

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-073

Judge:

Complainant:

ORDER

July 7, 2021

The Complainant alleged a superior court judge committed misconduct in her criminal case.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Denise K. Aguilar, Christopher W. Ames, Michael J. Brown and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 7, 2021.

COMMISSION ON JUDICIAL CONDUCT
1501 W. WASHINGTON ST., STE 229
PHOENIX, AZ 85007

Comp
2021-073

ATTN:

ATTORNEY

PLEASE REVIEW ATTACHED FOR POSSIBLE MISCON-
DUCT OF HONORABLE RE:

AND POST CONVICTION RELIEF.

FILED (THE DATE WAS IN
ERROR TO FILE AN APPEAL BECAUSE I ACCEPTED
A PLEA BARGAIN. THERE IS ONE CASE AND
REGARDING IN ERROR

THANK YOU

COURT OF ARIZONA
COUNTY OF

HONORABLE
THE STATE OF ARIZONA)
)
V.)
)
)
)
DOB:)
_____)

ORDER

This is the time set for Sentencing hearing held on _____ at _____ in the
for _____ and Defendant

Hearing Start:

Present in the courtroom,
Attorney
Defendant
Public Defender

A record of the proceedings is recorded by Court Reporter,

Count(s) [001];

WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

IT IS THE JUDGMENT of the Court that the Defendant is guilty of the following offense(s):

Count 001

§ _____, Felony3
A.R.S.
Date of Offense: _____
Non Dangerous - Non Repetitive

ACCEPTED PLEA-BARGAIN



STATE v.
Decision of the Court

MEMORANDUM DECISION

Judge _____ delivered the decision of the Court, in which
Presiding Judge _____ and Judge _____ joined.

Judge:

¶1 _____ appeals the revocation of her probation and the resulting sentence, challenging the superior court's warrant charge and probation assessment. We vacate the warrant charge but affirm the probation assessment.

FACTS AND PROCEDURAL BACKGROUND

¶2 _____ entered a plea agreement in _____ in which she pleaded guilty to _____, a class 3 felony. The _____ court suspended sentence and placed her on _____ of intensive probation.

¶3 In _____ probation officer petitioned the court to revoke her probation, alleging, among other things, that _____ had absconded and not informed the probation department of her location. The court issued an arrest warrant, and _____ was apprehended. At the probation violation hearing, _____ admitted to violating her probation terms. The court thus reinstated _____ probation for _____ and ordered her to serve _____ in jail.

¶4 In _____ probation officer again petitioned to revoke her probation, alleging _____ had absconded again and could not be located. The court issued an arrest warrant, and _____ was apprehended. _____ and her probation officer testified at the probation violation hearing. The court found that _____ violated her terms of probation and thus revoked probation and imposed the presumptive prison term of _____. The court also imposed various fees on _____ including a \$ _____ warrant charge and \$ _____ probation assessment. _____ timely appealed. We have jurisdiction. See A.R.S. §§ 12-120.21(A)(1), 13-4031, and -4033(A)(3), (4).

DISCUSSION

¶5 _____ argues the superior court erroneously imposed the \$ _____ warrant charge. We agree because _____ Order _____ authorizes assessments only for bench warrants, not arrest warrants. See

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STATE v.
Decision of the Court

State v. Soria, 217 Ariz. 101, 102, ¶ 6 (App. 2007) (explaining that the Order pertains only to fees related to a bench warrant). We therefore vacate the \$ _____ warrant charge.

¶6 _____ also challenges the superior court's \$ _____ probation assessment, arguing the court did not orally pronounce the assessment at sentencing. _____ shows no error, however, because the court imposed the assessment and orally informed _____ of the assessment at her original sentencing hearing. See Ariz. R. Crim. P. 26.16(a) ("The judgment of conviction and sentencing on the judgment are complete and valid at the time the court orally pronounces them in open court."); see also *State v. Dustin*, 247 Ariz. 389, 391-392, ¶¶ 8, 10 (App. 2019) (a probation assessment constitutes a sentence). _____ relies on _____ cases where the court did not impose a monetary assessment at the sentencing hearing, unlike here, but still imposed the assessment in the sentencing order. See *State v. Anderson*, 171 Ariz. 34, 34-35 (1992); *State v. Powers*, 154 Ariz. 291, 295 (1987).

CONCLUSION

¶7 For these reasons, we vacate the \$ _____ warrant charge but otherwise affirm.

COURT OF ARIZONA
COUNTY

HON.

CLERK OF THE COURT

STATE OF ARIZONA

v.

MINUTE ENTRY

Defendant filed (1) Motion to Modify Sentencing on ; (2)
" on ; (3) "
and (5) " on . (4) Motion to dismiss on

IT IS ORDERED that Motions 1, 2, 3, and 5 are denied. Motion 4 is moot because the Defendant has filed a Petition for Post-Conviction Relief and will not be representing her in that proceeding.

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**