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Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

THE STATE OF ARIZONA,

Plaintiff,

vs.

GABRIEL CHRISTOPHER MORRIS
(001),

Defendant.

Cause No.: **CR2013-3497-001**

**STATE'S SENTENCING
MEMORANDUM**

(The Honorable Danelle Liwski, Div. 6)

The State of Arizona, through undersigned counsel, submits the following Sentencing Memorandum.

I. Victims' Rights

The State has complied with Victims' Rights and anticipates victims will submit Victim Impact Statements to the Court and the Pima County Probation Department. The property stolen in Count 12: Theft, (U.S. Savings Bonds), was returned to the victim. At this point in time, the State is not aware of any restitution related to the other counts. The

State requests that the Court retain jurisdiction over restitution in this case for ninety days in the event proof of restitution is received from any victims.

II. Defendant is a Category 3 Repetitive Offender

Under A.R.S. 13-703(C), a person “shall be sentenced as a category three repetitive offender if [they are]...convicted of a felony and [have] two or more historical prior felony convictions.” An historical prior felony conviction is any class 3 felony committed within ten years before the date of the current offense. A.R.S. § 13-105(22)(b). “Any felony conviction that is a third or more prior felony conviction” is also an historical prior felony. A.R.S. 13-105(22)(d).

After his priors trial, the Court found Defendant was convicted of Pima County Superior Court Cause Numbers CR20000367, CR20001554, CR20051896, and, Yuma County Cause Number CR2005-00080.

First Historical Prior Felony Conviction

On March 16, 2006, in Pima County Cause No. CR20051896, the Defendant was convicted of Attempted Possession of Narcotic Drugs for Sale, Cocaine Base, a class 3 felony committed on April 29, 2005. In the case at bar, Defendant was convicted of six felonies that were committed on August 7, 2013. Thus, the offense in CR20051896 was committed within ten years of the present convictions and the Defendant was convicted of this drug offense prior to the present convictions. Consequently, the conviction in CR20051896 is an historical prior felony conviction under A.R.S. 13-105(22)(b).

Second Historical Prior Felony Conviction

Under A.R.S. § 13-105(22)(d),

once a person has been convicted of three felony offenses, the third in time can be used to enhance a later sentence, regardless of passage of time.

State v. Garcia, 189 Ariz. 510, 515, 943 P.2d 870, 875 (Ct. App. 1997).

In addition to his Attempted Possession of Narcotic Drugs for Sale conviction, the Defendant was also convicted of three other felony offenses, not committed on the same occasion, as listed in the table below:

Cause Number	Date of Conviction	Offense	Date of Offense	Jurisdiction
CR20000367	04/27/2000	Forgery, a class 4 felony	01/07/2000	Pima County Superior Court
CR20001554	09/25/2000	Theft, a class 3 felony	Between 06/02/1999 and 12/1999	Pima County Superior Court
S1400 CR2005-00080	09/28/2006	Attempted Possession of Marijuana for Sale, a class 4 felony	01/12/2006	Yuma County Superior Court

Defendant's conviction in Yuma County Cause No. S1400 CR200500080 is third in time and accordingly is a second historical prior felony conviction under A.R.S. 13-105(22)(d).

Defendant has two historical prior felony convictions. Under A.R.S. 13-703(C) Defendant must be sentenced as a category three repetitive offender.

III. Defendant was on Release Conditions

The jury found beyond a reasonable doubt that the Defendant was on release conditions for all counts. Thus Defendant must be “sentenced to a term of imprisonment two years longer than would otherwise be imposed for the felony offenses committed while on release.” A.R.S. §13-708(D).

IV. Aggravating Factors

The jury found beyond a reasonable doubt an aggravating factor for each count; specifically, Counts 5, 6, 7, and 8 were committed for pecuniary gain, and, Count 12 caused harm to the victim.

The State alleges, for the Court’s consideration under A.R.S. § 13-701(F), the following additional aggravating factors:

- a. Under A.R.S. 13-701(11), a felony conviction within ten years of the date of offense: The Court, after the priors trial, found Defendant was previously convicted on September 28, 2006 in Yuma County Superior Court Cause No. S1400 CR2005-00080 of a felony. This conviction is within ten years of August 7, 2013, when Defendant committed the offenses for which he was found guilty in the present case. (*See State v. LeMaster*, 137 Ariz. 159, 166, 669 P.2d 592, 599 (Ct. App. 1983) sentencing court may use prior felony conviction to impose enhanced sentence and to find aggravating circumstances.)

b. Under A.R.S. 13-701(13), the victim is at least sixty-five years of age:

Brenda Vildusea, daughter of Helen White the victim in Count 12, testified that her mother is 86 years old.

V. State's Recommendation

Rationale

Defendant is a career criminal who has no respect for the law. Defendant not only committed these crimes while on release conditions for pending Pima County charges but, also, while on absconder status in this case, committed new crimes in California.

