeals is

Affirmed.

³ Petitioners' brief also complains of the District Judge's refusal in the 1983 trial to call petitioner Bourgeois "Father," asserting that this "subtly manifested animosity toward Father Bourgeois." Brief for Petitioners 30. As we have discussed, when intrajudicial behavior is at issue, manifestations of animosity must be much more than subtle to establish bias.

KENNEDY, J., concurring in judgment

JUSTICE KENNEDY, with whom JUSTICE BLACKMUN, JUSTICE STEVENS, and JUSTICE SOUTER join, concurring in the judgment.

The Court's ultimate holding that petitioners did not assert sufficient grounds to disqualify the District Judge is unexceptionable. Nevertheless, I confine my concurrence to the judgment, for the Court's opinion announces a mistaken, unfortunate precedent in two respects. First, it accords nearly dispositive weight to the source of a judge's alleged partiality, to the point of stating that disqualification for intrajudicial partiality is not required unless it would make a fair hearing impossible. Second, the Court weakens the principal disqualification statute in the federal system, 28 U. S. C. § 455, by holding—contrary to our most recent interpretation of the statute in *Liljeberg v. Health Services Acquisition Corp.*, 486 U. S. 847 (1988)—that the broad protections afforded by subsection (a) are qualified by limitations explicit in the specific prohibitions of subsection (b).

I

We took this case to decide whether the reach of § 455(a) is limited by the so-called extrajudicial source rule. I agree with the Court insofar as it recognizes that there is no *per se* rule requiring that the alleged partiality arise from an extrajudicial source. In my view, however, the Court places undue emphasis upon the source of the challenged mindset in determining whether disqualification is mandated by § 455(a).

A

Section 455(a) provides that a judge “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” For present purposes, it should suffice to say that § 455(a) is triggered by an attitude or state of mind so resistant to fair and dispassionate inquiry as to cause a party, the public, or a reviewing court to have reasonable grounds to question the neutral and objective character of a

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judge's rulings or findings. I think all would agree that a high threshold is required to satisfy this standard. Thus, under §455(a), a judge should be disqualified only if it appears that he or she harbors an aversion, hostility or disposition of a kind that a fair-minded person could not set aside when judging the dispute.

The statute does not refer to the source of the disqualifying partiality. And placing too much emphasis upon whether the source is extrajudicial or intrajudicial distracts from the central inquiry. One of the very objects of law is the impartiality of its judges in fact and appearance. So in one sense it could be said that any disqualifying state of mind must originate from a source outside law itself. That metaphysical inquiry, however, is beside the point. The relevant consideration under §455(a) is the appearance of partiality, see *Liljeberg, supra*, at 860, not where it originated or how it was disclosed. If, for instance, a judge presiding over a retrial should state, based upon facts adduced and opinions formed during the original cause, an intent to ensure that one side or the other shall prevail, there can be little doubt that he or she must recuse. Cf. *Rugenstein v. Ottenheimer*, 78 Ore. 371, 372, 152 P. 215, 216 (1915) (reversing for judge's failure to disqualify himself on retrial, where judge had stated: "This case may be tried again, and it will be tried before me. I will see to that. And I will see that the woman gets another verdict and judgment that will stand").

I agree, then, with the Court's rejection of the *per se* rule applied by the Court of Appeals, which provides that "matters arising out of the course of judicial proceedings are not a proper basis for recusal" under §455(a). 973 F. 2d 910 (CA11 1992). But the Court proceeds to discern in the statute an extrajudicial source interpretive doctrine, under which the source of an alleged deep-seated predisposition is a primary factor in the analysis. The Court's candid struggle to find a persuasive rationale for this approach demonstrates that prior attempts along those lines have fallen

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somewhat short of the mark. This, I submit, is due to the fact that the doctrine crept into the jurisprudence more by accident than design.

The term “extrajudicial source,” though not the interpretive doctrine bearing its name, has appeared in only one of our previous cases: *United States v. Grinnell Corp.*, 384 U. S. 563 (1966). Respondents in *Grinnell* alleged that the trial judge had a personal bias against them, and sought his disqualification and a new trial under 28 U. S. C. § 144. That statute, like § 455(b)(1), requires disqualification for “bias or prejudice.” In denying respondents’ claim, the Court stated that “[t]he alleged bias and prejudice to be disqualifying must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case.” 384 U. S., at 583.

