

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2019-005397-001 DT

08/30/2019

HONORABLE MONICA GARFINKEL

CLERK OF THE COURT
S. Rhinehart
Deputy

STATE OF ARIZONA

TRACEY GLEASON

v.

ARLENA M WILLES (001)

ARLENA M WILLES
7771 N. 56TH DRIVE
GLENDALE AZ 85301
LAURA ANDERSON

COMM. GARFINKEL
JUDGE FISH
VICTIM WITNESS DIV-AG-CCC

ROBERT SWINFORD

INITIAL PRETRIAL CONFERENCE

9:02 a.m.

Courtroom CCB 1001

State's Attorney:	Kate Loudenslagel for Tracey Gleason Robert Swinford
Defendant's Attorney:	Laura Anderson
Defendant:	Present

A record of the proceedings is made digitally in lieu of a court reporter.

This is the time set for an Initial Pretrial Conference and Oral Argument on Defendant's *Pro Per* Motion to represent herself.

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ORAL ARGUMENT

Argument is presented regarding Defendant's motion to represent herself.

The Defendant is advised by the Court of her right to Counsel.

The Defendant informs the Court that she waives her right to have Counsel, and wishes to proceed *Pro Se*. The Defendant has read and signed the waiver of counsel form.

After extensive discussion, the Court finds the Defendant has knowingly, intelligently and voluntarily waived her right to Counsel.

IT IS FURTHER ORDERED that Laura Anderson be appointed as Advisory Counsel.

The Court issues this minute entry to set forth clear expectations and to provide the Defendant with timely, clear, and unambiguous notice that Defendant may lose her right to represent herself unless she is able and willing to abide by the rules of procedure and courtroom protocol.

The Arizona Supreme Court has held that "the right to counsel under both the United States and Arizona Constitutions includes an accused's right to proceed without counsel and represent himself, **but only so long as the defendant is able and willing to abide by the rules of procedure and courtroom protocol.**" *State v. Gomez*, 231 Ariz. 219, 222, 293 P.3d 495, 498 (2012) (internal citations and punctuation omitted); *see also, McKaskle v. Wiggins*, 465 U.S. 168, 173 (1984).

"Fundamental to the court's ability to control the courtroom, is the power to instruct those participating in and observing [court proceedings] as to the manner in which they comport themselves. To further this end, trial judges have the authority and the obligation to ensure that counsel, litigants, jurors, court personnel and spectators behave civilly." *State v. Whalen*, 192 Ariz. 103, 108, 961 P.2d 1051, 1056 (App. 1997). "It is within the trial judge's discretion to refuse to allow a defendant to continue his own defense if he acts in such a manner as to seriously disrupt the proceedings either by refusing to exercise the decorum necessary to orderly proceedings or by denying to the court the respect that is due it." *State v. Martin*, 102 Ariz. 142, 146, 426 P.2d 639, 643 (1967); *see also Deck v. Missouri*, 544 U.S. 622, 655-56 ("[A] defendant who proves himself incapable of abiding by the most basic rules of the court is not entitled to defend himself.").

Thus, by way of this minute entry, the Court reminds Defendant of the admonishment that she was given at today's hearing: Like all litigants and their counsel, Defendant must respect

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the dignity of the courtroom and comport herself appropriately at all hearings or the Court may revoke her right to represent herself.

The Court's expectations for appropriate courtroom behavior include but are not limited to the following:

- Defendant must wait until she is acknowledged by the Court before speaking;
- Defendant must not interrupt when the Court is speaking;
- Defendant must stop speaking when instructed to do so by the Court;
- Defendant must address her comments to the Court and not engage in debate with the county attorney during a hearing;
- Defendant must submit motions in writing;
- Defendant must not continue to argue an issue after the Court has ruled;
- Without Court permission, Defendant must not use hearing time to discuss or argue about motions or matters that are not the subject of the hearing.

INITIAL PRETRIAL CONFERENCE

The Court conducts an initial pretrial conference (IPTC) this date.

Based upon the avowals made to the Court by the parties, the Court finds/orders as follows:

The State has filed notices as required by Rule 15.1(b).

The Defense has filed notices as required by Rule 15.2(b) and 15.2(c).

The Defendant can file additional disclosure within 10 business days.

