

SUPREME COURT OF ARIZONA

STEVEN GUARDADO,) Arizona Supreme Court
Petitioner,) No. M-21-0076
v.) Mohave County
Superior Court
No. S8015CR201400716
HON. BILLY K. SIPE, JR., et al.,)
Respondents,)
STATE OF ARIZONA,) **FILED: 03/04/2022**
Real Party in Interest.)

)

O R D E R

On March 2, 2022, Petitioner filed a "Motion for Reconsideration" of this Court's February 15, 2022 order dismissing his "Notice of and Application for a Writ of Mandamus." Pursuant to Rules of Criminal Procedure 31.20(f),

IT IS ORDERED that the motion for reconsideration is denied.

DATED this 4th day of March, 2022.

/s/
ANN A. SCOTT TIMMER
Duty Justice

TO:
Steven Guardado, ADOC 125635, Arizona State Prison,
Yuma - Cheyenne Unit

SUPREME COURT OF ARIZONA

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Petitioner,)) No. M-21-0076
v.)) Mohave County
) Superior Court
) No. CR-2014-00716
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STATE OF ARIZONA,) **FILED: 02/15/2022**
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O R D E R

Steven Guardado has filed a "Notice of and Application for a Writ of Mandamus" and "Reply" presenting claims challenging the validity of his convictions and sentences. Rule 32 procedures apply to such claims. See Rule 32.3(b), Ariz. R. Crim. P.; A.R.S. § 13-4233. The claims must be presented initially to the superior court, and when a final decision is entered, a party may file a timely petition for review in the Court of Appeals. See Rule 32.16, Ariz. R. Crim. P. After a decision by the Court of Appeals, Rule 32.16(l) allows for the filing of a timely petition for review in this Court. Therefore,

IT IS ORDERED that the Notice of and Application for a Writ of Mandamus and Reply are dismissed.

DATED this 15th day of February, 2022.

/S/

JAMES P. BEENE
Duty Justice

TO:

Steven Guardado, ADOC 125635, Arizona State Prison, Yuma -
Cheyenne Unit

justices of the supreme court from one of their number for a term of five years, and may be reelected for like terms. The vice chief justice shall be elected by the justices of the supreme court from one of their number for a term determined by the court. A member of the court may resign the office of chief justice or vice chief justice without resigning from the court.

The chief justice, or in his absence or incapacity, the vice chief justice, shall exercise the court's administrative supervision over all the courts of the state. He may assign judges of intermediate appellate courts, superior courts, or courts inferior to the superior court to serve in other courts or counties.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960. Amendment approved election Nov. 5, 1974, eff. Dec. 5, 1974.

§ 4. Supreme court; term of office

Section 4. Justices of the supreme court shall hold office for a regular term of six years except as provided by this article.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960. Amendment approved election Nov. 5, 1974, eff. Dec. 5, 1974.

§ 5. Supreme court; jurisdiction; writs; rules; habeas corpus

Section 5. The supreme court shall have:

1. Original jurisdiction of habeas corpus, and quo warranto, mandamus, injunction and other extraordinary writs to state officers.
2. Original and exclusive jurisdiction to hear and determine causes between counties concerning disputed boundaries and surveys thereof or concerning claims of one county against another.
3. Appellate jurisdiction in all actions and proceedings except civil and criminal actions originating in courts not of record, unless the action involves the validity of a tax, impost, assessment, toll, statute or municipal ordinance.
4. Power to issue injunctions and writs of mandamus, review, prohibition, habeas corpus, certiorari, and all other writs necessary and proper to the complete exercise of its appellate and revisory jurisdiction.
5. Power to make rules relative to all procedural matters in any court.
6. Such other jurisdiction as may be provided by law.

Each justice of the supreme court may issue writs of habeas corpus to any part of the state upon

petition by or on behalf of a person held in actual custody, and may make such writs returnable before himself, the supreme court, appellate court or superior court, or judge thereof.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 6. Supreme court; qualifications of justices

Section 6. A justice of the supreme court shall be a person of good moral character and admitted to the practice of law in and a resident of the state of Arizona for ten years next preceding his taking office.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 7. Supreme court; clerk and assistants; administrative director and staff

Section 7. The supreme court shall appoint a clerk of the court and assistants thereto who shall serve at its pleasure, and who shall receive such compensation as may be provided by law.

The supreme court shall appoint an administrative director and staff to serve at its pleasure to assist the chief justice in discharging his administrative duties. The director and staff shall receive such compensation as may be provided by law.

§ 8. Supreme court; publication of opinions

Section 8. Provision shall be made by law for the speedy publication of the opinions of the supreme court, and they shall be free for publication by any person.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 9. Intermediate appellate courts

Section 9. The jurisdiction, powers, duties and composition of any intermediate appellate court shall be as provided by law.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 10. Superior court; number of judges

Section 10. There shall be in each county at least one judge of the superior court. There shall be in each county such additional judges as may be provided by law, but not exceeding one judge for each thirty thousand inhabitants or majority fraction thereof. The number of inhabitants in a county for purposes of this section may be determined

written on them the name of the office and shall be kept for the use of the office.

Amended by Laws 1980, Ch. 107, § 2; Laws 2000, Ch. 88, § 13; Laws 2003, Ch. 22, § 1; Laws 2008, Ch. 286, § 5.

§ 12-109. Promulgation of rules of pleading, practice and procedure; distribution

A. The supreme court, by rules promulgated from time to time, shall regulate pleading, practice and procedure in judicial proceedings in all courts of the state for the purpose of simplifying such pleading, practice and procedure and promoting speedy determination of litigation upon its merits. The rules shall not abridge, enlarge or modify substantive rights of a litigant.

B. The supreme court shall print and distribute the rules to all members of the state bar and to all other persons who apply.

C. The rules shall not become effective until sixty days after distribution.

§ 12-110. Advisory board; objections to rules

A. The state bar, or a representative group selected by the bar, shall act as an advisory board and shall either voluntarily or upon request of a majority of the judges of the supreme court, consult with, recommend to or advise the court on any matter dealt with or proposed to be dealt with in the rules.

B. Any member of the state bar or a private citizen may object in writing to a rule or part thereof and may request changes. The court shall consider the objections and requests as advice and information only and may act thereon at its discretion.

§ 12-111. Statutes as rules of court

All statutes relating to pleading, practice and procedure shall be deemed rules of court and shall remain in effect as such until modified or suspended by rules promulgated by the supreme court.

§ 12-112. Education program for justices and magistrates

The supreme court shall establish a program of continuing education for justices of the peace and magistrates. The program shall include such courses of study as the supreme court deems necessary or desirable.

Added by Laws 1978, Ch. 201, § 75, eff. Oct. 1, 1978.

§ 12-113. Judicial collection enhancement fund; purpose; administration; report; definition

A. A judicial collection enhancement fund is established consisting of monies received from:

1. The time payment fee established in § 12-116.
2. The surcharge paid by a person attending a court ordered diversion program pursuant to § 12-114.

3. Monies deposited in the fund pursuant to § 12-114.01, § 12-119.01, subsection B, paragraph 1, § 12-120.31, subsection D, paragraph 1, § 12-284.03, subsection A, paragraph 7, § 22-281, subsection C, paragraph 1, § 22-404, subsection C, paragraph 1 and § 41-178.

4. Electronic filing and access fees collected pursuant to §§ 12-119.02 and 12-120.31.

B. Courts wishing to receive monies from the judicial collection enhancement fund shall submit a plan to the supreme court. Subject to legislative appropriation, the fund monies shall be used according to plans approved by the supreme court to train court personnel, improve, maintain and enhance the ability to collect and manage monies assessed or received by the courts, including restitution, child support, fines and civil penalties, to improve court automation, to improve case processing or the administration of justice and for probation services.

