

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR 2002-019563

01/23/2004

HONORABLE BARRY C. SCHNEIDER

CLERK OF THE COURT
J. Arnold
Deputy

FILED: 01/27/2004

STATE OF ARIZONA

SYDNEY K DAVIS

v.

VERNON LEROY SMITH JR.
DOB: 5/5/62

CLARK L DERRICK

APO-SENTENCINGS-CCC
APPEALS-CCC
DISPOSITION CLERK-CSC
RFR
VICTIM SERVICES DIV-CA-CCC

SENTENCE - IMPRISONMENT AND PROBATION

State's Attorney: Sydney Davis
Defendant's Attorney: Clark Derrick
Defendant: Present
Court Reporter: Cindy Lineburg

Aggravation Hearing: Victims address the court.

Mitigation: Tim Millett and Tom Avilla address the court.

WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

OFFENSE: Amended Count Two: Theft
Class 3 Felony with One Historical Prior
A.R.S. § 13-1802, 701, 702, 604, 801
Date of Offense: On or between March 7, 2001 and March 9, 2001
Non Dangerous - Repetitive

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OFFENSE: Court Four: Theft
Class 2 Felony
A.R.S. § 13-1802, 701, 702, 801
Date of Offense: On or about April 13, 2001
Non Dangerous - Non Repetitive

AS PUNISHMENT, IT IS ORDERED Defendant is sentenced to a term of imprisonment and is committed to the Arizona Department of Corrections as follows:

Count 2: 10 years from 01/23/2004
Presentence Incarceration Credit: 328 days
Aggravated
Sentence is concurrent with federal sentence with the federal sentence to run first.

Pursuant to A.R.S. § 13-604, the Court finds that the Defendant has been convicted of the following prior felony offenses:

Wire Fraud, a class non-dangerous felony committed on April 27, 1995 and convicted on December 16, 2002 in CR-00-141BR, United States District Court for the District of Oregon.

Community Supervision: Waived pursuant to A.R.S. § 13-603(K) and 41-1604.07(D), due to the term of probation in Cont 4 of this cause.

IT IS ORDERED suspending imposition of sentence and placing Defendant on probation as stated in the Uniform Conditions of Probation.

Count 4 Probation Term: 7 years beginning upon absolute release from DOC in this cause.

Conditions of probation include the following:

Condition 16 - Not drink any alcoholic beverage.

Condition 17 - Not have any contact with the victim(s) whatsoever, unless approved in writing by the Adult Probation Department.

Condition 23 - Restitution, Fines, and Fees:

RESTITUTION: \$4,997,191.12 payable \$1,000.00 to the following persons:

| | | |
|---------------------------------------|------------|----------------|
| Warfield and Company CPA's Unitel | (Business) | \$4,124,691.12 |
| (to be submitted by Attorney General) | () | \$872,500.00 |

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Restitution ledger provided; priority of payment as stated in the restitution ledger.

Payment shall be 30% of Defendant's earnings while incarcerated at the Arizona Department of Corrections.

PROBATION SERVICE FEE: \$50.00 per month.

ASSESSMENT in the amount of \$20.00 as follows:

Time payment fee pursuant to A.R.S. § 12-116 in the amount of \$20.00.

Payment shall commence on the first day of the second month upon release from supervision of the Department of Corrections, at not less than \$1,050.00 per month.

All amounts payable through the Clerk of the Superior Court.

Additional Monetary Information: IT IS ORDERED that the Attorney General submit to the Clerk of the Court an amended Restitution Ledger Request setting forth victim and victim's address for the \$872,500.00 within 10 days hereof.

Condition 25 - Abide by the Special Conditions as noted on the attachment to the Terms and Conditions of Probation.

Condition 26 - Other: Do not gamble at all. Do not hold any job, volunteer position, or church "calling" that allows access to any vital statistics or financial information of any person. Do not hold any employment that involves the soliciting or contact of any investors or "prospective" investors or any person who would give you money for investments.

IT IS ORDERED granting the Motion To Dismiss the following: Counts 1, 3, 5 through 7.

Count(s) 2: IT IS ORDERED authorizing the Maricopa County Sheriff to deliver Defendant to the Arizona Department of Corrections.

IT IS ORDERED the Clerk of the Superior Court remit to the Arizona Department of Corrections a copy of this order together with all presentence reports, probation violation reports, and medical and psychological reports that are not sealed in this cause relating to the Defendant.

Count(s) 1, 3, 4, 5 through 7: IT IS FURTHER ORDERED Defendant be released from custody for this count only.

cc: DOC - Certified Copy via Certification Desk

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cc: MCSO-DIS - Certified Copy via Certification Desk

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Defendant's thumbprint is permanently affixed to this sentencing order in open court.

/s/ HONORABLE BARRY C. SCHNEIDER
JUDGE OF THE SUPERIOR COURT

(thumbprint)