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8 T002-2018-000062

9 Attorneys for Plaintiff

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

11 **IN AND FOR THE COUNTY OF COCHISE**

12  
13 **STATE OF ARIZONA,**

14 Plaintiff,

15 v.

16  
17 **TIMOTHY HENRY (001),**

18 Defendant.

**Cause No. CR2019-00007**

**SENTENCING MEMORANDUM**

**Assigned to Hon. James Conlogue,  
Div. 5**

19  
20 The State of Arizona hereby submits the following memorandum regarding  
21 sentencing. The State respectfully requests that the Court consider the following  
22 aggravating factors in sentencing the Defendant, **TIMOTHY HENRY (001)**.  
23

24 **I. Factual Background**

25 Per the plea agreement, Mr. Henry admits to having three prior felony convictions  
26 (1) Possession of a Dangerous Drug (CR-94000297, ultimately sentenced to 3 years in  
27 DOC), (2) Possession of Marijuana and DUI (CR2001-00913, ultimately sentenced to 6  
28

1 months jail), and Possession of a Dangerous Drug for Sale and Possession of a Weapon by  
2 a Prohibited Person (CR2002-00954, ultimately sentenced to 7.5 years DOC). Each of  
3 these prior convictions is from Cochise County.

4 Through surveillance, wiretap, and other investigation, DEA agents were able to  
5 identify Mr. Henry as a central figure in a criminal organization and a significant  
6 distributor of methamphetamine and heroin throughout Cochise and Pima Counties. He  
7 maintained several sources of supply and distributed to numerous lower-level dealers. Mr.  
8 Henry ultimately arranged and carried out two sales of pound-quantities of  
9 methamphetamine (and smaller quantities of heroin) to an undercover agent. During one  
10 of these deals, the undercover agent asked Mr. Henry how much methamphetamine he  
11 could provide in the future, and Mr. Henry indicated that he probably could provide as  
12 much as [he] wanted. When a search warrant was later served on Mr. Henry's home in  
13 Sierra Vista, for-sale quantities of methamphetamine and a Glock 23 handgun were  
14 located. When questioned, Mr. Henry admitted to being a distributor and admitted sales to  
15 most of his co-defendants, including Jennifer Phillips, Shalmarie Tulk, Jesus Loreto, as  
16 well as at least one individual indicted in Pima County. Mr. Henry's statements were  
17 corroborated by the rest of the investigation and it was determined that Mr. Henry was  
18 generally truthful with the agents in his post-arrest interview.  
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1 **II. Applicable Sentencing Statutes/Ranges:**

2 **Count 14:** Class 2, non-dangerous, category 2 repetitive offense, pursuant to  
3 A.R.S. §§ 13-3408.  
4 Probation IS NOT available.  
5 Prison range: 4.5 to 18.5., presumptive 9.25.

6 **Count 39:** Class 4, non-dangerous, category 2 repetitive offense, pursuant to  
7 A.R.S. §§ 13-3102.  
8 Probation IS NOT available.  
9 Prison range: 2.25 to 7.5 yrs., presumptive 4.5.  
10 This sentence may run consecutively or concurrently to Count 14.

11 The parties have additionally stipulated via special term in the plea that the total  
12 sentence in this case may not exceed 18.5 years.

13 **III. Mitigating Factors**

14 The Court should consider the following mitigating factor when determining the  
15 appropriate sentence:

- 16  
17 1. As described above, Mr. Henry provided generally truthful responses to the  
18 questions of the investigators. § 13-701(E)(6)

19 **IV. Aggravating Factors**

20 The Court should consider the following aggravating factors when determining the  
21 appropriate sentence:

- 22  
23 1. Mr. Henry has numerous prior convictions, many of which involve similar crimes  
24 as to those he committed in this case. In his most recent conviction (CR2002-  
25 00954), Mr. Henry was convicted of similar drug and gun charges as those he is  
26 convicted of in the immediate case, and was sentenced to 7.5 years in the  
27  
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1 Department of Corrections. Each of these convictions are individual aggravating  
2 factors the Court should consider. § 13-701(D)(11), § 13-701(D)(27) (see *State v.*  
3 *Harold*, 74 Ariz. 210 (1963) and *State v. Calderon*, 171 Ariz. 12 (App. 1991)).

4 2. Mr. Henry pursued these offenses for pecuniary gain. While Mr. Henry was clearly  
5 a drug user, the extent of his sales and involvements within the criminal enterprise  
6 exceed those of someone merely pursuing a quick fix. § 13-701(D)(6)

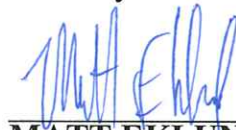
7  
8 3. Mr. Henry's previous term in the Department of Corrections proved insufficient to  
9 deter his current involvement. The community needs to be protected against Mr.  
10 Henry's continued crimes in Cochise County. § 13-701(D)(27) (see *State v.*  
11 *LeMaster*, 137 Ariz. 159 (App. 1983)).

12  
13 **V. State's Recommendations**

14  
15 The State respectfully recommends that the Court consider the factors stated above  
16 and sentence Defendant **TIMOTHY HENRY** to the presumptive term on Count 14 and  
17 Count 39, consecutive to each other.

18  
19 RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of February, 2020.

20 **MARK BRNOVICH**  
21 Attorney General

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24 **MATT EKLUND**  
Assistant Attorney General

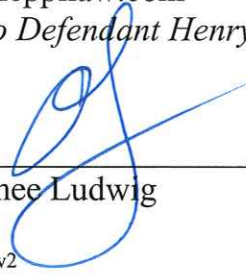
25 A copy of the foregoing document  
26 delivered this 19<sup>th</sup> day of February, 2020 to:

27 Hon. James Conlogue, Div. Five  
28 Cochise County Superior Court

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A copy of the foregoing document  
emailed this 19<sup>th</sup> day of February, 2020 to:

Chris Scilippi, Esq.  
Chris@scileppilaw.com  
*Attorney to Defendant Henry*

by:   
\_\_\_\_\_  
Aimee Ludwig

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