C. The supreme court shall administer the fund and may expend monies in the fund, subject to legislative appropriation, for local, regional or statewide projects. The supreme court may directly provide or contract for services consistent with the purposes of the fund. Monies from the fund shall supplement monies already provided to local courts for purposes consistent with the purposes of the fund.

D. By January 8 of each year, the supreme court shall report to the governor and the legislature, for the prior fiscal year, the total monies collected, the amount spent and for what purposes, including an exact explanation of funds defined as administration of the fund, the amount remaining in the fund and the number of employees who are paid from the fund and their job descriptions. The report shall also detail the progress made in improving the ability of the courts to collect monies.

E. On notice from the supreme court, the state treasurer shall invest and divest monies in the fund as provided by § 35-313, and monies earned from investment shall be credited to the fund.

MANDAMUS**§ 12-2025****§ 12-2003. Contents of writ**

The writ of certiorari shall command the party to whom it is directed to certify fully to the court issuing the writ, at a specified time and place, and to annex to the writ a transcript of the record and proceedings named in the writ, and requiring the party in the meantime to desist from further proceedings in the matter to be reviewed.

§ 12-2004. Stay of proceedings

If a stay of proceedings is not intended, the words requiring the stay shall be omitted from the writ. The words may be inserted or omitted in the discretion of the court. If the words are omitted, the power of the inferior court or officer shall not be suspended nor the proceedings stayed.

§ 12-2005. Service of writ

A writ of certiorari shall be served in the same manner as a summons in a civil action, except when otherwise directed by the court.

§ 12-2006. Extent of review

The review upon writ of certiorari shall not be extended further than to determine whether the inferior tribunal, board or officer has regularly pursued its authority.

§ 12-2007. Denial of return to writ; hearing; transmittal of judgment; appeal

A. If the return to a writ of certiorari is defective, the court may order a further return made. When a full return has been made, the court or judge shall hear the matter and give judgment affirming, annulling or modifying the proceedings below.

B. A copy of the judgment, certified by the clerk, shall be transmitted to the inferior tribunal, board or officer.

C. If the judgment is rendered in a court other than the supreme court, an appeal may be taken from such judgment as in a civil action.

ARTICLE 2. MANDAMUS**§ 12-2021. Issuance of writ**

A writ of mandamus may be issued by the supreme or superior court to any person, inferior tribunal, corporation or board, though the governor or other state officer is a member thereof, on the verified complaint of the party beneficially interested, to compel, when there is not a plain,

adequate and speedy remedy at law, performance of an act which the law specially imposes as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled and from which he is unlawfully precluded by such inferior tribunal, corporation, board or person.

§ 12-2022. Alternative or peremptory writ

A. A writ of mandamus may be either alternative or peremptory.

B. The alternative writ shall state generally the allegations of the complaint against the party to whom it is directed, and command such party, immediately after receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a specified time and place why he has not done so.

C. The peremptory writ shall be in form similar to the alternative writ, except that the words requiring the party to show cause why he has not done as commanded shall be omitted.

§ 12-2023. Application for writ; notice; hearing on default

A. When application for a writ of mandamus is made without notice to the adverse party, and the writ is allowed, the alternative writ shall be first issued.

B. If application for a writ of mandamus is made upon due notice, the peremptory writ may be issued in the first instance. The notice of application, when given, shall be of at least ten days.

C. The writ shall not be granted by default, but the action shall be heard by the court though the adverse party does not appear.

§ 12-2024. Answer and reply

On the return day of the alternative writ of mandamus, or at the time stated in the notice of application for the writ, defendant may show cause by verified answer why the writ should not be granted. The answer shall not be conclusive, but plaintiff may object to its sufficiency and may reply thereto within such time as fixed by the court.

§ 12-2025. Trial; order; jury; place of trial; procedure

A. If the answer or reply upon an application for writ of mandamus raises a question of fact, the court shall try such question, or may order the

question tried before a jury. The question to be tried by the jury shall be distinctly stated in the order for the trial.

B. If the application is made in the supreme court the court shall designate a superior court for the trial of an issue of fact, and transmit to such court a certified copy of the order for trial.

C. The superior court shall thereupon try such issue to a jury as a trial in civil actions, and shall certify the verdict to the supreme court if no motion for a new trial is made within five days or if such motion is made and denied, when it is denied.

§ 12-2026. Motion for new trial; retrial

A. Either party may move for a new trial in the court where the verdict was returned.

B. If a new trial is granted, another jury shall be summoned within five days thereafter to try the issue, unless the parties agree on a longer time.

§ 12-2027. Determination of questions of law

If the answer and reply upon application for a writ of mandamus raise only questions of law or put in issue immaterial statements not affecting substantial rights of the parties, or when the question of fact has been determined, the court shall hear the argument.

§ 12-2028. Writ of mandamus; service

A. If judgment is awarded applicant a peremptory writ of mandamus shall be awarded without delay.

B. The writ shall be served in the same manner as a summons in a civil action, except when otherwise expressly directed by the court.

§ 12-2029. Disobedience of writ; classification

A. If a person upon whom the peremptory writ of mandate has been personally served, without just excuse, knowingly fails or refuses to obey the writ, such person is guilty of a class 3 misdemeanor and the court may make any orders necessary and proper for complete enforcement of the writ.

B. If a fine is imposed upon an officer who draws a salary from the state or a county, a certified copy of the order shall be forwarded to the department of administration or board of supervisors as the case may be, and the amount of the fine shall be retained from the salary of such officer. Amended by Laws 1978, Ch. 201, § 83, eff. Oct. 1, 1978; Laws 1996, Ch. 111, § 15.

§ 12-2030. Mandamus action; award of fees and other expenses against the state or political subdivision; definition

A. A court shall award fees and other expenses to any party other than this state or any political subdivision of this state which prevails by an adjudication on the merits in a civil action brought by the party against the state, any political subdivision of this state or an intervenor to compel a state officer or any officer of any political subdivision of this state to perform an act imposed by law as a duty on the officer.

B. As used in this section, "fees and other expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test or project found by the court to be necessary for preparation of the party's case, and reasonable and necessary attorney fees.

Added by Laws 1982, Ch. 91, § 1. Amended by Laws 1996, Ch. 156, § 1.

ARTICLE 3. QUO WARRANTO**§ 12-2041. Action by attorney general; venue**

A. An action may be brought in the supreme court by the attorney general in the name of the state upon his relation, upon his own information or upon the verified complaint of any person, in cases where the supreme court has jurisdiction, or otherwise in the superior court of the county which has jurisdiction, against any person who usurps, intrudes into or unlawfully holds or exercises any public office or any franchise within this state.

B. The attorney general shall bring the action when he has reason to believe that any such office or franchise is being usurped, intruded into or unlawfully held or exercised.

§ 12-2042. Action by county attorney

An action may be brought in the superior court by the county attorney in the name of the state upon his own information or upon the verified complaint of any person, against any person who usurps, intrudes into or who unlawfully holds or exercises any public office or any franchise within his county. The county attorney shall bring the action when he has reason to believe that any such office or franchise is being usurped, intruded into or unlawfully held or exercised.