In the case at bar, Defendant failed to appear and a bench warrant was issued on January 28, 2014. Defendant was extradited back to Arizona on this warrant and appeared before this Court in Pima County on July 30, 2014 for a status conference in this matter. While on absconder status in his Arizona cases, between May 31, 2014 and June 5, 2014 Defendant committed new crimes in California. Defendant was charged with five new felonies: Possession of a Firearm; Having a Concealed Stolen Firearm on his Person; Second Degree Commercial Burglary, with Wells Fargo as the victim; Identity Theft; and, Possession of Ammunition. (Exhibit A). The Superior Court of California County of Los Angeles minutes note "that defendant posted a bond under the AKA of Cody Montagno with the same booking and DR number." (Exhibit B page 1). On July 9, 2014, Defendant pled "no contest" to all five felony charges. The plea agreement stipulates that defendant "will receive 16 [months] on return [to California]." (Exhibit C). Apparently, Defendant, while on warrant status in this case, assumed the

identity of “Cody Montagno” to continue his lifelong criminal vocation and to avoid being returned to Arizona to face these charges.

Defendant was first sent to prison in 2002 because he was unsuccessful on probation for two Pima County causes (CR20000367 and CR20001554—where his mother and grandmother are the victims.) Defendant was released from ADOC on April 23, 2004 and less than one year later on January 12, 2005 Defendant committed new crimes (Yuma County Superior Court No. CR2005000080) and, again, on April 29, 2005 (Pima County Superior Court No. CR20051896—where, per the pre-sentence report he initially identified himself to police as “Michael Foust.”) Defendant returned to ADOC for these crimes and was released on August 14, 2009. In each of the pre-sentence reports for these convictions, Defendant attributes his crimes to his drug problems. In the case at bar, Defendant admitted during his testimony to using meth while committing uncharged crimes. Defendant admitted that he impersonated Abraham Fijal to GEICO Insurance Company to pick up a check in Mr. Fijal’s name. However, when asked if he committed these crimes to obtain drugs, Defendant, answered that he did not need to commit crimes to get drugs because he had a job. Though Defendant has multiple drug related convictions in the past, each of these “drug cases” involved some type of forgery or identity theft. Though Defendant’s life of crime may have started over fifteen years ago from drug dependency, Defendant has progressed to a white-collar criminal, who now victimizes businesses and individuals alike.

Recommendation

As to Count 4: Forgery, a class 4 felony, the State recommends that the Defendant serve a term of 12 years in the Arizona Department of Corrections.

As to Count 5: Forgery, a class 4 felony, the State recommends that the Defendant serve a term of 12 years in the Arizona Department of Corrections.

As to Count 6: Forgery, a class 4 felony, the State recommends that the Defendant serve a term of 12 years in the Arizona Department of Corrections.

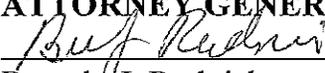
As to Count 7: Forgery, a class 4 felony, the State recommends that the Defendant serve a term of 12 years in the Arizona Department of Corrections.

As to Count 8: Forgery, a class 4 felony, the State recommends that the Defendant serve a term of 12 years in the Arizona Department of Corrections.

As to Count 12: Theft, a class 3 felony, the State recommends that the Defendant be sentenced to a term of 20 years in the Arizona Department of Corrections.

Though the Court may impose consecutive sentences because the victims in Count 4 (the State); Count 12 (Helen Marie White); Counts 5 and 6 (Tucson Electric); and, Counts 7 and 8 (Direct TV) are different, the State recommends that the sentences for each count be concurrent to each other.

RESPECTFULLY SUBMITTED this ¹¹th day of June, 2015.

MARK BRNOVICH
ATTORNEY GENERAL


Beverly J. Rudnick
Assistant Attorney General
Criminal Division

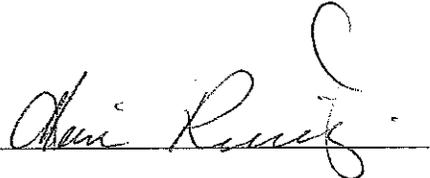
ORIGINAL of the foregoing filed
this 17th day of June, 2015, with:

Clerk of the Court, Criminal Unit
Pima County Superior Court
110 West Congress Street, RM 152
Tucson, Arizona 85701-1314

COPIES of the foregoing delivered via
mail this 17th day of June, 2015, to:

The Honorable Danelle Liwski, Div. 6
Pima County Superior Court
110 West Congress Street-W650
Tucson, Arizona 85701

Paul Skitzki
Pima County Public Defender's Office
33 North Stone Avenue, Suite 2100
Tucson, Arizona 85701
Attorney for Defendant

By: 

#4500300

Exhibit A

Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
01 GABRIEL C. MORRIS (11/05/1978)
Defendant(s).