Although *Grinnell*’s articulation of the extrajudicial source rule has a categorical aspect about it, the decision, on closer examination, proves not to erect a *per se* barrier. After reciting what appeared to be an absolute rule, the Court proceeded to make a few additional points: that certain in-court statements by the judge “reflected no more than his view that, if the facts were as the Government alleged, stringent relief was called for”; that during the trial the judge “repeatedly stated that he had not made up his mind on the merits”; and that another of the judge’s challenged statements did not “manifes[t] a closed mind on the merits of the case,” but rather was “a terse way” of reiterating a prior ruling. *Ibid.* Had we meant the extrajudicial source doctrine to be dispositive under § 144, those further remarks would have been unnecessary.

More to the point, *Grinnell* provides little justification for its announcement of the extrajudicial source rule, relying only upon a citation to *Berger v. United States*, 255 U. S. 22, 31 (1921). The cited passage from *Berger*, it turns out, does not bear the weight *Grinnell* places on it, but stands for the more limited proposition that the alleged bias “must be

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based upon something other than rulings in the case.” 255 U. S., at 31. *Berger*, in turn, relies upon an earlier case advancing the same narrow proposition, *Ex parte American Steel Barrel Co.*, 230 U. S. 35, 44 (1913) (predecessor of § 144 “was never intended to enable a discontented litigant to oust a judge because of adverse rulings made, for such rulings are reviewable otherwise”). There is a real difference, of course, between a rule providing that bias must arise from an extrajudicial source and one providing that judicial rulings alone cannot sustain a challenge for bias. *Grinnell*, therefore, provides a less than satisfactory rationale for reading the extrajudicial source doctrine into § 144 or the disqualification statutes at issue here. It should come as little surprise, then, that the Court does not enlist *Grinnell* to support its adoption of the doctrine.

The Court adverts to, but does not ratify, *ante*, at 549, an alternative rationale: the requirement in § 144 that a litigant’s recusal affidavit “be filed not less than 10 days before the beginning of the term at which the proceeding is to be heard,” unless “good cause [is] shown for failure to file it within such time.” If a litigant seeking disqualification must file an affidavit 10 days before the beginning of the term, the argument goes, the alleged bias cannot arise from events occurring or facts adduced during the litigation. See *Berger, supra*, at 34–35. That rationale fails as well. The 10-day rule has been an anachronism since 1963, when Congress abolished formal terms of court for United States district courts. See 28 U. S. C. § 138. In any event, the rule always had an exception for good cause. And even if the 10-day requirement could justify reading the extrajudicial source rule into § 144, it would not suffice as to § 455(a) or § 455(b)(1), which have no analogous requirement.

The Court is correct to reject yet another view, which has gained currency in several Courts of Appeals, that the term “personal” in §§ 144 and 455(b)(1) provides a textual home for the extrajudicial source doctrine. *Ante*, at 548–550.

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Given the flaws with prior attempts to justify the doctrine, the Court advances a new rationale: The doctrine arises from the pejorative connotation of the term "bias or prejudice" in §§ 144 and 455(b)(1) and the converse of the term "impartiality" in § 455(a). *Ante*, at 550, 552–553. This rationale, as the Court acknowledges, does not amount to much. It is beyond dispute that challenged opinions or predispositions arising from outside the courtroom need not be disqualifying. See, e.g., *United States v. Conforte*, 624 F. 2d 869, 878–881 (CA9), cert. denied, 449 U. S. 1012 (1980). Likewise, prejudiced opinions based upon matters disclosed at trial may rise to the level where recusal is required. See, e.g., *United States v. Holland*, 655 F. 2d 44 (CA5 1981); *Nicodemus v. Chrysler Corp.*, 596 F. 2d 152, 155–157, and n. 10 (CA6 1979). From this, the Court is correct to conclude that an allegation concerning some extrajudicial matter is neither a necessary nor a sufficient condition for disqualification under any of the recusal statutes. *Ante*, at 554–555. The Court nonetheless proceeds, without much explanation, to find "a significant (and often determinative) 'extrajudicial source' factor" in those statutes. *Ante*, at 555 (emphasis in original).