§ 12-2043. Failure of attorney general or county attorney to bring action for claimant of office

A. If the attorney general or the county attorney refuses to bring an action as provided for in

court or superior court. He shall receive such compensation as may be provided by law.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 24. Superior court; court commissioners, masters and referees

Section 24. Judges of the superior court may appoint court commissioners, masters and referees in their respective counties, who shall have such powers and perform such duties as may be provided by law or by rule of the supreme court. Court commissioners, masters and referees shall receive such compensation as may be provided by law.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 25. Style of process; conduct of prosecutions in name of state

Section 25. The style of process shall be "The State of Arizona", and prosecutions shall be conducted in the name of the state and by its authority.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 26. Oath of office

Section 26. Each justice, judge and justice of the peace shall, before entering upon the duties of his office, take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Arizona, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

The oath of all judges of courts inferior to the superior court and the oath of justices of the peace shall be filed in the office of the county recorder, and the oath of all other justices and judges shall be filed in the office of the secretary of state.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 27. Charge to juries; reversal of causes for technical error

Section 27. Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law. No cause shall be reversed for technical error in pleadings or proceedings when upon the whole case it shall appear that substantial justice has been done.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960.

§ 28. Justices and judges; dual office holding; political activity; practice of law

Section 28. Justices and judges of courts of record shall not be eligible for any other public office or for any other public employment during their term of office, except that they may assume another judicial office, and upon qualifying therefor, the office formerly held shall become vacant. No justice or judge of any court of record shall practice law during his continuance in office, nor shall he hold any office in a political party or actively take part in any political campaign other than his own for his reelection or retention in office. Any justice or judge who files nomination papers for an elective office, other than for judge of the superior court or a court of record inferior to the superior court in a county having a population of less than two hundred fifty thousand persons according to the most recent United States census, forfeits his judicial office.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960. Amendment approved election Nov. 5, 1974, eff. Dec. 5, 1974; election Nov. 3, 1992, eff. Nov. 23, 1992.

§ 29. Repeal approved election Nov. 3, 1970, eff. Nov. 27, 1970

§ 30. Courts of record

Section 30. A. The supreme court, the court of appeals and the superior court shall be courts of record. Other courts of record may be established by law, but justice courts shall not be courts of record.

B. All justices and judges of courts of record, except for judges of the superior court and other courts of record inferior to the superior court in counties having a population of less than two hundred fifty thousand persons according to the most recent United States census, shall be appointed in the manner provided in § 37 of this article.

Addition approved election Nov. 8, 1960, eff. Dec. 9, 1960. Amendment approved election Nov. 5, 1974, eff. Dec. 5, 1974; election Nov. 3, 1992, eff. Nov. 23, 1992.

§ 31. Judges pro tempore

Section 31. A. The legislature may provide for the appointment of members of the bar having the qualifications provided in § 22 of this article as judges pro tempore of courts inferior to the supreme court, except that justices of the peace pro tempore shall have the same qualifications as justices of the peace and do not have to reside in the precinct in which the justice of the peace pro tempore is appointed to serve.

ARTICLE 2. COURT COMMISSIONER

§ 12-211. Appointment; qualifications and residence

A. Each judge of the superior court may appoint a court commissioner.

B. To be eligible to serve as a court commissioner a person shall be a United States citizen and a resident of the county in which appointed. He shall reside at the county seat or at such other city or town within the jurisdiction of the judge making the appointment as may be designated by the judge.

§ 12-212. Powers; compensation

A. The court commissioner may:

1. In the absence or inability to act of the judge appointing him, hear and determine ex parte motions for orders and writs, except orders for injunctions.

2. Take proof and report his conclusions upon any matter of fact, other than an issue of fact raised by the pleadings, on which information is required by the court. Either party may object to the report within five days after receiving written notice that it has been filed.

3. Take and approve bonds and undertakings in actions or proceedings in the court and examine the sureties thereon.

4. Administer oaths and take affidavits and depositions in any action or proceeding whatever.

5. Take acknowledgments and proof of deeds and other instruments requiring proof or acknowledgment under the laws of the state.

6. Charge and collect the same fees for performance of official acts as notaries public for like services.

7. Adopt an official seal upon which is engraved the words "court commissioner, (insert name of county) county, Arizona" and authenticate official acts with his seal.

8. Enter judgments pursuant to § 23-737.01.

B. When the court commissioner performs services in place of the judge of the superior court he shall be paid such amount as the court determines to be reasonable, considering the services performed. The state and county shall each pay one-half of the amount.

Amended by Laws 1956, Ch. 117, § 1, eff. July 14, 1956; Laws 1985, Ch. 14, § 1.

§ 12-213. Commissioners in certain counties; appointment; powers and duties; salary

A. In counties having three or more superior court judges, the presiding judge may appoint court commissioners to serve at his pleasure who shall have such powers and duties as shall be provided by statute or by rule of the supreme court, save and except such commissioners are expressly prohibited, except in default hearings, from making any ex parte orders which would deprive any person or persons from custody of their child or children, or change of counsel of attorneys, or deprive any person of the person's liberty, or deprive any person or entity from the person's or entity's property or the use thereof, or any injunctive relief.

B. Commissioners appointed under subsection A shall receive an annual salary set by the presiding judge which may not exceed ninety per cent of the salary of a judge of the superior court. The commissioner's salary shall be a county charge. An appointed commissioner shall be admitted to the practice of law in and a resident of this state for five years next preceding taking office.

Added by Laws 1961, Ch. 16, § 1. Amended by Laws 1968, Ch. 121, § 4; Laws 1972, Ch. 102, § 1; Laws 1981, Ch. 152, § 2; Laws 1985, Ch. 14, § 2; Laws 1985, Ch. 184, § 1; Laws 2011, Ch. 217, § 1.

ARTICLE 3. COURT REPORTER

§ 12-221. Appointment and oath

Each judge of the superior court shall appoint a court reporter. Before entering upon his duties, the court reporter shall take and subscribe the official oath to be administered by the judge of the court.

§ 12-222. Repealed by Laws 1999, Ch. 335, § 1

§ 12-223. Attendance at and report of proceedings; sale of transcripts

A. The court reporter shall attend court during the hearing of all matters before it unless excused by the judge. He shall make stenographic notes of all oral proceedings before the court, but unless requested by court or counsel, he need not make stenographic notes of arguments of counsel to a jury, nor of argument of counsel to the court in the absence of a jury.

B. Upon payment or tender of the fees therefor, he shall furnish to any person a typewritten transcript of all or any part of the proceedings reported by him, and upon request, certify that such transcript is a correct and complete statement of such proceedings.

(m) **Administration.** The AOC's human resources officer shall provide staff support for the board including maintenance and preservation of the board's records.

(n) **Public Access and Confidentiality.**

(1) Generally, records of complaints against clerks of court shall be available to the public following, but not before, final disposition.

(A) **Dismissed Cases.** Only the complaint and the letter dismissing the complaint shall be public after all identifying information pertaining to the clerk, complainant, and court has been redacted.

(B) **Other Informal or Formal Dispositions.** The record of dispositions and sanctions described in subsections (i)(4) through (10) shall be public after the complainant, the clerk, and presiding judge of the county in which the clerk serves have been notified of the outcome.

(2) All board correspondence, draft documents, computer records, investigative reports and files, attorney work product, and board deliberations are confidential.

(o) **Records and Files.**

(1) **Maintenance of Records.** All the board's records shall be maintained, preserved, or purged by the AOC in accordance with standards established by the director.

(2) **Closed Files.** A closed file is one involving any prior complaint, inquiry, investigation, report, informal disposition, or formal proceeding received or initiated by the board that the board had officially closed.

(3) The board or a clerk may refer to and use closed files in connection with any later proceeding for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration of the clerk.

Added Aug. 26, 2020, effective Jan. 1, 2021.

Rule 95. Visiting Judges

(a) **Visiting Judges.** The presiding judge shall initiate all requests for judges of the superior court in other counties to serve in the presiding judge's court.