CASE NO. GA093472

AMENDED
FELONY COMPLAINT
FOR ARREST WARRANT

JUN 09 2014
LOS ANGELES SUPERIOR COURT

The undersigned is informed and believes that:

COUNT 1

JUN 09 2014
JOHN A. CLARKE, CLERK

On or about May 31, 2014, in the County of Los Angeles, the crime of POSSESSION OF FIREARM BY A FELON - PRIOR(S), in violation of PENAL CODE SECTION 29800(a)(1), a Felony, was committed by GABRIEL C. MORRIS, who did unlawfully own, possess, purchase, receive, and have custody and control of a firearm, to wit, handgun, the said defendant having theretofore been duly and legally convicted of a felony or felonies, to wit:

<u>Case No.</u>	<u>Charge Code/Statute</u>	<u>Conv. Date</u>	<u>County of Court</u>	<u>State</u>	<u>Court Type</u>
S-1400-CR	13-3405 A2	08/24/2006	YUMA	AZ	SUPERIOR

COUNT 2

On or about May 31, 2014, in the County of Los Angeles, the crime of HAVING CONCEALED FIREARM ON PERSON, in violation of PENAL CODE SECTION 25400(a)(2), a Felony, was committed by GABRIEL C. MORRIS, who did unlawfully carry concealed upon his/her person a pistol, revolver, and firearm capable of being concealed upon the person.

It is further alleged that the above mentioned firearm was stolen and the defendant(s), GABRIEL C. MORRIS knew and reasonably should have known that it was stolen.

* * * * *

COUNT 3

On or about May 31, 2014, in the County of Los Angeles, the crime of SECOND DEGREE COMMERCIAL BURGLARY, in violation of PENAL CODE SECTION 459, a Felony, was committed by GABRIEL C. MORRIS, who did enter a commercial building occupied by WELLS FARGO with the intent to commit larceny and any felony.

* * * * *

COUNT 4

On or about June 5, 2014, in the County of Los Angeles, the crime of IDENTITY THEFT, in violation of PENAL CODE SECTION 530.5(a), a Felony, was committed by GABRIEL C. MORRIS, who did willfully and unlawfully obtain personal identifying information of CODY MONTAGNO and used that information for an unlawful purpose and to obtain, and attempt to obtain credit, goods, services, real property, and medical information without the consent of CODY MONTAGNO.

* * * * *

Handwritten notes and markings including "3ms", "LT", "3yr", "11/16", and "2006" with vertical lines.

COUNT 5

On or about June 5, 2014, in the County of Los Angeles, the crime of POSSESSION OF AMMUNITION, in violation of PENAL CODE SECTION 30305(a)(1), a Felony, was committed by GABRIEL C. MORRIS, who did unlawfully own, possess and have under control ammunition and reloaded ammunition.

It is further alleged that the defendant is prohibited from owning or possessing a firearm pursuant to Chapter 2 and 3 of Division 9 and sections 8100 and 8103 of the Welfare and Institutions Code, having been previously convicted of the following offense(s): A2 13-3405 Possession of Marijuana for Sale.

* * * * *

NOTICE: Conviction of this offense will require the defendant to provide DNA samples and print impressions pursuant to Penal Code sections 296 and 296.1. Willful refusal to provide the samples and impressions is a crime.

NOTICE: The People of the State of California intend to present evidence and seek jury findings regarding all applicable circumstances in aggravation, pursuant to Penal Code section 1170(b) and *Cunningham v. California* (2007) 549 U.S. 270.

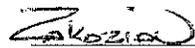
NOTICE: A Suspected Child Abuse Report (SCAR) may have been generated within the meaning of Penal Code §§ 11166 and 11168 involving the charges alleged in this complaint. Dissemination of a SCAR is limited by Penal Code §§ 11167 and 11167.5 and a court order is required for full disclosure of the contents of a SCAR.

NOTICE: Any allegation making a defendant ineligible to serve a state prison sentence in the county jail shall not be subject to dismissal pursuant to Penal Code § 1385.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant(s) GABRIEL C. MORRIS for the above-listed crimes. Wherefore, a warrant of arrest is requested for GABRIEL C. MORRIS.

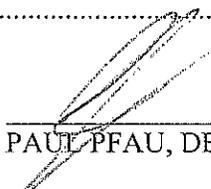
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT, CASE NUMBER GA093472, CONSISTS OF 5 COUNT(S).

Executed at GLENDALE, County of Los Angeles, on June 9, 2014.



ZAKARIAN
DECLARANT AND COMPLAINANT

.....
JACKIE LACEY, DISTRICT ATTORNEY

BY: 

PAUL PFAU, DEPUTY

AGENCY: GLENDALE PD
DR NO.: 147621

I/O: ZAKARIAN
OPERATOR: AB

ID NO.: 19901 PHONE : (818) 547-3101
PRELIM. TIME EST.: 1 HOUR(S)

<u>DEFENDANT</u>	<u>CII NO.</u>	<u>DOB</u>	<u>BOOKING NO.</u>	<u>BAIL RECOM'D</u>	<u>CUSTODY R'TN DATE</u>
MORRIS, GABRIEL C.	034389168	11/5/1978	3988918	\$100,000	

It appearing to the Court that probable cause exists for the issuance of a warrant of arrest for the above-named defendant(s), the warrant is so ordered.

