

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-366

Judge: Marcus A. Kelley

Complainant: Adam Feldman

ORDER

The Complainant, an attorney, alleged a superior court judge was retaliatory in illegally ordering sex offender registration for a former criminal probationer merely seeking to restore his civil rights, which had been forfeited in connection with a resolved criminal case presided over by another judge. In short, the question of sex offender registration was not at issue in the restoration proceedings, and the court lacked subject matter jurisdiction to address it.

Judge Marcus Kelley of La Paz County Superior Court presided over a motion for restoration of civil rights in *State v. Michael O'Boyle*, CR 201800224. Initially, Mr. O'Boyle, who was self-represented at the time, filed a motion seeking to have his rights restored. In a written ruling, Judge Kelley denied the motion without any meaningful explanation. Instead, the ruling simply stated the restoration of firearms rights was discretionary. The ruling then launched into eleven "...facts about the charged offenses that are deeply disturbing to the Court." These "facts" related to charges that were neither admitted by Mr. O'Boyle nor proven in court. The ruling contained Judge Kelley's analysis and commentary concerning the unproven allegations, which by virtue of the order, were made "facts" regarding Mr. O'Boyle, who never had the opportunity to challenge them.

Mr. O'Boyle then retained the Complainant attorney, who filed another motion to have Mr. O'Boyle's rights restored. In that motion, Complainant argued that the restoration of rights was automatic under Arizona Revised Statutes §13-907 for a first-time offender, and provided the factual history for Mr. O'Boyle. In 2019, Mr. O'Boyle pled guilty to two counts of child abuse, both class 6 designated felonies. In January of 2020, Mr. O'Boyle was sentenced to two years of supervised probation, and 12 days in jail with credit for time served. In January of 2022, Mr. O'Boyle was successfully discharged from his probation. Mr. O'Boyle had no prior or subsequent felonies.

Judge Kelley denied the motion. He cited the 16 counts of allegations to support his ruling. Even though the counts were dismissed as a term of the plea agreement, the order stated: "It is clear from the Information that the Defendant

committed multiple felonies over a four-and-a-half-month period...” The ruling continued, stating the plea agreement converted two charges into child abuse charges with one charge predating the other, so the motion was denied as falling outside of §13-907.

Judge Kelley also noted that he reviewed the court records from the resolved criminal case, and found that as a term of the plea agreement, the court would, at the conclusion of Defendant’s probation, make a determination whether to impose registration as a sex offender. Mr. O’Boyle had completed probation successfully in January 2022, and the judge who handled Mr. O’Boyle’s case did not impose such a registration requirement at the time probation was terminated. Nevertheless, when Judge Kelley ruled on the pending motion for restoration in September 2024, *over two and a half years after Mr. O’Boyle’s probation terminated*, Judge Kelley assumed this was an oversight on the prior judge’s part as it was unrealistic to expect a judge to remember a deferral from two years prior before signing a rote order to terminate probation. Therefore, Judge Kelley ordered Mr. O’Boyle to register as a sex offender.

Complainant filed a motion for change of judge for cause, and a motion for reconsideration, claiming that Judge Kelley’s actions in requiring the registration were retaliatory, vindictive, and contrary to Arizona law because the court lost jurisdiction to impose such a requirement once probation terminated. Another judicial officer denied the motion for change of judge for cause. That judge also struck the requirement that Mr. O’Boyle register as a sex offender, but left the remaining portions of the ruling denying the restoration of civil rights.

In his response to this Commission, Judge Kelley stated he contacted other judges for advice on how to handle the second motion for restoration of rights. Specifically, Judge Kelley stated he spoke with two judges about the issue of ordering Mr. Boyle to register as a sex offender. Both judges informed him that they thought the court lost jurisdiction if the ruling was not made at the time probation was terminated.¹ However, according to Judge Kelley, neither judge could provide him with the law establishing that jurisdiction was lost once probation was terminated. In his response, Judge Kelley stated he was skeptical of that being the law if neither judge could say whether this was a rule, statute, or case. Yet, despite receiving identical information from two more experienced judges, including one who has been the co-chair of New Judge Orientation for several years, Judge Kelley never conducted any legal research on his own. Presumably, had he done so, he would have

¹ Judge Kelley also says the judges advised him that in order to deny the restoration of rights, he would need to have his ruling make the case that the two convictions were separate offenses. Judge Kelley followed that advice.

found caselaw on point – *State v. Serrano*, 234 Ariz. 491 (App. 2014). Concerning, ordering sex offender registration, Judge Kelley also stated: “My line of thought was that (Complainant) could appeal the ruling. If I was wrong, the Court of Appeals would let me know.”