(b) **Service of Judges in Other Counties.** The presiding judge shall supervise all requests for judges of the presiding judge's court to serve in other counties, and shall make all assignments of judges to other counties.

(c) **Records.** The presiding judge or court administrator shall maintain a record of all visits made by other judges to the presiding judge's court and by judges of the presiding judge's court to other counties.

(d) **Transmitting Decision by a Visiting Judge; Duties of Clerk.** When a judge of the superior court has heard a matter in a civil action or proceeding in a county other than that of that judge's residence, and has taken the action or proceeding under advisement, that judge may thereafter make an order in writing, or reduce the decision upon the trial of the action or proceedings to writing, and sign the order or decision.

(1) The judge will transmit the order or decision to the clerk of the court in the county in which the action is pending only if the judge is in that county at the time of signing the order.

(2) At any other time, the judge will transmit the order or decision to the clerk of the court in the county of the judge's residence.

Upon receipt of such order or decision the clerk shall forthwith notify the parties or their attorneys in writing that the order or decision of the judge who heard the action or proceeding has been filed in the clerk's office, effective the date the notice is mailed. If notice of the order or decision is mailed by the clerk of the court in the county of the judge's residence, such notice also shall be mailed to the clerk of the court in the county in which the action or proceeding is pending. Such order or decision, when filed with the clerk and the notice given as provided by this Rule, shall have the same force and effect as if made within the county where such action or proceeding is pending. Upon the expiration of ten days from giving such notice, in the case of a decision upon the trial of an action or proceeding, judgement shall be entered in accordance with such decision. The judgment may be signed by either the judge who rendered the decision or by the judge of the county in which the action or proceeding is pending.

(e) **Extension of Time.** A judge who has heard and determined a civil action or proceeding in another county may enlarge or extend the time for hearing or determining a motion for new trial or to set aside the judgment, or to file a certified transcript or statement of the evidence or proceedings, by a written order signed by the judge, and transmitted by mail to the clerk of the court in which the action or proceeding is pending. The order when filed with the clerk shall have the same force and effect as if made within the county where the action or proceeding is pending.

Added Oct. 10, 2000, effective Dec. 1, 2000. Amended Jan. 23, 2001, effective June 1, 2001; Sept. 18, 2006, effective Jan. 1, 2007.

STATE BAR COMMITTEE NOTE 2000 Amendment

As part of the effort to consolidate formerly separate sets of procedural rules into either the Arizona Rules of Civil Procedure or the Rules of the Arizona Supreme Court, various rule provisions contained in the Uniform Rules of Practice of the Superior Court and the Arizona Rules of Civil Procedure which were concerned primarily with the internal administration of the Superior Court were transferred to a retitled Section VII of the Rules of the Arizona Supreme Court. New Rule 95, which was promulgated in that process, is a composite of procedural provisions formerly contained in other rules. New Rules 95(a), (b) and (c) are former Rules X(a), (b) and (c) of the Uniform Rules of Practice of the Superior Court, which were also edited to render them gender neutral. New Rules 95(d) and (e) contain the provisions formerly contained in Rules 77(e) and 77(h), respectively, of the Arizona Rules of Civil Procedure.

Rule 96. Powers and Duties of Court Commissioners

All court commissioners and juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Sections 12-213 and 8-231 of the Arizona Revised Statutes, shall have such powers and duties as are provided by this Rule.

(a) **Powers of Commissioner; Hearings and Determinations; Order; Contempt.** Each court commissioner shall, except as otherwise provided by this Rule, have the power to:

1. Hear and determine any matter in which each party sought to be adversely affected thereby (a) has had his default entered, or (b) has given his consent in writing, individually or by his attorney, to the commissioner's hearing and determining such matter, or (c) has, in a proceeding arising under Chapter 3, Title 25, Arizona Revised Statutes (entitled "Dissolution of Marriage"), filed a written waiver of further time to appear, notice of trial setting and entry of judgment.

2. Hear and determine in a proceeding arising under Chapter 3, Title 25, Arizona Revised Statutes (entitled "Dissolution of Marriage"), any matter, pendente lite, or post decree or judgment, where the decree or judgment was signed by a Superior Court commissioner, not otherwise included in 1, above.

3. Hear and determine any matter arising under Article 4 and Article 4.1, Chapter 9, Title 12, of the Arizona Revised Statutes (entitled "Garnishment of Monies or Property and Garnishment of Earnings"); and grant and, when otherwise required, sign (a) an order of judgment under Article 4 and Article 4.1 thereof, provided that the facts in support of such order or judgment appear uncontested from the pleadings, (b) an order quashing a writ of garnishment on application of the party at whose instance the writ was issued, or (c) an appropriate order ancillary to any of the foregoing, arising under Article 4, Chapter 9, Title 12, Arizona Revised Statutes.

4. Hear and determine, when so assigned by the presiding judge of the Superior Court, any matter arising under Article 10, Chapter 9, Title 25, Arizona Revised Statutes (entitled "Uniform Interstate Family Support Act").

5. Hear and determine, when so assigned by the presiding judge of the Superior Court, any uncontested matter arising under Title 14, Arizona Revised Statutes (entitled ["Trusts, Estates and Protective Proceedings"]).

6. Grant and, when otherwise required, sign an order, judgment or decree on written stipulation as to its terms or arising out of any matter heard and determined as herein provided; and such order, judgment or decree shall, upon its entry in accordance with the Rules of Civil Procedure, have the same force and effect for all purposes as if such order, judgment or decree had been granted or signed by a judge of the Superior Court.

7. Hear and determine any motion or application relating to an order, judgment or decree granted or signed by a commissioner, and made subsequent to the entry thereof, including an application or motion made under Rules 55(c) or 60(b)-(d) of the Rules of Civil Procedure.

8. Issue an order to show cause under Rule 7.3 of the Rules of Civil Procedure.

9. Issue an order requiring any person or persons to show cause, before the presiding judge of the Superior Court or such other judge as the presiding judge may designate, why he or they should not be adjudged in contempt of court.

10. Adjudicate a person in contempt of court for a direct contempt committed in his or her presence, or for an act or omission in violation of his or her order, and impose a fine or imprisonment therefor.

11. Hear and determine any matter governed by Rules 4, 6, 7, 12.7, 12.26, 14, 17.1, 17.2, 17.3, 17.4, 17.6, 27.8(a) and (e), and 27.9, Rules of Criminal Procedure, and, if approved by the presiding judge due to a commissioner's extensive litigation or judicial experience, hear and determine any matter governed by Rules 5, 8, 10, 11, 12, 9, 12.28, 15, 16.2, 16.3, 17.5, and 27, Rules of Criminal Procedure; Rule 609, Rules of Evidence; and A.R.S. § 13-804.

12. Hear and determine, when so assigned by the presiding judge of the Superior Court, any matter arising under Title 36, Chapter 5, Arizona Revised Statutes (entitled "Mental Health" and on and after October 15, 1974, entitled "Mental Health Services"), and under Title 12, Chapter 1, Article 2, § 12-136, Arizona Revised Statutes (entitled "Indian Tribal Courts; Involuntary Commitment Orders; Recognition").

13. Hear and determine any matter arising under Article 8, Chapter 9, Title 12, Arizona Revised Statutes (entitled "Supplemental Proceedings").

14. Issue civil arrest warrants pursuant to Rule 64.1, Rules of Civil Procedure.

15. Hear and determine, if assigned as commissioner in the Arizona Tax Court, any matter denominated as a small claims procedure, pursuant to Title 12, Chapter 1, Article 4 of the Arizona Revised Statutes.