This last step warrants further attention. I recognize along with the Court that, as an empirical matter, doubts about a judge's impartiality seldom have merit when the challenged mindset arises as a result of some judicial proceeding. The dichotomy between extrajudicial and intrajudicial sources, then, has some slight utility; it provides a convenient shorthand to explain how courts have confronted the disqualification issue in circumstances that recur with some frequency.

To take a common example, litigants (like petitioners here) often seek disqualification based upon a judge's prior participation, in a judicial capacity, in some related litigation. Those allegations are meritless in most instances, and their prompt rejection is important so the case can proceed. Judges, if faithful to their oath, approach every aspect of

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each case with a neutral and objective disposition. They understand their duty to render decisions upon a proper record and to disregard earlier judicial contacts with a case or party.

Some may argue that a judge will feel the "motivation to vindicate a prior conclusion" when confronted with a question for the second or third time, for instance, upon trial after a remand. Ratner, *Disqualification of Judges for Prior Judicial Actions*, 3 How. L. J. 228, 229-230 (1957). Still, we accept the notion that the "conscientious judge will, as far as possible, make himself aware of his biases of this character, and, by that very self-knowledge, nullify their effect." *In re J. P. Linahan, Inc.*, 138 F. 2d 650, 652 (CA2 1943). The acquired skill and capacity to disregard extraneous matters is one of the requisites of judicial office. As a matter of sound administration, moreover, it may be necessary and prudent to permit judges to preside over successive causes involving the same parties or issues. See Rules Governing Section 2255 Proceedings for the United States District Courts, Rule 4(a) ("The original motion shall be presented promptly to the judge of the district court who presided at the movant's trial and sentenced him, or, if the judge who imposed sentence was not the trial judge, then it shall go to the judge who was in charge of that part of the proceedings being attacked by the movant"). The public character of the prior and present proceedings tends to reinforce the resolve of the judge to weigh with care the propriety of his or her decision to hear the case.

Out of this reconciliation of principle and practice comes the recognition that a judge's prior judicial experience and contacts need not, and often do not, give rise to reasonable questions concerning impartiality.

B

There is no justification, however, for a strict rule dismissing allegations of intrajudicial partiality, or the appearance

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thereof, in every case. A judge may find it difficult to put aside views formed during some earlier proceeding. In that instance we would expect the judge to heed the judicial oath and step down, but that does not always occur. If through obduracy, honest mistake, or simple inability to attain self-knowledge the judge fails to acknowledge a disqualifying predisposition or circumstance, an appellate court must order recusal no matter what the source. As I noted above, the central inquiry under §455(a) is the appearance of partiality, not its place of origin.

I must part, then, from the Court's adoption of a standard that places all but dispositive weight upon the source of the alleged disqualification. The Court holds that opinions arising during the course of judicial proceedings require disqualification under §455(a) only if they "display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Ante*, at 555. That standard is not a fair interpretation of the statute, and is quite insufficient to serve and protect the integrity of the courts. In practical effect, the Court's standard will be difficult to distinguish from a *per se* extrajudicial source rule, the very result the Court professes to reject.

The Court's "impossibility of fair judgment" test bears little resemblance to the objective standard Congress adopted in §455(a): whether a judge's "impartiality might reasonably be questioned." The statutory standard, which the Court preserves for allegations of an extrajudicial nature, asks whether there is an appearance of partiality. See *Liljeberg*, 486 U. S., at 860 ("[t]he goal of section 455(a) is to avoid even the appearance of partiality") (internal quotation marks omitted); *United States v. Chantal*, 902 F. 2d 1018, 1023 (CA1 1990). The Court's standard, in contrast, asks whether fair judgment is impossible, and if this test demands some direct inquiry to the judge's actual, rather than apparent, state of mind, it defeats the underlying goal of §455(a): to avoid the appearance of partiality even when no partiality exists.