Judge Kelley admitted he was incorrect in ordering registration. He stated, “I believe his legal arguments are correct, that on the issue of sex offender registration, the Court must make the pronouncement at the conclusion of sentencing per the *State v. Serrano* case he cited.” However, Judge Kelley blamed the Complainant for not providing Judge Kelley the case earlier, stating, “Had (Complainant) submitted the same arguments to me after my second, September 17, 2024, denial, I would have likely agreed with him.”

Significantly, Judge Kelley admitted he conducted no legal research on his own to support his order. He stated, “While I concede that maybe I should have done some legal research after my discussions with (the two judges) to claim that I am somehow incompetent is just not a tenable argument.” Further, Judge Kelley noted in his response that he would have rejected the plea agreement had he been the judge hearing the criminal case, and that “. . . if the public learned of the light sentence Mr. O’Boyle received in light of the facts as recounted in the presentence report, the Public would be outraged.” He further noted that his decision to require registration “. . . although incorrect, would improve public sentiment.” However, he did state that “. . . following the law overrides catering to public perception.”

While no judge is expected to be an expert in all facets of the law, there are minimum levels of competency. The Commission encourages judges to seek advice from other judges on issues with which a judge may not be familiar. But then to rule opposite to those two judges’ advice, while not conducting any independent legal research, suggests a serious disregard for the need for competence, or worse, particularly when coupled with Judge Kelley’s comments on the record regarding the unproven conduct of Mr. O’Boyle, the statements in his response expressing his disagreement with the sentence that was imposed by another judge, and his concern for public sentiment.

On rare occasions, the Commission conducts a consultation with a judge accused of misconduct. It did so here. This was an opportunity for Judge Kelley to meet the full Commission in person and provide additional information regarding the facts and present any additional mitigation. Judge Kelley did not provide any mitigating information. The overall tenor of this meeting fully reinforced Judge Kelley’s assertions in his response that he disagreed with Mr. O’Boyle’s sentence and felt the public would be more outraged by Mr. O’Boyle’s sentence than his failure to follow the law.

Comment 3 to Rule 2.2 of the Code of Judicial Conduct states, “A good faith error of fact or law does not violate this rule. However, a pattern of legal error or an intentional disregard of the law may constitute misconduct.” Judge Kelley was advised of what the law was by two more experienced judges, but in his own arrogance, felt that their inability to cite the statute or caselaw to him made their advice “suspect.” It is particularly disturbing that, unsure of the advice he had been given, he made no effort to conduct his own legal research, but instead, ruled opposite to the law. At the very least, it would have been a simple matter for Judge Kelley to attempt to conduct his own legal research, both before and after the consultation with the two more experienced judges. His actions can only be interpreted as an intentional disregard of the law—not a good faith error of law.

Therefore, the Commission found that Judge Kelley’s conduct, as described above, violated the following provisions of the Code of Judicial Conduct:

Rule 1.2 (Promoting Confidence in the Judiciary): “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

Rule 2.2 (Impartiality and Fairness): “A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”

Rule 2.5(A) (Competence, Diligence, and Cooperation): “A judge shall perform judicial and administrative duties competently, diligently, and promptly.”

Accordingly, Judge Marcus A. Kelley is hereby publicly reprimanded for the conduct described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judicial officer’s response, and this order shall be made public as required by Commission Rule 9(a).

Commission members Roger D. Barton and Scott H. O’Connor did not participate in the consideration of this matter.

Dated: July 23, 2025

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on July 23, 2025.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

Comp
SEP 20 2024

2024-366

September 18, 2024

RE: Judicial Complaint - La Paz County Superior Court Judge, Marcus A. Kelley

To Whom It May Concern:

Undersigned counsel hereby submits the following judicial complaint against La Paz County Superior Court Judge, Marcus A. Kelley. Please consider the following in support:

Petitioner:

Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85004
Telephone: (602) 540-7887
adam@feldmanroyle.com

Judicial Officer:

Judge Marcus Kelley
La Paz County Superior Court

Case before this judge:

- Yes

Still pending:

- Yes

Case name and number:

- State v. O'Boyle, CR201800224

Attorneys:

- Adam Feldman for Defendant
 - (602) 540-7887
 - adam@feldmanroyle.com
- Rachel Shackelford for La Paz County Attorney's Office
 - (928) 669-6118
 - rshackelford@lapazcountyaz.org

Petitioner understands that the commission cannot reverse court orders or assign a new judge to the case:

- Yes

Factual History:

On November 18, 2019, Mr. O'Boyle pled guilty to two counts of Child Abuse, both class 6 non-dangerous, designated felonies. The offenses alleged sexual motivation thus subjecting Mr. O'Boyle to the following possible conditions of probation: 1) lifetime supervised probation; 2) up to one year of jail per count; 2) sex offender probation through the adult probation department; 3) computer usage addendum as part of sex offender probation; and 4) registration as a sex offender.

On January 13, 2020, the Honorable Jessica Quickle sentenced Mr. O'Boyle to two years of supervised probation with twelve days jail and credit for the twelve days he had previously served. The Court did not impose sex offender terms of probation nor did the Court impose the computer usage addendum associated with sex offender terms. Moreover, registration as a sex offender was not imposed at the time of sentencing nor was a date set to revisit the issue of imposition of registration as a sex offender. (Attachment A)

After adult probation petitioned for successful termination of probation, the Court successfully discharged Mr. O'Boyle from probation on January 18, 2022. It is noteworthy that neither adult probation nor the La Paz County Attorney's Office requested the imposition of sex offender registration. Consequently, the court did not consider or impose sex offender registration upon the termination of Mr. O'Boyle's probation. As of January 18, 2022, Mr. O'Boyle's sentence became final and complete.

Mr. O'Boyle, in *pro persona*, filed a motion to reinstate his civil rights pursuant to ARS 13-907. The Court authored its opinion on July 2, 2024 indicating that Mr. O'Boyle had met all statutory rights to reinstate his civil rights. However, the Court authored a scathing eleven-point opinion as to why, in its discretion, the Court was denying the request to reinstate Mr. O'Boyle's civil rights. It is noteworthy for the purpose of this petition that Judge Kelley did not address the issue of whether Mr. O'Boyle would be required to register as a sex offender. (Attachment B)

Believing that the Court had erred as a matter of law, undersigned counsel filed a motion to reinstate civil rights pursuant to ARS 13-907 and cited to specific statutes. Defense concluded that the Court's original opinion erred as a matter of law and that the Court was required to reinstate Mr. O'Boyle's civil rights. (Attachment C) It is noteworthy that the State did not author a response to Mr. O'Boyle's motion, and the Court ruled on the motion without opposition or support from the State.

On September 17, 2024, the Court authored its order denying Mr. O'Boyle's motion to reinstate civil rights. As part of the Court's denial of Mr. O'Boyle's petition to reinstate his civil rights, the Court *sua sponte* ordered Mr. O'Boyle to register as a sex offender more than 2.5 years after successful discharge from his probation. (Attachment D)

Allegation of Judicial Misconduct:

Undersigned counsel hereby submits that Judge Marcus Kelley is in violation of Canons 1.2 and 2.5 of the Arizona Code of Judicial Administration.

Canon 1.2 provides: "A judicial employee shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." The comments go on to articulate: "Actual improprieties include violations of law, court rules, or provisions of this code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judicial employee violated this code or engaged in other conduct that reflects adversely on the judicial employee's honesty, **impartiality, temperament, or fitness....**" (Emphasis added)

Canon 2.5 provides: "A judicial employee shall perform court duties **competently, diligently, and promptly.**" (Emphasis added) The associated comment provides, "Competence in the performance of court duties requires the knowledge, skill, thoroughness, and preparation reasonably necessary to perform the duties of the judicial employee's position."

Undersigned counsel submits that Judge Kelley used his position of authority and power to illegally punish Mr. O'Boyle for: 1) challenging the Judge's authority on a previous ruling; 2) hiring counsel to challenge the Judge's authority on a previous ruling; and 3) the Judge's personal distaste for Mr. O'Boyle. In doing so, the judge took it upon himself, without request from the State or probation and in complete violation of the law, to impose sex offender registration on Mr. O'Boyle more than 2.5 years after his probation was terminated.