GABRIEL MORRIS

BAIL: \$ _____

DATE: _____

Judge of the Above Entitled Court

NON-WARRANT DEFENDANTS:

<u>DEFENDANT</u>	<u>CII NO.</u>	<u>DOB</u>	<u>BOOKING NO.</u>	<u>BAIL RECOM'D</u>	<u>CUSTODY R'TN DATE</u>
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FELONY COMPLAINT -- ORDER HOLDING TO ANSWER -- P.C. SECTION 872

It appearing to me from the evidence presented that the following offense(s) has/have been committed and that there is sufficient cause to believe that the following defendant(s) guilty thereof, to wit:

(Strike out or add as applicable)

GABRIEL C. MORRIS

<u>Count No.</u>	<u>Charge</u>	<u>Charge Range</u>	<u>Special Allegation</u>	<u>Alleg. Effect</u>
1	PC 29800(a)(1)	16-2-3		
2	PC 25400(a)(2)	16-2-3 County Jail		
3	PC 459	16-2-3 County Jail		
4	PC 530.5(a)	16-2-3 County Jail		
5	PC 30305(a)(1)	16-2-3 County Jail		

I order that the defendant(s) be held to answer therefore and be admitted to bail in the sum of:

GABRIEL C. MORRIS _____ Dollars

and be committed to the custody of the Sheriff of Los Angeles County until such bail is given. Date of arraignment in Superior Court will be:

GABRIEL C. MORRIS _____ in Dept _____

at: _____ A.M.

Date: _____

Committing Magistrate



THE DOCUMENT TO WHICH THIS CERTIFICATE IS
ATTACHED IS A FULL, TRUE, AND CORRECT COPY
OF THE ORIGINAL ON FILE AND OF RECORD IN
MY OFFICE

ATTEST AUG 07 2014
Sherri R. Carter, Executive Officer of the
Superior Court of the California, County of
Los Angeles.

D. Bondoc
DEPUTY

DANTE BONDOC, DEPUTY CLERK

Exhibit B

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NO. GA093472

PAGE NO. 1

THE PEOPLE OF THE STATE OF CALIFORNIA VS.

CURRENT DATE 08/07/14

DEFENDANT 01: GABRIEL C MORRIS

LAW ENFORCEMENT AGENCY EFFECTING ARREST: GLENDALE POLICE DEPARTMENT

BAIL: APPEARANCE DATE	AMOUNT OF BAIL	DATE POSTED	RECEIPT OR BOND NO.	SURETY COMPANY	REGISTER NUMBER
07/14/14	\$100,000.00	06/04/14	2014EE002166	LEXINGTON NAT INS	COR GN37229

CASE FILED ON 06/03/14.

COMPLAINT FILED, DECLARED OR SWORN TO CHARGING DEFENDANT WITH HAVING COMMITTED, ON OR ABOUT 05/31/14 IN THE COUNTY OF LOS ANGELES, THE FOLLOWING OFFENSE(S) OF:

COUNT 01: 29800(A)(1) PC FEL

COUNT 02: 25400(A)(1) PC FEL

COUNT 03: 459 PC FEL

NEXT SCHEDULED EVENT:

ARREST WARRANT TO ISSUE

06/03/14 ARREST WARRANT IN THE AMOUNT OF \$60,000.00 BY ORDER OF JUDGE PHILLIP ARGENTO ISSUED. (06/03/14).

ON 06/09/14 AT 830 AM :

ARREST WARRANT RECALLED,
DEFENDANT IS IN CUSTODY.
BENCH WARRANT HEARING

ON 06/09/14 AT 830 AM IN GLENDALE COURTHOUSE DEPT 001

CASE CALLED FOR BENCH WARRANT HEARING

PARTIES: MARGARET L. OLDENDORF (JUDGE) MICHAEL ORTIZ (CLERK)
CHARMAIN D. CAMPBELL (REP) JONATHAN FUHRMAN (DA)

THE DEFENDANT FAILS TO APPEAR, WITH SUFFICIENT EXCUSE. (MISS-OUT) AND NOT REPRESENTED BY COUNSEL

BAIL SET AT \$100,000

THE MATTER IS CALLED FOR HEARING AND CONTINUED TO DATE SET BELOW FOR DEFENDANT TO APPEAR. REMOVAL ORDER IS ISSUED TODAY

THE COURT FURTHER NOTES THAT DEFENDANT POSTED A BOND UNDER THE AKA OF CODY MONTAGNO WITH THE SAME BOOKING AND DR NUMBER.

BOND IS EXONERATED THIS DATE.

NEXT SCHEDULED EVENT:

06/10/14 830 AM ARRAIGNMENT DIST GLENDALE COURTHOUSE DEPT 001

06/09/14 EXONERATED, # 2014EE002166

06/09/14 ARREST WARRANT IN THE AMOUNT OF \$60,000.00 RECALLED. (06/09/14).