16. Adjudicate a person in contempt of court in a proceeding arising under Chapter 3, Title 25, Arizona Revised Statutes (entitled "Dissolution of Marriage") where a commissioner has signed any order pendente lite, a decree of dissolution, decree of annulment, decree of legal separation or post decree order, and impose a fine or imprisonment therefore.

17. Exercise such other judicial powers of a judge of the Superior Court as may be necessary to effectuate the above-enumerated powers.

(b) **Restrictions on Powers; Ex Parte Orders; Criminal Proceedings; Contempts.** Notwithstanding anything to the contrary herein set forth, a court commissioner shall not:

1. Except on default of the party or parties adversely affected thereby, make an ex parte order which would deprive any person or persons of custody of their child or children, or which would effect a change of counsel of any party, or which would deprive any person or entity of liberty or property or the use thereof, or which would grant injunctive relief.

2. Adjudicate any person in contempt of court or impose any fine or punishment therefor, except as provided in Rule 96(a)(10) and (16).

(c) **Contempt of Commissioner as Contempt of Court.** Any act or omission which would constitute contempt of court if done or omitted with respect to a judge or an order of a judge shall constitute contempt of court if done or omitted with respect to a court commissioner or an order of a court commissioner.

(d) **Definition of Ex Parte Order.** As used in this Rule and in Section 12-213 of the Arizona Revised Statutes, an "ex parte" order means an order made and entered without notice of the motion or application for such order having first been given to each person who may be adversely affected thereby and without each such person having an opportunity to appear in opposition thereto.

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(e) Special Appointment of Commissioners. Upon the filing of a written stipulation of each party or his attorney consenting to the appointment of a designated qualified person as court commissioner to hear and determine a particular cause or matter, the presiding judge may appoint such person as court commissioner for the purpose of hearing and determining such cause or matter. When so appointed, such person shall have all the powers and duties of a judge of the Superior Court with respect to the designated cause or matter.

(f) Powers of Juvenile Court Commissioner; Hearings and Determination; Order; Contempt. All juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Section 8-231 of the Arizona Revised Statutes, shall have the power to:

1. Hear and determine an uncontested petition for adoption or a petition for child's custody by non-certified party filed pursuant to Chapter 1, Title 8, Arizona Revised Statutes (entitled "Adoption") except a petition or motion by an applicant certified as nonacceptable to adopt children pursuant to Section 8-105, Arizona Revised Statutes, or a petition and order to show cause why custody by a noncertified party should not be denied pursuant to Section 8-108(B), Arizona Revised Statutes, shall be heard and determined by a judge of the juvenile court.

2. Hear and determine all matters at the initial hearing or advisory hearing on a petition for delinquency or incorrigibility filed pursuant to Article 2, Chapter 2, Title 8, Arizona Revised Statutes (entitled "General Procedure") and the applicable Rules of Procedure for the Juvenile Court.

3. When assigned by the presiding judge of the juvenile court, hear and determine, pursuant to the applicable Rules of Procedure for the Juvenile Court and Article 2, Chapter 2, Title 8, any contested or uncontested matter concerning a child accused by petition of having committed a delinquent act or being an incorrigible child.

4. Hear and determine under Rule 48, Rules of Procedure of the Juvenile Court, any uncontested petition commenced under Chapter 2, Title 8, Arizona Revised Statutes, concerning a dependent child, provided, however, that if the matter becomes contested the juvenile court commissioner shall transfer the matter to a judge of the juvenile court for further proceedings. Notwithstanding the foregoing provision, a juvenile court commissioner shall have the power to hear and determine requests for review of temporary custody filed pursuant to Rule 51, Rules of Procedure for the Juvenile Court, and to enter necessary temporary orders when declaring a child a temporary ward of the court upon the filing of a dependency petition pursuant to Rule 48(B), Rules of Procedure for the Juvenile Court.

5. Hear and determine any matter arising under Title 8, Chapter 2, Article 6 and Title 36, Chapter 5, Article 4, Arizona Revised Statutes, pertaining to evaluation, treatment and placement of a mentally ill child and mental health services for such a child.

6. Hear and determine an application filed pursuant to Section 8-349, Arizona Revised Statutes.

7. Enter orders in accordance with Section 8-263, Arizona Revised Statutes, for implementation of Article 5, Chapter 2,

Title 8, Arizona Revised Statutes (entitled "Family Counseling Programs").

8. Hear and determine uncontested reviews of children in receiving foster homes and foster care pursuant to Section 8-515, Arizona Revised Statutes.

9. Hear and determine uncontested proceedings on petitions filed pursuant to Article 2, Chapter 5, Title 8, Arizona Revised Statutes (entitled "Termination of Parent-Child Relationship").

10. Hear and dispose of any and all cases wherein a child under the age of 18 years on the date of the alleged offense and on the date of the hearing is charged with the purchase, possession or consumption of spirituous liquor or a violation of the motor vehicle code not declared to be a felony.

11. Hear and determine any other matter under Title 8, Arizona Revised Statutes (entitled "Children") in which each party sought to be adversely affected thereby (a) has had his default entered, or (b) has given his consent in writing, individually or by his attorney, to the commissioner's hearing and determining such matter, or (c) has filed a written waiver of further time to appear, notice of trial setting, and entry of judgment or final order.

12. Grant and when otherwise required, sign an order, judgment or decree on written stipulation as to its terms or arising out of any matter heard and determined as herein provided; and such order, judgment or decree shall, upon its entry in accordance with the Rules of Procedure of the Juvenile Court or Title 8, Arizona Revised Statutes (entitled "Children"), have the same force and effect for all purposes as if such order, judgment or decree had been granted or signed by a judge of the juvenile court.

13. Hear and determine any motion or application relating to an order, judgment or decree granted or signed by a juvenile court commissioner, including an application or motion made under Rules 55(c) or 60(b)-(d) of the Rules of Civil Procedure.

14. Adjudge a person in contempt of court for a direct contempt committed in his or her presence, or for an act or omission in violation of his or her order, and impose a fine or imprisonment therefor.

(g) Restrictions on Powers; Ex Parte Orders; Contempt. A juvenile court commissioner shall not make ex parte orders which would deprive a person from custody of his child or deprive a person of his liberty, except in default hearings or for necessary temporary matters preceding a hearing. Nor shall a juvenile court commissioner adjudicate any person in contempt of court, or impose any fine or punishment therefor, except as provided in Rule 96(f)(14).

(h) Contempt of Juvenile Court Commissioner as Contempt of Court. Any act or omission which would constitute contempt of court if done or omitted with respect to a judge or an order of a judge of the juvenile court shall constitute contempt of court if done or omitted with respect to a juvenile court commissioner or an order of a juvenile court commissioner.

(i) Part-Time Pro Tempore Court Commissioners and Part-Time Pro Tempore Juvenile Court Commissioners. A part-time pro tempore court commissioner and a part-time pro tempore juvenile court commissioner, under this rule, are lawyers who serve or expect to serve on less than a full-time

basis under a separate appointment for each period of less than full-time service or for each case heard. As such, the conduct of part-time pro tempore court commissioners or part-time pro tempore juvenile court commissioners shall be governed by Part D of the application section of Rule 81, Rules of the Supreme Court.

Added as Rule 91. Amended March 27, 1985, effective June 1, 1985; June 27, 1989, effective Sept. 1, 1989; Nov. 9, 1989, effective Jan. 1, 1990; July 10, 1990, effective July 12, 1990, adopted in final form Dec. 16, 1992; March 31, 1992, effective June 1, 1992; Jan. 26, 1994, effective June 1, 1994. Renumbered as Rule 96 Oct. 10, 2000, effective Dec. 1, 2000. Amended Sept. 3, 2009, effective Jan. 1, 2010; Sept. 2, 2016, effective Jan. 1, 2017.