It is clearly established law that the Court does not have punitive power over a defendant after his sentence is final. A sentence is final after the individual has been sentenced to prison or after his probation has been terminated. It is true that applicable case law reflects that a sentence is not final when a defendant remains on probation. However, the instant matter reflects a scenario where Mr. O'Boyle had been successfully discharged from probation more than 2.5 years prior to Judge Kelley's vindictive order requiring him to register as a sex offender.

Judge's are required to be competent and avoid vindictive punishments against members of the community. Judges are afforded tremendous power and discretion over individuals within the community. They often control their liberty and rights as citizens. Moreover, Courts have the ability to impose terms of punishment that can have deleterious and collateral consequences for the rest of their lives. We expect judges to use their knowledge of the law, wisdom, and discretion when making these life-altering decisions. Nevertheless, the Courts are afforded tremendous deference in their punishments of criminal defendants.

Judge Kelley has demonstrated through his attack against Mr. O'Boyle that his lack of competence, if he attempts to excuse his conduct as such, is surpassed only by his vindictive nature. Because Mr. O'Boyle sought to reinstate his civil rights, and challenged the Court's original denial of said request through undersigned counsel, Judge Kelley sought to teach Mr. O'Boyle a vicious and life altering lesson – The Judge is all powerful and can destroy you if he so chooses.

It is not as if the parties made argument for and against sex offender registration and the judge sided against Mr. O'Boyle. This happens frequently within the courts, and that belies the importance of the appellate courts to determine the propriety of the decision. To the contrary, Judge Kelley either demonstrated an ignorance of the law that is so paramount that it would have to equate to a willful ignorance, or he intentionally disregarded well-established and commonplace case law in an effort to punish Mr. O'Boyle for questioning his authority.

Defense sought a restoration of Mr. O'Boyle's civil rights. The State did not respond in opposition or support. Nevertheless, Judge Kelley took it upon himself to issue a post-sentence punishment that arguably has no rival. While some may argue that the deprivation of liberty through imprisonment may be worse than being placed on the sex offender registration list, undersigned counsel submits otherwise. Mr. O'Boyle is a father of young children. He is now precluded from contact with schools and is likely to be ostracized from his community as he has now been publicly labeled by a judge as a registered sex offender. Not only will Judge Kelley's illegal imposition of punishment affect Mr. O'Boyle, but it will inevitably cause tremendous emotional and mental harm to his wife and children who will be equally viewed as pariahs within their small community.

Such a mistake, as the judge will most likely characterize his conduct, can be seen nothing short of a willful ignorance of the law. Undersigned counsel submits, however, that Judge Kelley's conduct was far more nefarious than a simple mistake of the law. The judge's conduct was an unsolicited decision specially designed to destroy Mr. O'Boyle's life and publicly label him as a registered sex offender in knowing violation of any fathomable and applicable law.

Undersigned counsel can not even fathom why Judge Kelley decided to consider the issue of registration when the only issue at hand was reinstatement of civil rights. This issue was not raised before the Court by any associated party, and probation had been terminated more than 2.5

years prior. The only feasible explanation is the Judge Kelley simply wanted to punish a lowly felon for daring to question his authority.

For these reasons, and in coordination with the Arizona Code of Judicial Administration, undersigned counsel respectfully submits this complaint against Judge Marcus A. Kelley and seeks the most significant sanction possible against Judge Kelley.

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the attached complaint are true.

9/18/2024

Date



Adam Feldman

ATTACHMENT A

IN THE SUPERIOR COURT

LA PAZ COUNTY, STATE OF ARIZONA

Judge: QUICKLE, JESSICA L

Megan Spielman, Clerk of the Superior Court

By: Stacy Hale for Nichole Pena

Court Reporter: DIGITAL RECORDING

Hearing Date:01/13/2020

STATE OF ARIZONA

Plaintiff,

VS

MICHAEL RYAN O'BOYLE

Defendant.

CASE NO: S1500CR201800224

**IMPOSITION OF SENTENCE
(PROBATION)**

HEARING START TIME: 01:47 PM

HEARING END TIME: 02:05 PM

This matter comes on properly before the Court with the following appearances:

Chief Deputy County Attorney: Ryan Dooley

Defense Counsel: Adam Feldman

Defendant: Present (Out of Custody)

The Court advises that it has reviewed the presentence report and its attachments. The Defendant has shown no legal cause to delay.

It is the Judgment of the Court that the Defendant is guilty amended count one, child abuse, a class six designated felony and amended count two, child abuse, a class six designated felony.

