

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR 1993-008116

06/08/2015

HONORABLE ROBERT L. GOTTSFIELD

CLERK OF THE COURT
K. Schermerhorn
Deputy

STATE OF ARIZONA

JASON BYARD EASTERDAY

v.

DARREL PETER PANDELI (A)

KENNETH S COUNTRYMAN

COURT ADMIN-CRIMINAL-PCR
RULE 32 UNIT COUNSEL

MINUTE ENTRY

The court has reviewed the state's motion to clarify, defendant's response, state's reply, the revised minute entry of 4/3/15 (as corrected below in this minute entry), and the corrected and adopted petitioner's amended proposed findings of fact and conclusions of law (AFFCL) of 2/27/15.

The court now again adopts the AFFCL as setting forth the specific instances of the ineffectiveness of both trial counsel under both prongs of *Strickland* in both the aggravation and penalty stages. The state and the defendant are entitled to a retrial of both stages unless the state accepts defendant's position that he is willing to be sentenced to natural life.

So there is no question about this court's ruling, it did find proven by a preponderance of the evidence that the two additional claims of inexperience of counsel Sinclair and ineffective mitigation presentation were proven by a preponderance of the evidence. The court also found an additional basis of its decision that the defendant's right to be sentenced on the basis of accurate information was violated. The court also, contrary to the state's previous objection, accepted and gave such weight as deserved to the testimony of Michael Reeves, Dr. Ricardo Weinstein and Dawn Sinclair. Contrary to the state's position in its motion to clarify this court is

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of the view the AFFCL and the revised 4/3/15 minute entry Order sufficiently state in detail the findings and conclusions of the court and the court would hesitate to restate them all again.

Finally the court makes additional correction to the revised 4/3/15 minute entry as follows:

Page 2 – The first sentence of the second full paragraph should read: “The court has reviewed defendant’s requested findings of fact and conclusions of law and the state’s proposed findings of fact and conclusions of law.”

Page 2 – Fifth full paragraph, last three lines, should read: “The court agrees with the defendant that Ms. Sinclair’s analysis etc...”

Page 2 – Sixth full paragraph, fourth line, change to “if defendant succeeds in proving, etc...”

Page 2 – Last full paragraph, third line, change to “filed 2/27/15”.

Page 3 – Seventh full paragraph, change last line to read: “(the state is not bound at the resentencing by this prior stipulation of defendant).”

Page 3 – Ninth full paragraph, change to “filed 2/27/15”.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.