STATE BAR COMMITTEE NOTE
2000 Amendment

As part of the effort to consolidate formerly separate sets of procedural rules into either the Arizona Rules of Civil Procedure or the Rules of the Arizona Supreme Court, various rule provisions contained in the Uniform Rules of Practice of the Superior Court and the Arizona Rules of Civil Procedure which were concerned primarily with the internal administration of the Superior Court were transferred to a retitled Section VII of the Rules of the Arizona Supreme Court. Existing Rule 91 of those Rules was simply renumbered as Rule 96, with no substantive change.

**Rule 97. Performance Evaluation
of Court Commissioners**

(a) Purpose. A.R.S. § 12-119.04(A) directs the Supreme Court to adopt and administer for all Superior Court Commissioners in counties having a population of 250,000 persons or more a process, established by court rules, for evaluating Superior Court Commissioner performance. This rule is intended to implement A.R.S. § 12-119.04 through adoption of a Superior Court Commissioner evaluation process to inform the Presiding Judge prior to the reappointment of Commissioners pursuant to Title 12, Chapter 2, Article 2, Arizona Revised Statutes.

(b) Powers and Duties of Presiding Judge. The powers and duties of the Presiding Judge in Commissioner performance evaluation shall be to:

1. Supervise a program of periodic evaluation of the performance of each Commissioner pursuant to this rule.
2. Formulate policies and procedures for collecting information and conducting reviews, using the survey instruments approved by the Supreme Court.
3. Transmit the public Commissioner evaluation reports to the Supreme Court as set forth in Section (d), for publication on the Supreme Court website.

(c) Performance Standards. The standards for Commissioner performance evaluation shall be to:

1. Administer justice fairly, ethically, uniformly, promptly and efficiently.
2. Be free from personal bias in decision making, decide cases based on proper application of law and procedure to the facts, and issue prompt, clear rulings and decisions that demonstrate competent legal analysis.
3. Act with dignity, courtesy and patience.

4. Effectively manage the courtroom and discharge the administrative responsibilities of the office.

(d) Frequency of Public Reports. The Presiding Judge shall ensure that a public survey report for each Commissioner in office for more than one year is transmitted to the Supreme Court by October 1 of even-numbered years. Public survey reports shall then be published and maintained on the Supreme Court website.

(e) Review Process. The review process administered by the Presiding Judge shall consist of the following:

1. The Presiding Judge shall employ a qualified contractor or an in-house unit whose duty it shall be to prepare the survey forms referred to in paragraph 2 below, process the survey responses and compile the statistical reports of the survey results in a format approved by the Supreme Court, and in a manner designed to ensure the confidentiality and accuracy of the process. In all aspects of evaluation reporting, to the fullest extent practicable, generally accepted statistical methods and techniques shall be utilized. If it is impracticable to utilize generally accepted statistical methods and techniques in any aspect of reporting, the Presiding Judge shall so disclose.

2. For a minimum of 60 court days in even-numbered years, anonymous survey forms eliciting performance evaluations shall be distributed to attorneys, litigants, witnesses, jurors, staff and other persons who have been in direct contact with each Commissioner surveyed and who have first-hand knowledge of his or her performance during the evaluation period. The survey forms shall seek evaluations of the Commissioner in accordance with the above-enumerated performance standards, such as knowledge of the law and procedure, integrity, impartiality, judicial temperament, administrative skill, punctuality and communication skills. The survey forms shall be processed in a manner to assure the anonymity of respondents.

3. The narrative comments contained in the survey responses, if any, shall be extracted and provided to the Commissioner, to his or her Conference Team for the purpose of self-improvement, to his or her Departmental Presiding Judge and to the Presiding Judge. Narrative comments shall not be accessible to the public but shall be used only in connection with the preparation of a self-improvement plan by the Commissioner and his or her Conference Team pursuant to Section (g)(5). The submission of a survey form containing an anonymous narrative comment does not preclude the attorney, litigant, witness, juror, court staff or other person surveyed from submitting a public comment, whether in writing or at a public hearing held pursuant to Section (e)(4), or otherwise.

4. During each survey period the Presiding Judge shall request written public comments and hold a public hearing with respect to all Commissioners. The public hearing shall be recorded. The names and addresses of the speakers shall be required in order to speak. Written comments will not be considered unless legible, and unless the name and address of the author is included.

(f) Dissemination of Evaluation Reports.

1. The Presiding Judge or designee shall disseminate a compiled evaluation report (including confidential narrative comments made on the survey forms, if any), together with all public comments, to the reviewed Commissioner and to his or her Departmental Presiding Judge.

FILED
RD
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2015 FEB 13 PM 1:59

IN AND FOR THE COUNTY OF MOHAVE

VIRLYNN TINNELL
SUPERIOR COURT CLERK

THE STATE OF ARIZONA,

Plaintiff,

CLERKS NOTIFICATION
OF JURY COSTS

Vs

STEVEN GUARDADO,

Defendant.

CAUSE NO. CR-2014-00716

NOTIFICATION OF JURY COSTS

THIS IS TO ADVISE YOU, pursuant to A.R.S. §21-221, §21-222, and §21-223 jury costs and fees in the total amount of \$5391.69 were paid by the Mohave County Superior Court in this matter.

DATED THIS 13th day of February, 2015.

VIRLYNN TINNELL
CLERK OF THE SUPERIOR COURT

By: R. D. O.
Assistant Jury Commissioner

cc:

Megan McCoy
Deputy County Attorney

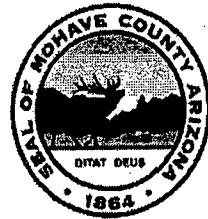
Ira Shiflett
Attorney for Defendant

Honorable Billy K. Sipe Jr.
Court Commissioner



S8015CR201400716

Mohave County Office of Indigent Defense Services



PO Box 7000
Kingman, AZ 86402-7000
Phone: 928/753-0738
FAX: 928/753-0721
E-Mail: IDS@mohavecounty.us

STEVEN GUARDADO,

Appellant

vs.

STATE OF ARIZONA,

Appellee.

Mohave County Superior Court
No. CR-2014-00716

NOTICE OF ASSIGNMENT

Jill Evans
Appellate Division
Mohave County Office of the Legal Advocate
P.O. Box 7000
316 N. 5th St., 1st Floor
Kingman, Az. 86402-7000
(928) 753-0782
jill.evans@mohavecounty.us
AZ Bar # 015051

Pursuant to Mohave County Superior Court, Local Rule CR-3(B), Jill Evans has been assigned by the Office of Indigent Defense Services to represent the appellant, Steven Guardado, in the above entitled matter, in all further proceedings before the Court. Please submit a Notice of Appearance as soon as possible to the appropriate court.

DATED THIS 3RD DAY OF APRIL 2015.

Blake E. Schritter
Indigent Defense Administrator

A copy of the foregoing sent
this 3rd day of April 2015 to:

Honorable Billy K. Sipe Jr.
Mohave County Commissioner Court

Tony Mackey/Joe Nunez*
Court of Appeals

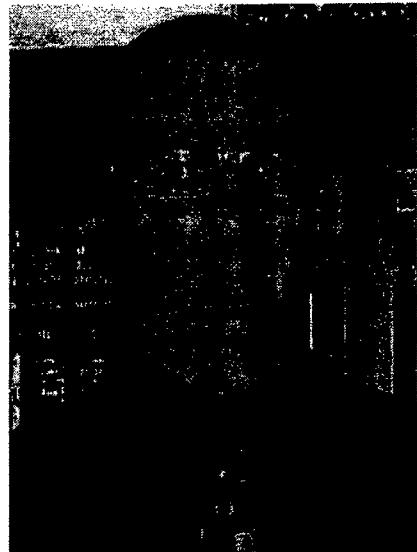
Candyce Dunshie
Office of the Clerk of the Court

Steven Guardado, #125635
ASPC Yuma-Cheyenne Unit
P.O. Box 8909
San Luis, AZ 85349

Commissioner Court - Honorable Billy Sipe

Billy Sipe, Jr. was appointed Court Commissioner / Judge Pro Tempore by the Honorable Charles Gurtler on December 4, 2014 and began his appointment on January 5, 2015. The Court Commissioner / Judge Pro Tempore currently handles adult felony cases and order of protection hearings.