CUSTODY STATUS: BAIL EXONERATED

CUSTODY STATUS: REMANDED TO CUSTODY

ON 06/10/14 AT 830 AM IN GLENDALE COURTHOUSE DEPT 001

NUNC PRO TUNC ORDER PREPARED. IT APPEARING TO THE COURT THAT THE MINUTE ORDER

CASE NO. GA093472
DEF NO. 01

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DATE PRINTED 08/07/14

IN THE ABOVE ENTITLED ACTION DOES NOT PROPERLY REFLECT THE COURT'S ORDER. SAID MINUTE ORDER IS AMENDED NUNC PRO TUNC AS OF THAT DATE. ALL OTHER ORDERS ARE TO REMAIN IN FULL FORCE AND EFFECT. DETAILS LISTED AT END OF THIS MINUTE ORDER. CASE CALLED FOR ARRAIGNMENT

PARTIES: MARGARET L. OLDENDORF (JUDGE) MICHAEL ORTIZ (CLERK)
ELIZABETH SALAZAR (REP) JONATHAN FUHRMAN (DA)
DEFENDANT DEMANDS COUNSEL.

COURT REFERS DEFENDANT TO THE PUBLIC DEFENDER.
PUBLIC DEFENDER APPOINTED. CATHY A. GARDNER - P.D.
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY CATHY A. GARDNER DEPUTY PUBLIC DEFENDER

ON PEOPLE'S MOTION, COURT ORDERS COMPLAINT AMENDED BY INTERLINEATION TO ADD VIOLATION 530.5(A) PC FEL AS COUNT 04.

ON PEOPLE'S MOTION, COURT ORDERS COMPLAINT AMENDED BY INTERLINEATION TO ADD VIOLATION 30305(A)(1) PC FEL AS COUNT 05.

A COPY OF THE COMPLAINT AND THE ARREST REPORT GIVEN TO DEFENDANTS COUNSEL.
DEFENDANT'S FINANCIAL STATEMENT FILED.
DEFENDANT WAIVES ARRAIGNMENT, READING OF COMPLAINT, AND STATEMENT OF

CONSTITUTIONAL AND STATUTORY RIGHTS.

DEFENDANT PLEADS NOT GUILTY TO COUNT 01, 29800(A)(1) PC.

DEFENDANT PLEADS NOT GUILTY TO COUNT 02, 25400(A)(1) PC.

DEFENDANT PLEADS NOT GUILTY TO COUNT 03, 459 PC.

DEFENDANT PLEADS NOT GUILTY TO COUNT 04, 530.5(A) PC.

DEFENDANT PLEADS NOT GUILTY TO COUNT 05, 30305(A)(1) PC.

THE COURT ORDERS A PRE-PLEA REPORT PURSUANT TO 131.3 CODE OF CIVIL PROCEDURE.

THE DEFENDANT'S COUNSEL DOES NOT CONSENT TO A PRE-PLEA INTERVIEW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
THE MATTER IS CALLED FOR HEARING AND CONTINUED TO DATE SET BELOW
FOR EARLY DISPOSITION HEARING IN THE BURBANK JUDICIAL DISTRICT.

A PRELIMINARY HEARING IS ALSO SET FOR 06/23/14 AS DAY 08/10
IN THE SAME DEPARTMENT.

A BAIL REVIEW IS ALSO SET CONCURRENTLY WITH THE EDP HEARING AND
O.R. REPORT IS ORDERED THIS DATE.

A PRE PLEA REPORT IS ORDERED THIS DATE.
BAIL SET AT \$100,000.

NEXT SCHEDULED EVENT:
06/18/14 830 AM EARLY DISPOSITION HEARING DIST BURBANK COURTHOUSE DEPT 001
DAY 06 OF 10

CUSTODY STATUS: REMANDED TO CUSTODY

ON 06/13/14 AT 900 AM :

CASE RECEIVED IN BURBANK COURT. MA

ON 06/18/14 AT 830 AM IN BURBANK COURTHOUSE DEPT 001

CASE CALLED FOR EARLY DISPOSITION HEARING

PARTIES: PATRICK HEGARTY (JUDGE) LORNA GARCIA (CLERK)
CHARMAIN D. CAMPBELL (REP) RORY L. WAGNER (DA)
DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JANET GREENBERG DEPUTY PUBLIC DEFENDER

MATTER CONTINUED AS INDICATED BELOW.

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DEF NO. 01

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COURT ORDERS AND FINDINGS:

- OBEY ALL LAWS AND ORDERS OF THE COURT.
- THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

07/09/14 830 AM PRELIM SETTING/RESETTING DIST BURBANK COURTHOUSE DEPT
001
DAY 00 OF 10

ON 07/09/14 AT 830 AM IN BURBANK COURTHOUSE DEPT 001

NUNC PRO TUNC ORDER PREPARED. IT APPEARING TO THE COURT THAT THE MINUTE ORDER IN THE ABOVE ENTITLED ACTION DOES NOT PROPERLY REFLECT THE COURT'S ORDER. SAID MINUTE ORDER IS AMENDED NUNC PRO TUNC AS OF THAT DATE. ALL OTHER ORDERS ARE TO REMAIN IN FULL FORCE AND EFFECT. DETAILS LISTED AT END OF THIS MINUTE ORDER.