Mr. Feldman makes a statement on behalf of the Defendant. The Defendant makes a statement on his own behalf. Mr. Dooley makes a statement on behalf of the State.

IT IS ORDERED accepting the plea agreement on the record if it has not already been done.

IT IS ORDERED suspending the imposition of sentence for a period of 2 years placing the Defendant on supervised probation under the terms and conditions stated by the Court and sentencing the Defendant to 12 days in the La Paz County Jail with credit for 12 days previously served.

IT IS ORDERED that the Probation Department shall allow the Defendant to have contact with the victim as necessary to fulfill any Orders that are placed out of Family Court with respect to his children.

IT IS ORDERED differing determination of sex offender registration requirements until the conclusion of the defendant's probation, pursuant to the plea agreement.

The Court advises the Defendant of the fines, fees and assessments imposed herein as set forth in the sentencing documents and Financial Judgment executed this date.

IT IS ORDERED that the Defendant shall pay \$150.00 today and make monthly payments in the amount of \$100.00 continuing every month thereafter until the balance is paid in full.

IT IS ORDERED dismissing any charges pursuant to the plea agreement, exonerating any bond and vacating any future hearings.

La Paz County Case no. S1500CR201800224
State vs. MICHAEL RYAN O'BOYLE
Page Two-01/13/2020

The Defendant is advised of his notice of rights of review after conviction, a copy of which is given to him.

The Defendant's right index finger is affixed to the sentencing document.

The Defendant is admonished to report to the Adult Probation Department.

CC:

La Paz County Attorney
Electronically Distributed

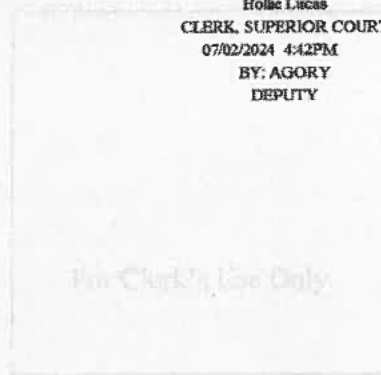
Adam Feldman
Electronically Distributed

La Paz County Probation
Electronically Distributed

La Paz County Sheriffs' Department
Electronically Distributed

ATTACHMENT B

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing Self or Lawyer for _____
Lawyer's Bar Number: _____



**SUPERIOR COURT OF ARIZONA
IN LA PAZ COUNTY**

STATE OF ARIZONA

Case Number: CR2018-00224

-vs-

MICHAEL RYAN O'BOYLE

**ORDER REGARDING
APPLICATION TO RESTORE
CIVIL RIGHTS AND FIREARM
RIGHTS**

Date of Birth: _____

(A.R.S. §§ 13-906, 13-908 and 13-910)

Based on the information presented to the Court, **THE COURT FINDS:** (only those items marked)

- The prosecutor has received a copy of the Application to Restore Civil Rights and Right to Possess and Carry a Firearm.
- The defendant **has met** the statutory requirements for the application to restore civil rights.
- The defendant **has met** the statutory requirements for the application to restore civil rights and to possess and carry a firearm.

IT IS ORDERED:

- GRANTING the application to restore civil rights **and** right to possess and carry a firearm.
- GRANTING the application to restore civil rights **excluding** the right to possess and carry a firearm.
- GRANTING the application to restore the right to possess and carry a firearm.

DENYING the application to restore civil rights and right to possess and carry a firearm for the following reasons:

The applicant **has not met** the statutory requirements for the application (as noted above):