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And in all events, the "impossibility of fair judgment" standard remains troubling due to its limited, almost preclusive character. As I interpret it, a § 455(a) challenge would fail even if it were shown that an unfair hearing were likely, for it could be argued that a fair hearing would be possible nonetheless. The integrity of the courts, as well as the interests of the parties and the public, are ill served by this rule. There are bound to be circumstances where a judge's demeanor or attitude would raise reasonable questions concerning impartiality but would not devolve to the point where one would think fair judgment impossible.

When the prevailing standard of conduct imposed by the law for many of society's enterprises is reasonableness, it seems most inappropriate to say that a judge is subject to disqualification only if concerns about his or her predisposed state of mind, or other improper connections to the case, make a fair hearing impossible. That is too lenient a test when the integrity of the judicial system is at stake. Disputes arousing deep passions often come to the courtroom, and justice may appear imperfect to parties and their supporters disappointed by the outcome. This we cannot change. We can, however, enforce society's legitimate expectation that judges maintain, in fact and appearance, the conviction and discipline to resolve those disputes with detachment and impartiality.

The standard that ought to be adopted for all allegations of an apparent fixed predisposition, extrajudicial or otherwise, follows from the statute itself: Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified. Indeed, in such circumstances, I should think that any judge who understands the judicial office and oath would be the first to insist that another judge hear the case.

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In matters of ethics, appearance and reality often converge as one. See *Offutt v. United States*, 348 U. S. 11, 14 (1954) (“[J]ustice must satisfy the appearance of justice”); *Ex parte McCarthy*, [1924] 1 K. B. 256, 259 (1923) (“[J]ustice should not only be done, but should manifestly and undoubtedly be seen to be done”). I do not see how the appearance of fairness and neutrality can obtain if the bare possibility of a fair hearing is all that the law requires. Cf. *Marshall v. Jerrico, Inc.*, 446 U. S. 238, 242 (1980) (noting the importance of “preserv[ing] both the appearance and reality of fairness,” which “‘generat[es] the feeling, so important to a popular government, that justice has been done’”) (quoting *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U. S. 123, 172 (1951) (Frankfurter, J., concurring)).

Although the source of an alleged disqualification may be relevant in determining whether there is a reasonable appearance of impartiality, that determination can be explained in a straightforward manner without resort to a nearly dispositive extrajudicial source factor. I would apply the statute as written to all charges of partiality, extrajudicial or otherwise, secure in my view that district and appellate judges possess the wisdom and good sense to distinguish substantial from insufficient allegations and that our rules, as so interpreted, are sufficient to correct the occasional departure.

II

The Court’s effort to discern an “often dispositive” extrajudicial source factor in § 455(a) leads it to an additional error along the way. As noted above, the Court begins by explaining that the pejorative connotation of the term “bias or prejudice” demonstrates that the source of an alleged bias is significant under §§ 144 and 455(b)(1). The Court goes on to state that “it is unreasonable to interpret § 455(a) (unless the language *requires* it) as implicitly eliminating a limitation explicitly set forth in § 455(b).” *Ante*, at 553 (emphasis in original). That interpretation, the Court reasons, “would

KENNEDY, J., concurring in judgment

cause the statute, in a significant sense, to contradict itself." *Ante*, at 552.

We rejected that very understanding of the interplay between §§ 455(a) and (b) in *Liljeberg v. Health Services Acquisition Corp.*, 486 U. S. 847 (1988). Respondent in *Liljeberg* sought to disqualify a district judge under § 455(a) because the judge (in his capacity as trustee of a university) had a financial interest in the litigation, albeit an interest of which he was unaware. Petitioner opposed disqualification, and asked us to interpret § 455(a) in light of § 455(b)(4), which provides for disqualification only if the judge "knows that he, individually or as a fiduciary, . . . has a financial interest in the subject matter in controversy or in a party to the proceeding." According to petitioner, the explicit knowledge requirement in § 455(b)(4) indicated that Congress intended a similar requirement to govern § 455(a). See *Liljeberg*, 486 U. S., at 859, n. 8. Otherwise, petitioner contended, the knowledge requirement in § 455(b)(4) would be meaningless. *Ibid.*