CASE CALLED FOR PRELIM SETTING/RESETTING

PARTIES: PATRICK HEGARTY (JUDGE) LORNA GARCIA (CLERK)
CRYSTAL BUTLER (REP) LOUIS PARISE (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JANET GREENBERG DEPUTY PUBLIC DEFENDER

DEFENDANT ADVISED OF AND PERSONALLY AND EXPLICITLY WAIVES THE FOLLOWING RIGHTS: WRITTEN ADVISEMENT OF RIGHTS AND WAIVERS FILED, INCORPORATED BY REFERENCE HEREIN

JURY TRIAL OR COURT TRIAL AND PRELIMINARY HEARING
CONFRONTATION AND CROSS-EXAMINATION OF WITNESSES;
SUBPOENA OF WITNESSES INTO COURT TO TESTIFY IN YOUR DEFENSE;
AGAINST SELF-INCRIMINATION;

DEFENDANT ADVISED OF THE FOLLOWING:

THE NATURE OF THE CHARGES AGAINST HIM, THE ELEMENTS OF THE OFFENSE IN THE COMPLAINT, AND POSSIBLE DEFENSES TO SUCH CHARGES;
THE POSSIBLE CONSEQUENCES OF A PLEA OF GUILTY OR NOLO CONTENDERE, INCLUDING THE MAXIMUM PENALTY AND ADMINISTRATIVE SANCTIONS AND THE POSSIBLE LEGAL EFFECTS AND MAXIMUM PENALTIES INCIDENT TO SUBSEQUENT CONVICTIONS FOR THE SAME OR SIMILAR OFFENSES;
THE EFFECTS OF PROBATION;
IF YOU ARE NOT A CITIZEN, YOU ARE HEREBY ADVISED THAT A CONVICTION OF THE

OFFENSE FOR WHICH YOU HAVE BEEN CHARGED WILL HAVE THE CONSEQUENCES OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES.

THE COURT FINDS THAT EACH SUCH WAIVER IS KNOWINGLY, UNDERSTANDINGLY, AND EXPLICITLY MADE; COUNSEL JOINS IN THE WAIVERS

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 01 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION 29800(A)(1) PC IN COUNT 01. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (01) : DISPOSITION: CONVICTED

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 02 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION 25400(A)(1) PC IN COUNT 02. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (02) : DISPOSITION: CONVICTED

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 03 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION 459

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PC IN COUNT 03. THE COURT FINDS THE DEFENDANT GUILTY.
COUNT (03) : DISPOSITION: CONVICTED
THE COURT FINDS THE OFFENSE IN COUNT 03 TO BE IN THE SECOND DEGREE.
THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 04 AND PLEADS
NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION
530.5(A) PC IN COUNT 04. THE COURT FINDS THE DEFENDANT GUILTY.
COUNT (04) : DISPOSITION: CONVICTED
THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 05 AND PLEADS
NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION
30305(A)(1) PC IN COUNT 05. THE COURT FINDS THE DEFENDANT GUILTY.
COUNT (05) : DISPOSITION: CONVICTED
COURT ORDERS AND FINDINGS:
-TAHL WAIVER IS ORDERED FILED.
-OBEY ALL LAWS AND ORDERS OF THE COURT.
-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

COURT FINDS THAT THERE IS A FACTUAL BASIS FOR DEFENDANT'S PLEA, AND COURT
ACCEPTS PLEA.

MATTER IS CONTINUED FOR PROBATION AND SENTENCING TO 01-30-15 AT
8:30 A.M. IN THIS DEPARTMENT.

RELEASE AF008912 ISSUED.

CRUZ WAIVER TAKEN.
WAIVES STATUTORY TIME.
NEXT SCHEDULED EVENT:
01/30/15 830 AM PROBATION AND SENTENCE HEARING DIST BURBANK COURTHOUSE
DEPT 001
DAY 00 OF 20

CUSTODY STATUS: RELEASED ON OWN RECOGNIZANCE.

08/07/14.

I HEREBY CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF THE ELECTRONIC DOCKET
ON FILE IN THIS OFFICE AS OF THE ABOVE DATE.

SHERRI R. CARTER ,EXECUTIVE OFFICER/CLERK OF SUPERIOR COURT, COUNTY OF LOS
ANGELES, STATE OF CALIFORNIA

BY D. Bondoc, DEPUTY

DANTE BONDOC, DEPUTY CLERK



Exhibit C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		FILED Superior Court of California County of Los Angeles	
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA		JUL 09 2014	
DEFENDANT: GABRIEL MORRIS		Sherri R. Carter, Executive Officer/Clerk By: <u>L. Garcia</u> , Deputy	
FELONY ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM		CASE NUMBER: 69093472	DEPT.: 1

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial the box for each applicable item only if you understand and agree with it, and sign and date the form where it says "DEFENDANT'S SIGNATURE" on page 4. If you have any questions about anything on this form or about your case, ask your attorney or the judge.