Prior to taking the bench, Judge Sipe was in private practice for 26 years handling exclusively criminal law matters and is a Certified Criminal Law Specialist by the State Bar of Arizona. Judge Sipe was born and raised in Kingman, Arizona, and attended Northern Arizona University and earned a Bachelor's of Science Degree in Psychology. Thereafter, Judge Sipe attended the University of Puget Sound School of Law (now, Seattle University) in the Pacific Northwest and, after earning his Juris Doctorate Degree, returned to his hometown. Judge Sipe, when not on the bench enjoys long distance running and has competed in many prestigious events.



Division Information

Address

P.O. Box 7000
415 Spring Street
Kingman AZ.
86401
Phone (928)-718-4922
Fax (928) 718-4973

Judicial Administrative Assistance: Aleta

Email:
commissionercourt

- [COVID-19 Notice](#)

- Due to concerns regarding the spread of COVID-19 in the general population, and pursuant to Arizona Supreme Court Administrative Order No. 2020-75 and Mohave County Superior Court Administrative Order No. 2020-23, in order to reduce the risk associated with this public health emergency, the following directives are being immediately implemented for

Court Calendar

[Commissioner Court Calendar is posted each day at 3:00pm. Please click here to view current calendar.](#)

Types of Cases

- Criminal, Adult Drug Court

Court Room Policies and Procedures

- [Mohave County Felony Case Management Plan](#)

Court Reporter

NOTICE TO ATTORNEYS REGARDING TRIAL CALL HOURS



Sentence Calculation Worksheet

Page 1 of 1

Name STEVEN GUARDADO Location YUMA, YUMA CIBOLA Y09 HU6A22L ADC# 125635

Sentence Worksheet: Commitment Count C6

				Intake Audit Status	
Ruling Status	Final Ruling	Status	Future	Offense Date	05/19/2014
Case Number/CR#	201400716	Sentence Gap Days	0 Days	Escape + Abscond Days	0 Days
				Custody Gap Days	0 Days

Sentence Release Date Summary

Item	ACIS Calculated Value
Date Sentenced	03/12/2015
Jail Credits	0 Credits
Sentence Begin Date	7/1/2037
Term Imposed Days	1643 Days - 4 Y, 6 M, 0 D
Sentence Expiration Date	12/30/2041
Flat Time to Complete	7084 Days - 19 Y, 4 M, 24 D
Temporary Release Days	Denied

Item	ACIS Calculated Value
Community Supervision Begin Date	Ineligible
Community Supervision Term	1369-3 Y, 9 M, 1 D
Community Supervision End Date	02/07/2045
Earned Release Credit Date	05/10/2041

Earned Credit and Class III Information

Earned Credit Information	ACIS Calculated Value
	C6 ALL
Projected Release Credits	234
Released Credits to be Earned	234
Earned Release Credits to Date	0
- Forfeitures	0 0
+ Restorations	0 0
= Available for Forfeiture	0 298
Not Eligible for Restoration	0
Pending Mandatory Forfeitures	0

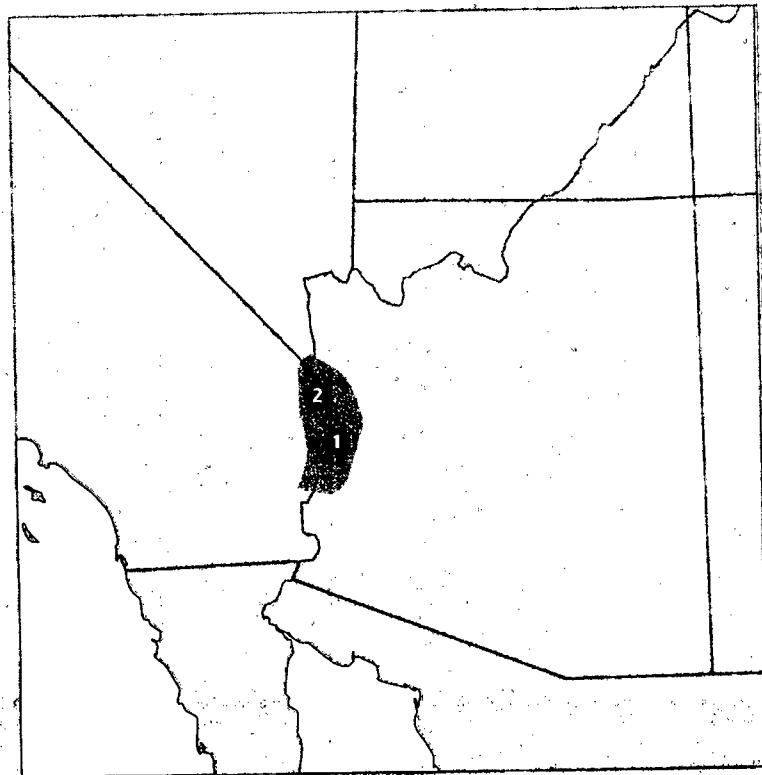
Class III Information	ACIS Calculated Value
Days on Class III	0 Days
- Recissions	0 Days
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Time Not Earned from Class III	0 Days

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Shaded area: Traditional lands of the Mohave, along both sides of the lower Colorado River separating present-day California and Arizona.

Contemporary Communities

1. Colorado River Indians, Arizona
2. Fort Mohave Indian Tribe, California

The Mohave have lived, they say, longer than anyone—living or dead—could ever remember, in a hot, dry area made fertile by the yearly flooding of the Colorado River. An active and adventurous people, they made a name for themselves as expert runners. The Mohave traveled far and wide to trade and created a trail to the

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control of the department. This section does not apply to prisoners who are on parole, community supervision, work release or home arrest or who are under any other conditional release that does not involve direct and continuous supervision by the department.

C. For the purposes of this section, "communication" means:

1. Any verbal or nonverbal communication that poses a direct threat to the safe and secure operation of the department's institutions, programs or inmate labor work crews.

2. Any written communication that includes taking any unauthorized letter, writing, literature or reading material to or from a prisoner who is within the custody and control of the department. Amended by Laws 1978, Ch. 201, § 523, eff. Oct. 1, 1978; Laws 1987, Ch. 53, § 13; Laws 1996, Ch. 257, § 6.

**§ 31-232. Repealed by Laws 1992, Ch. 265,
§ 5**

**§ 31-233. Order for removal; purposes; du-
ration; failure to return; classification**

*Section effective until Jan. 1, 2012. See,
also, section effective Jan. 1, 2012.*

A. The director may authorize the temporary removal under custody from prison or any other institution for the detention of adults under the jurisdiction of the department of any inmate for the purpose of employing the inmate in any work directly connected with the administration, management or maintenance of the prison or institution in which the inmate is confined, for purposes of cooperating voluntarily in medical research that cannot be performed at the prison or institution, or for participating in community action activities directed toward delinquency prevention and community betterment programs. The removal shall not be for a period longer than one day.