In holding for respondent, we emphasized that there were "important differences" between subsections (a) and (b), and concluded that the explicit knowledge requirement under § 455(b)(4) does not apply to disqualification motions filed under § 455(a). *Id.*, at 859–860, and n. 8. *Liljeberg* teaches, contrary to what the Court says today, that limitations inherent in the various provisions of § 455(b) do not, by their own force, govern § 455(a) as well. The structure of § 455 makes clear that subsections (a) and (b), while addressing many of the same underlying circumstances, are autonomous in operation. Section 455(b) commences with the charge that a judge "shall also disqualify himself in the following circumstances"; Congress' inclusion of the word "also" indicates that subsections (a) and (b) have independent force. Section 455(e), which permits parties to waive grounds for disqualification arising under § 455(a), but not § 455(b), provides further specific textual confirmation of the difference.

KENNEDY, J., concurring in judgment

The principal distinction between §§455(a) and (b) is apparent from the face of the statute. Section 455(b) delineates specific circumstances where recusal is mandated; these include instances of actual bias as well as specific instances where actual bias is assumed. See 28 U.S.C. §455(b)(1) (“personal bias or prejudice”); §455(b)(2) (judge “served as [a] lawyer in the matter in controversy” while in private practice); §455(b)(3) (same while judge served in government employment); §455(b)(4) (“financial interest” in the litigation); §455(b)(5) (judge “within the third degree of relationship” to a party, lawyer, or material witness). Section 455(a), in contrast, addresses the appearance of partiality, guaranteeing not only that a partisan judge will not sit, but also that no reasonable person will have that suspicion. See *Liljeberg, supra*, at 860.

Because the appearance of partiality may arise when in fact there is none, see, e. g., *Hall v. Small Business Admin.*, 695 F. 2d 175, 179 (CA5 1983); *United States v. Ritter*, 540 F. 2d 459, 464 (CA10), cert. denied, 429 U. S. 951 (1976), the reach of §455(a) is broader than that of §455(b). One of the distinct concerns addressed by §455(a) is that the appearance of impartiality be assured whether or not the alleged disqualifying circumstance is also addressed under §455(b). In this respect, the statutory scheme ought to be understood as extending §455(a) beyond the scope of §455(b), and not confining §455(a) in large part, as the Court would have it. See *ante*, at 553–554, n. 2. The broader reach of §455(a) is confirmed by the rule permitting its more comprehensive provisions, but not the absolute rules of §455(b), to be waived. See 28 U.S.C. §455(e). And in all events, I suspect that any attempt to demarcate an “area of overlap” (*ante*, at 553) between §§455(a) and (b) will prove elusive in many instances.

Given the design of the statute, then, it is wrong to impose the explicit limitations of §455(b) upon the more extensive protections afforded by §455(a). See *Liljeberg, supra*,

KENNEDY, J., concurring in judgment

at 859–861, and n. 8. The Court's construction of the statute undercuts the protection Congress put in place when enacting §455(a) as an independent guarantee of judicial impartiality.

III

The Court describes in all necessary detail the unimpressive allegations of partiality, and the appearance thereof, in this case. The contested rulings and comments by the trial judge were designed to ensure the orderly conduct of petitioners' trial. Nothing in those rulings or comments raises any inference of bias or partiality. I concur in the judgment.

Judge MR

2022-464

SEP 28 2023

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

MOTION FOR RECONSIDERATION COMPLAINT NO. 22-464

Judge: A. Douglas LaSota

Complainant: Tyler M. Allen

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.

Initially, Judge LaSota does not dispute the findings of the Commission regarding his comments to the defendant and her counsel. The language used by the Judge and cited by the Commission was not relevant to the requests made by defendant's counsel, created the appearance of prejudgment as to the defendants' credibility and undoubtedly had a chilling effect on the defendant's right to defend herself at a hearing. Judge LaSota's response to the Complaint focused on what prompted the his comments and the efforts he made to remediate the problems his language caused since there was no justification for the comments themselves. The Commission's findings make clear that the focus of Judge LaSota's response should have been primarily addressed to the nature of the comments themselves, how those comments must have been perceived by the defendant (and her lawyer) before him and how inappropriate the comments were.