1. I wish to plead guilty or no contest to the following charges, and I wish to admit the prior convictions, special allegations and enhancements, listed below, which carry the maximum penalties set out below:

COUNT	CHARGE	MAX. TERM	ENHANCEMENTS (Including Priors and Specials)	YEARS	TOTAL YEARS
1	PC 29400(a)(1)	3			
2	PC 25400(a)(2)	3			
3	PC 459	3			
4	PC 5305(a)	3			
5	PC 30305(a)(1)	3			
AGGREGATE TERM OF IMPRISONMENT					5yrs 6mos

TERMS OF ANY PLEA BARGAIN (if applicable) Initials

2. I understand that it is necessary to disclose any promises of particular sentences or sentence recommendations to the Court on this form. My attorney has told me that if I plead guilty or no contest to the above-listed charge(s), and enhancement(s), the Court will sentence me as follows:
- A. Deny Probation and impose a total **State Prison** term of _____ years and _____ months.
 - B. Grant **Probation** under the conditions to be set by the Court, including serving _____ days in the County jail. I understand that a violation of any of the terms and conditions of my probation may cause the Court to send me to state prison for up to the maximum punishment provided by law.
 - C. **Restitution, Statutory Fees, and Assessments** — I understand that the Court will order me to pay between \$200 and \$10,000 to the Victim Restitution Fund, and if appropriate, pay actual restitution to any victim. The Court will also order me to pay statutory fees and other assessments.
 - D. **Parole Revocation Fine** — I understand that if I am sentenced to state prison, the Court is required to impose a parole revocation fine, which will be suspended unless my parole is revoked.
 - E. Other Terms: Put P's over to JAN 30th 2015
Δ will receive 16 mos on return

BY AN ATTORNEY AND WAIVER (If applicable)

Initials

I understand that I have a right to be represented by an attorney of my choice throughout the proceedings. I further understand that if I cannot afford an attorney, the Court will appoint one to represent me at no cost to me. I hereby waive and give up my right to be represented by an attorney.



CONSTITUTIONAL RIGHTS

- 4. I understand that I have each of the following rights as to the charges, prior convictions, special allegations and enhancements that are alleged against me.
 - A. **Right to a Jury Trial** — I have the right to a speedy, public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced of my guilt beyond a reasonable doubt.
 - B. **Right to a Court Trial** — As an alternative to a jury trial, if the prosecutor agrees, I may waive jury and have a court trial, where a judge alone sitting without a jury hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced of my guilt beyond a reasonable doubt.
 - C. **Right to Confront and Cross-Examine Witnesses** — I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney will be allowed to question them.
 - D. **Right to Remain Silent** — I have the right to remain silent and not incriminate myself, and I cannot be forced to say anything against or to testify against myself. I understand that by pleading guilty or no contest, I am waiving and giving up that right and incriminating myself.
 - E. **Right to Produce Evidence and to Present a Defense** — I have the right to present evidence and to have the Court issue subpoenas to bring into court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.



WAIVER OF CONSTITUTIONAL RIGHTS

- 5. I hereby waive and give up, for all of the charges against me, including any prior convictions, special allegations or enhancements, my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right against self-incrimination and my right to produce evidence and to put on a defense, including my right to testify on my own behalf.



STATUTORY RIGHT TO A PRELIMINARY HEARING AND WAIVER

- 6. I understand that I have a statutory right to a speedy preliminary hearing, prior to any trial. Before I can be required to stand trial, at the preliminary hearing, the prosecutor would have to present evidence sufficient to establish reasonable cause to believe I committed the crimes charged. I also would have all of the above constitutional rights at the preliminary hearing, except that I do not have a right to a jury. I hereby waive and give up my right to the preliminary hearing.



CONSEQUENCES OF MY PLEA

- 7. **Parole (If applicable)** — I understand that a sentence to state prison will include a period of supervised release into the community on parole for _____ years, and that if I violate any of the terms and conditions of my parole, I can be returned to state prison for up to one year for each violation.
- 8. **Effect of Conviction on Other Cases** — I understand that a conviction in this case may be grounds for violating any probation or parole that I have been granted in any other case and that I may be subject to additional punishment as a result of that violation.
- 9. **Registration (Check any appropriate box)** — I understand that I will be required to register with my local police agency as an: arson offender gang member narcotics offender sex offender, and that if I fail to register or keep my registration current, new criminal charges may be filed against me.



Initials

A Sample — I understand that I must provide two blood specimens, a saliva specimen, a right thumbprint, and a palm print, for identification purposes, and that failure to do so constitutes a new criminal offense.