Other reasons: Restoration of firearms rights is discretionary under the applicable statutes. In this case, there are many facts about the charged offenses that are deeply disturbing to the Court. First, that the Defendant would sexually prey on minors while in a position of public trust is absolutely incendiary. Second, the Defendant impregnated his victim. Third, his "relationship" with the victim was not a monogamous one where he loved, honored, and cherished her by marrying her. Instead, he had open relationships with other women. Fourth, the Defendant used public instrumentalities to access pornographic material. Fifth, he encouraged his prey to lie to investigators so he could escape punishment for his outrageous deeds. Sixth, and this bears directly on the restoration of firearms rights, this Defendant became abusive to his victim, yelled, broke items in front of his child, and even injured the mother of his child. Apparently, pictures of bruises on the victim exists that were reportedly inflicted on the victim by the Defendant. Additionally, the victim's sister related that she had witnessed the Defendant strike his victim in the face with a shoe. But that is not all. The Defendant threatened to kill his victim while she was pregnant. The sister's statements are consistent. So, the Defendant demonstrated that not only did he not care about his victim's life, but he did not care about the life of his unborn child. Seventh, the Defendant was accused by his victim of having a second inappropriate relationship with another student, on whom he sired another child. Eighth, even after the Defendant was forced to resign from Salome High School, he chose to again seek employment at another school in Prescott Valley, another position of public trust where he could be around another pool of minors. Ninth, the presentence report reflects that the Defendant refuses to accept responsibility for his crimes and this Court believes that the Defendant seeking to avoid the ramifications of his actions by seeking restoration of firearms rights is consistent with his failure to accept responsibility. Tenth, the Defendant has taken a diversion program for Domestic Violence which suggests, in conjunction with all of the above, that the Defendant has a propensity for anger and violence. Eleventh, while the case was dismissed, the Defendant was subsequently charged with Unlawful Flight from a Law Enforcement Vehicle, Assault with Intent to Injure, Endangerment, and Disorderly Conduct – Fighting in Yavapai County in 2021. His September 2021 Public Safety Assessment denoted an elevated risk of violence and recommended maximum conditions if released.

This Court is not going to allow a Defendant that has no respect for life, who has little to no control over his anger, who injures others, who displays no respect for the rule of law, and who violates the public trust access to firearms. The risk that this Defendant may injure someone else with a firearm while he is not in control of himself is too great to restore firearms rights to this Defendant.

Even if you are granted the right to possess and carry a firearm pursuant to this order you may still be prohibited from possessing and carrying a firearm under other state or federal laws.

DATED this 2nd day of July, 2024.

Judicial Officer

ATTACHMENT C

Feldman Royle, PLLC

Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR2018-148825-001DT MOTION FOR REQUIRED REINSTATEMENT OF ALL CIVIL RIGHTS PURSUANT TO ARS 13-907
---	--

Defendant, by and through undersigned counsel, submits this Motion for Required Reinstatement of All Civil Rights, as is required pursuant to ARS 13-907. Defense submits the following in support:

On November 18, 2019, Mr. O'Boyle pled guilty to two counts of Child Abuse, both class 6 non-dangerous, designated felonies. On January 13, 2020, Mr. O'Boyle was sentenced to two years of supervised probation with twelve days jail. Despite having the authority to impose a three-year term of supervised probation with as much as two years in the county jail as a term of said probation, the Court believed only two years of supervised probation, twelve days of jail, and credit for the twelve days previously served was appropriate given the underlying facts of the case. On January 18, 2022, Mr. O'Boyle was successfully discharged from his probation.

Mr. O'Boyle has no prior or subsequent felony convictions. Moreover, there is no indication that Mr. O'Boyle has any outstanding probations debts or restitution claims from his conviction in the instant matter.

ARS 13-907 provides: "On completion of probation for an offense committed in this state or absolute discharge from imprisonment, any person who has not previously been convicted of a felony offense **shall** automatically be restored any civil rights that were lost or suspended as a result of the conviction if the person pays all victim restitution imposed. A person who is entitled to the restoration of any civil rights pursuant to this subsection is not required to file an application pursuant to section 13-908, **except that if the person does file an application, the court shall grant the application** without receiving a response from the state or holding a hearing" (Emphasis added). Moreover, the statute only exempts the restoration of firearm rights when the offense is a dangerous offense or a serious offense.

ARS 13-706(F)(1) defines "serious offense" and "dangerous offense." The statute goes further to enumerate a list of specific felonies that fall within the definitions of "serious" and "dangerous" offenses. For the purpose of this motion, it is noteworthy that Child Abuse is not an enumerated offense for being serious or dangerous under the law. Therefore, Mr. O'Boyle's reinstatement of all civil rights should have been automatically restored, or in the alternative, should have been restored upon his formal request to do so.

On February 5, 2024, Mr. O'Boyle filed a motion seeking to restore his rights pursuant to ARS 13-907. On July 2, 2024, this Court provided an order indicating that Mr. O'Boyle had met all necessary requirements to reinstate his civil rights, including his firearm rights. However, the Court denied Mr. O'Boyle's request to reinstate his civil rights, citing to unspecified "applicable statutes." The Court went further to list eleven reasons why the Court was refusing to reinstate Mr. O'Boyle's civil rights.