Any request to extend the deadline set this date must be done pursuant to Rule 15.6(d). Failure to request an extension may result in the preclusion of the evidence.

The Court recommends that counsel set up and participate in a settlement conference prior to the plea cutoff date or the comprehensive pretrial conference, whichever is the earliest date.

Settlement conferences may be scheduled by contacting Settlement Conference on Demand program at settlement@superiorcourt.maricopa.gov, by phone at (602) 506-4538 or a criminal division directly.

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IT IS ORDERED that pursuant to Rule 17.4(a) that counsel with authority to settle the case participate in a good faith discussion with the settlement court regarding a non-jury or no-trial resolution which conforms to the interests of justice.

Parties may schedule a change of plea proceeding at any time by contacting the Plea on Demand program at settlement@superiorcourt.maricopa.gov, or by phone at (602) 506-4538.

IT IS FURTHER ORDERED that advisory counsel for Defendant shall conduct a conflicts check for all potential witnesses listed by the State, and if necessary advisory counsel for Defendant shall file a Motion to Withdraw.

LET THE RECORD REFLECT a plea offer has not been made.

IT IS ORDERED affirming a Complex Case Management Conference for **09/30/2019** at 8:30 a.m. before Judge Fish.

JOINT CASE MANAGEMENT REPORTS:

No less than two working days before each Case Management Conference, the parties shall file a Joint Case Management Report. This report will inform the court of:

1. The specific progress made since the last Case Management Conference in completing activities previously established by the court and the parties;
2. Specific case preparation to be completed before the next Case Management Conference;
3. Witnesses who have been interviewed in the preceding month;
4. Witnesses who will be interviewed in the upcoming month;
5. Pending issues to be resolved.

MOTIONS IN LIMINE:

Any motions in limine shall be filed twenty (20) days before Final Trial Management Conference (FTMC) and such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972): "The primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." *See also*, Ariz. Rules of Evidence, Rule 103(c). A written response to a motion in limine may be filed no later than ten (10) days thereafter. The Court may rule on the motions in limine without oral argument. If the Court wishes to hear argument, the argument may be heard at the FTMC.

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PRETRIAL MOTIONS:

All pretrial motions must be filed in writing thirty (30) days before the FTMC. All motions must comply with Rule 35.1 including setting forth a sufficient factual basis for the motion. Failure to file a sufficient motion may result in the motion being denied without evidentiary hearing. *See*: Rule 16.1[c] Rule 16.2[b]; *State v. Anaya*, 170 Ariz. 436, 443 (1997); *State v. Wilson*, 164 Ariz. 406, 407 (1990) and *State v. Alvarado*, 121 Ariz. 485, 487 (1979).

For master calendar cases, a copy of all pretrial motions shall be submitted to this division for proper routing. For all other cases, a copy of all pretrial motions shall be submitted to the assigned trial judge.

IT IS ORDERED setting the Final Trial Management Conference (FTMC) for **03/05/2020** at 8:30 a.m. before Judge Fish.

IT IS ORDERED setting the Trial Date for **03/12/2020** at 8:00 a.m. before the Master Calendar Assignment Judge located in Courtroom 5B in the South Court Tower.

Last Day: **04/14/2020** (0 DAYS EXCLUDED)

The trial date shall not be continued unless a written motion to continue is filed with the master calendar assignment judge at least 5 days before the trial. A continuance will not be granted unless the motion shows that extraordinary circumstances exist. (Rule 8.5, rules of criminal procedure and guidelines thereto.)

Defendants seeking reconsideration rulings of the Court on a Motion to Modify Release conditions or a Motion for Rule 11, said motion shall be done by a Motion for Reconsideration. All Motions for Reconsideration, however denominated, shall be submitted without oral argument or without response or reply. No Motion for Reconsideration shall be granted without the Court granting an opportunity for a Response.

IT IS FURTHER ORDERED affirming prior release orders.

Defendant is directed to appear at all scheduled court hearings and advised of the potential consequences should he/she fail to appear.

9:45 a.m. Matter concludes.

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Notice: If an interpreter is needed for a victim or a witness for any hearing, counsel must notify the Court 48 hours in advance of the scheduled hearing. (Ten business days for any language other than Spanish).