So that there is no misconception as to Judge LaSota's perception of his own conduct, he acknowledges that his remarks to the defendant and her counsel were clearly inappropriate, albeit spoken in frustration, and cannot be justified. He deeply regrets his conduct and will apologize to the defendant, her counsel and others that the Commission might direct.

After the November 23, 2022 hearing and the filing of the judicial complaint by Mr. Allen, Judge LaSota consulted

with his Associate Judge, Hon. Michael R. McVey (a retired Superior Court Judge) and attempted to mitigate his mistake as best he could by disqualifying himself. Further, he attended the Judicial Ethics presentation at the 2023 Judicial Conference with particular attention given to a judge's demeanor. That attendance further brought home to him how inappropriate his comments were.

After the November 23, 2022 hearing, a sensitive matter occurred involving what Judge LaSota believed to be inappropriate interference by a former mayor and current member of the Board of Supervisors in a case pending before his Court. He consulted with Ms. April Elliott, the Commission's Director, for advice which proved helpful and has used her as a resource thereafter.

Judge LaSota is aware of and acknowledges his mistake and the uncertainty and worry it must have caused to the defendant and her lawyer. However, undersigned counsel suggests that the Commission reconsider the sanction imposed.

Judge LaSota's conduct was likely the product of frustration generated by dealing with a defendant who the Court reasonably believed was not being candid with the Court. That is not an excuse for, nor does it justify what he said to the defendant. This kind of conduct from a defendant is not unusual in a non-record court where many litigants are likely unaware that even in a "lower court" candor is not only expected, but required. However, his frustration and how it played out here suggests that perhaps a better approach to a sanction might be professional counseling to deal with the frustration issues and mentoring from his Associate Judge, Hon. Michael McVey or any other active or retired judge that the Commission might designate.

For the reasons set forth above, Judge LaSota respectfully requests that the Commission reconsider the sanction previously ordered.

Respectfully submitted this 28th day of September, 2023.



J. Douglas McVay

Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
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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.: 22-464

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:

Attorney J. Douglas McVay
ugmcv@yahoo.com

Respondent's Attorney

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Arizona Commission on Judicial Conduct
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Disciplinary Counsel

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

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**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
)	Case No. 22-464
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 addresses Respondent's comments during a probation revocation arraignment. The comments were demeaning, unnecessary, and had a chilling effect on the defendant's ability to defend herself. Respondent's comments further created an appearance that he had prejudged the outcome of the defendant's probation matter. 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 and related to official business of the court. The harm caused was to the public 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 during a single hearing. However, his actions did precipitate this judicial complaint and compromised the hearing participants' confidence in the judiciary. Respondent's conduct also prompted the defendant to seek a change of judge (Respondent ultimately voluntarily recused), thus impacting judicial economy. The defendant, through her attorney, has indicated she was fearful of exercising her right to testify on her own behalf after hearing Respondent's comments. This gives 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 an 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 comments to the criminal defendant impacted her right to due process. Respondent repeatedly impugned the defendant's credibility prior to hearing testimony or admitting evidence. Respondent's comments created the perception that he expected the defendant to lie at her hearing and that he was pre-disposed to disbelieve her testimony. Respondent's conduct also negatively impacted the defense 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 "acted appropriately in all respects" and described his comments to the defendant as "a blunt, plain-spoken advisory." In his request for reconsideration, however, Respondent has reconsidered his actions and recognized that his comments were "clearly inappropriate, albeit spoken in frustration, and cannot be justified." Respondent has now acknowledged "his mistake and the uncertainty and worry it must have caused to the defendant and her lawyer." On the balance, undersigned finds this to be a neutral 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 did not have specific compliance obligations mandated as part of his prior discipline. Respondent has not acted in reliance upon a formal ethics advisory opinion. Undersigned deems this factor inapplicable.

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.
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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 22-464

Judge: A. Douglas LaSota

Complainant: Tyler M. Allen

**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.