Serious or Violent Felony — I understand that if I am pleading to a serious or violent felony (a strike offense), and I am convicted of another felony in the future, then pursuant to the Three Strikes laws, the penalty for that future felony will be increased as a result of my conviction in this case.



12. Immigration Consequences — I understand that if I am not a citizen of the United States, I must expect my plea of guilty or no contest will result in my deportation, exclusion from admission or reentry to the United States, and denial of naturalization and amnesty.



PLEA

13. I hereby freely and voluntarily plead No Contest to the charge(s) listed on page 1 and admit the prior conviction(s), and special allegation(s) and enhancements listed on page 1. I understand that such admission(s) will increase the penalties imposed on me.



14. Prior to entering this plea, I have had a full opportunity to discuss with my attorney the facts of my case, the elements of the charged offense(s) and enhancement(s), any defenses that I may have, my constitutional rights and waiver of those rights, and the consequences of my plea.



15. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of all the matters set forth in the pleading and in this form. No one has made any threats, used any force against me, my family, or loved ones, or made any promises to me, except as set out in this form, in order to convince me to plead guilty or no contest.



16. I offer to the Court the following as the basis for my plea of guilty or no contest and any admission(s) (select applicable box):

A. I stipulate and agree that there is a factual basis for my plea(s) and admission(s).



B. I am pleading guilty or no contest to take advantage of a plea bargain. (People v. West)



17. I am not taking any medication, or under the influence of any substance, or suffering from any medical condition, that is or may be impairing my ability to enter into this plea agreement.



18. I understand that a no contest plea will be treated the same as a guilty plea by the Court and that I will be found guilty upon a no contest plea. My no contest plea will not be a bar to liability in any civil lawsuit.



19. If applicable - I understand that the Court is allowing me to surrender at a later date to begin my time in custody. I agree that if I fail to appear on the date set for surrender without a legal excuse, then my plea will become an open plea to the Court and I may be sentenced to anything up to the maximum allowed by law.



20. If applicable - I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I waive and give up that right and agree that any judge or commissioner may sentence me.



21. I have no further questions of the Court or of counsel with regard to my plea(s) and admission(s) in this case.



STIPULATION TO COMMISSIONER (if applicable)

22. I understand that I have the right to enter my plea before, and be sentenced by, a judge. I give up this right and agree to enter my plea before and be sentenced by a commissioner sitting as a temporary judge.



DEFENDANT'S SIGNATURE

I have read and initialed each of the paragraphs above and discussed them with my attorney. My initials mean that I have read, understand and agree with what is stated in the paragraph. The nature of the charges and possible defenses to them, and the effect of any special allegations and enhancements have been explained to me. I understand each and every one of the rights outlined above and I hereby waive and give up each of them in order to enter my plea to the above charges.

Signed: [Signature] Dated: 7/9/14
DEFENDANT

ATTORNEY STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the defendant's rights to the defendant and answered all of his or her questions with regard to those rights and this plea. I have also discussed the facts of the case with the defendant, and explained the nature and elements of each charge, any possible defenses to the charges, the effect of any special allegations and enhancements, and the consequences of the plea. I concur in the plea and any related admission and join in the waiver of defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea. I have explained to the defendant that, to the best of my knowledge, the prosecution has provided me with all information and evidence that might play a significant role in his or her defense, or exculpate the defendant, and I know of no reason that the defendant should not plead to this charge.

Signed: [Signature] Dated: 7/9/14
DEFENDANT'S ATTORNEY

INTERPRETER'S STATEMENT (If applicable)

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below. The defendant stated that he or she understood the contents on the form, and then initialed and signed the form.

Language: Spanish. Other (specify) _____

Signed: _____ Dated: _____
COURT INTERPRETER

TYPE OR PRINT NAME

COURT'S FINDINGS AND ORDER

The Court, having reviewed this form and any addenda, and having questioned the defendant concerning the defendant's constitutional rights and admission of any prior convictions and special allegations, finds that the defendant has expressly, knowingly, understandingly, and intelligently waived and given up his or her constitutional and statutory rights. The Court finds that the defendant's plea(s) and admission(s) are freely and voluntarily made with an understanding of the nature and consequences thereof, that any allegations of prior convictions, special allegations and enhancements, as indicated in this form are true, and that there is a factual basis for the plea(s) and admission(s). The Court accepts the defendant's plea(s), admission of prior conviction(s) and special allegation(s), if any, and the defendant is convicted upon his or her plea(s). The Court orders that this form filed and incorporated in the docket by reference as though fully set forth therein.

Signed: [Signature] Dated: 7-9-14
JUDGE (or TEMPORARY JUDGE) of the SUPERIOR COURT



THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED IS A FULL, TRUE, AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE.

ATTEST: AUG 07 2014

Sherri R. Carter, Executive Officer of the Superior Court of the California, County of Los Angeles.

by D. Bondoc DEPUTY

DANTE BONDOC, DEPUTY CLERK