B. Under specific rules established by the director for the selection of inmates, the director may also authorize furlough, temporary removal or temporary release of any inmate for compassionate leave, for the purpose of furnishing to the inmate medical treatment not available at the prison or institution, for purposes preparatory to a return to the community within ninety days of the inmate's release date or for disaster aid, including local mutual aid and state emergencies. When an inmate is temporarily removed or temporarily released for a purpose preparatory to return to the community or for compassionate leave, the di-

rector may require the inmate to reimburse the state, in whole or part, for expenses incurred by the state in connection with the inmate's temporary removal or release.

C. Except if community supervision is waived pursuant to § 13-603, subsection K, the department shall add the amount of time the director approves for the inmate's temporary release to the inmate's term of community supervision imposed by the court pursuant to § 13-603. While the person is on temporary release the person is not on inmate status and is under the jurisdiction of the department until the terms of community supervision are met.

D. Any inmate who knowingly fails to return from furlough, temporary removal or temporary release granted under this section is guilty of a class 5 felony.

Added by Laws 1994, Ch. 236, § 14, eff. Sept. 16, 1994. Amended by Laws 1995, Ch. 199, § 3; Laws 2006, Ch. 182, § 2.

**§ 31-233. Order for removal; purposes; du-
ration; continuous alcohol monitoring pro-
gram; failure to return; classification**

*Section effective Jan. 1, 2012. See, also,
section effective until Jan. 1, 2012.*

A. The director may authorize the temporary removal under custody from prison or any other institution for the detention of adults under the jurisdiction of the department of any inmate for the purpose of employing the inmate in any work directly connected with the administration, management or maintenance of the prison or institution in which the inmate is confined, for purposes of cooperating voluntarily in medical research that cannot be performed at the prison or institution, or for participating in community action activities directed toward delinquency prevention and community betterment programs. The removal shall not be for a period longer than one day.

B. Under specific rules established by the director for the selection of inmates, the director may also authorize furlough, temporary removal or temporary release of any inmate for compassionate leave, for the purpose of furnishing to the inmate medical treatment not available at the prison or institution, for purposes preparatory to a return to the community within ninety days of the inmate's release date or for disaster aid, including local mutual aid and state emergencies. When an inmate is temporarily removed or temporarily released for a purpose preparatory to return to the community or for compassionate leave, the di-

rector may require the inmate to reimburse the state, in whole or part, for expenses incurred by the state in connection with the inmate's temporary removal or release.

C. Under specific rules established by the director for the selection of inmates, the director also may authorize release under a continuous alcohol monitoring program for any inmate who is sentenced pursuant to § 28-1383, subsection D or E and who is placed on probation. The director may require an inmate who is released under a continuous alcohol monitoring program to reimburse the state, in whole or part, for expenses incurred by the state in connection with the inmate's release.

D. An inmate who is released under a continuous alcohol monitoring program shall meet the following program eligibility requirements:

1. Serve an initial minimum term of twenty percent of the inmate's term of incarceration.

2. Maintain compliance during the period of monitoring with all of the following requirements:

- (a) At a minimum, once a day testing for the use of alcoholic beverages or drugs by a scientific method that is chosen by the director.

- (b) Participation in an alcohol or drug program, or both. These programs shall be accredited by the department of health services.

- (c) Prohibition of association with any person who is determined to be detrimental to the inmate's successful participation in the program.

- (d) All other provisions of the inmate's sentence.

3. Any additional eligibility criteria that the director may impose.

E. Except if community supervision is waived pursuant to § 13-603, subsection K, the department shall add the amount of time the director approves for the inmate's temporary release to the inmate's term of community supervision imposed by the court pursuant to § 13-603. While the person is on temporary release the person is not on inmate status and is under the jurisdiction of the department until the terms of community supervision are met.

F. Any inmate who knowingly fails to return from furlough, temporary removal or temporary release granted under this section is guilty of a class 5 felony.

Added by Laws 1994, Ch. 236, § 14, eff. Sept. 16, 1994. Amended by Laws 1995, Ch. 199, § 3; Laws 2006, Ch. 182, § 2; Laws 2011, Ch. 341, § 22, eff. Jan. 1, 2012.

§ 31-233.01. Repealed by Laws 1987, Ch. 53, § 14

§ 31-234. Agreements with cities and counties; costs; transfer; participation in programs; custody of director

A. The director of the state department of corrections may enter into an agreement with a city, county jail district, county, or city and county to permit transfer of prisoners in the custody of the director of the state department of corrections to a jail or other adult correctional facility of such city, county jail district, county, or city and county if the sheriff or corresponding official having jurisdiction over such facility has consented thereto. The agreement shall provide for payments to the city, county jail district or county in an amount sufficient to reimburse the full costs attached to housing a prisoner otherwise sentenced to the state department of corrections. The amount of payment in the agreement shall be based on an annual audit by the auditor general which shall report the director's average daily cost.

B. When an agreement entered into pursuant to subsection A is in effect with respect to a particular local facility, the director of the state department of corrections may transfer prisoners whose terms of imprisonment have been fixed to such facility if each transfer receives written approval from the sheriff or chief of police.

C. Prisoners so transferred to a local facility may, with approval of the sheriff, participate in programs of the facility, including work furlough and rehabilitation programs. Prisoners so transferred remain in the constructive custody of the director but are subject to the rules of the facility in which they are confined. The state department of corrections shall bear the expense of any special program which is a required condition of confinement if the state department of corrections does not bear these costs of confinement within fifteen days after receiving written notice from the sheriff or as may be otherwise provided in the terms of a written agreement between the state department of corrections and the sheriff, the sheriff may return the prisoner to the state department of corrections after delivering the prisoner to the nearest state correctional facility.

Added as § 31-233 by Laws 1970, Ch. 47, § 1. Repealed as § 31-234. Amended by Laws 1989, Ch. 291, § 6; Laws 1989, Ch. 291, § 8; Laws 1991, Ch. 260, § 1, eff. June 20, 1991.

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BREAKING NEWS

More than half of inmates in Yuma prison unit test positive for COVID-19

Perry Vandell Arizona Republic

Published 7:29 p.m. MT Dec. 8, 2020

More than half of the inmates held in the Arizona State Prison Complex's La Paz Unit in Yuma have tested positive for COVID-19, according to written notice the Arizona Department of Corrections, Rehabilitation and Reentry issued on Tuesday.

The department said that of the unit's 1,066 inmates, 655 tested positive.

It is the largest known COVID-19 outbreak in Arizona prisons ever. In August, 517 people, or nearly half of the prison population at Tucson's Whetstone Unit, tested positive for COVID-19.

"Inmates who test positive are currently being housed separately from the rest of the unit," the department wrote. "Comprehensive inmate services, including meals, required medication, and medical services are being brought directly to their housing location. They will not be allowed back into the general population until they have been medically cleared."

INSIDE AN OUTBREAK: How Tucson prison's Whetsone unit became a COVID-19 hotspot

Apart from separating the infected from the non-infected, the department said it provides face masks to all inmates and requires the wearing of them outside their cells. All prison staff are required to wear cloth face coverings as well.

The department also said the health care workers that treat inmates are working on become certified to administer COVID-19 vaccines once they become available.

"Our staff, inmates and the community's safety remains our top priority," the department wrote. "ADCRR continues to be vigilant in implementing robust COVID-19 management strategies to reduce the spread of COVID-19 in all of its facilities."

According to the department's COVID-19 dashboard, 4,293 inmates across the state have tested positive for COVID-19 out of 42,173 tested since February. Of the known cases, 26 inmates are confirmed to have died from COVID-19 complications with another six deaths pending.

Reach the reporter Perry Vandell at 602-444-2474 or perry.vandell@gannett.com. Follow