Plainly stated, the Court erred in its scathing rebuke of Mr. O'Boyle and abused its discretion in denying Mr. O'Boyle's reinstatement of civil rights when such rights "shall automatically be restored." Despite the Court's assertion that "[r]estoration of civil rights is discretionary under applicable case law," such is not the case in the instant matter. Therefore, the Court's scathing rebuke of Mr. O'Boyle's character based upon unfounded accusations, disproven allegations, dismissed accusations, etc... was nothing more than expressions of disdain for the defendant. Despite the Court's right to its disfavor of the defendant, the Court does not have the authority to refuse his request to reinstate his civil rights.

Because Arizona law is unequivocal as to a Defendant's ability to reinstate all civil rights, pursuant to ARS 13-907, defense respectfully requests this Court follow the existing law and reinstate all civil rights for Mr. O'Boyle.

RESPECTFULLY SUBMITTED this 12th day of August, 2024.

Feldman Royle, PLLC

By: Adam Feldman
Attorney for Defendant

Electronically filed 12th day of August, 2024.
to:

Clerk of the Court
Maricopa County Superior Court

Restoration of Rights - Assigned Judicial Officer
La Paz County Superior Court

La Paz County Attorney's Office

By: ADAM FELDMAN

Feldman Royle, PLLC

Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR2018-148825-001DT ORDER: MOTION FOR REQUIRED REINSTATEMENT OF ALL CIVIL RIGHTS PURSUANT TO ARS 13-907
---	---

Upon receipt of Defendant's motion, and in accordance with ARS 13-907, this Court hereby orders as follows:

_____ Granting Defendant's motion to reinstate all civil rights

_____ Denying Defendant's motion to reinstate all civil rights

Date

Judicial Officer

ATTACHMENT D

Feldman Royle, PLLC
Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR201800224 PROPOSED ORDER: MOTION FOR REQUIRED REINSTATEMENT OF ALL CIVIL RIGHTS PURSUANT TO ARS 13- 907
---	--

Upon receipt of Defendant's August 12, 2024 Motion for Required Reinstatement of All Civil Rights Pursuant to A.R.S. § 13-907 ("Motion"),

IT IS ORDERED DENYING the Defendant's Motion.

On January 13, 2020, the Defendant was sentenced to probation under Amended Count One and Amended Count Two, both were Child Abuse charges and designated class 6 felonies. The original Information did not contain any charges of child abuse, rather, it contained sixteen counts of Sexual Conduct with a Minor, graphically detailing the multiple times the Defendant violated the law and the public trust by having sex with

a minor student attending the school at which he taught. These illegal sexual events ranged in date from August 1, 2012 to December 15, 2012.

Count One pertained to the Defendant having sexual intercourse with the minor student on Centennial Road.

Count Two pertained to the Defendant having sexual intercourse with the minor student in the Special Education room.

Count Three pertained to the Defendant having sexual intercourse with the minor student in the Defendant's classroom.

Count Four pertained to the Defendant having oral sex with the minor student in the Defendant's classroom.

Count Five pertained to the Defendant having sexual intercourse with the minor student in the weightlifting room.

Count Six pertained to the Defendant having oral sex with the minor student in the weightlifting room.

Count Seven pertained to the Defendant having sexual intercourse with the minor student in the shop classroom.

Count Eight pertained to the Defendant having sexual intercourse with the minor student in the attic in the gym.

Count Nine pertained to the Defendant having sexual intercourse with the minor student in the confession room in the gym.

Count Ten pertained to the Defendant having oral sexual with the minor student in the band room.

Count Eleven pertained to the Defendant having sexual intercourse with the minor student on a dirt road off of Salome Road.

Count Twelve pertained to the Defendant having oral sex with the minor student on a dirt road off of Salome Road.

Count Thirteen pertained to the Defendant having oral sex with the minor student on a dirt road off of Salome Road.

Count Fourteen pertained to the Defendant having sexual intercourse with the minor student in fields after a Homecoming event.

Count Fifteen pertained to the Defendant engaging in masturbatory sex with the minor student during the showing of the movie 300 in class.

Count Sixteen pertained to the Defendant engaging in masturbatory sex with the minor student in a closet behind the weight room.

It is clear from the Information that the Defendant committed multiple felonies over a four-and-a-half-month period consisting of numerous sexual offenses, all separate, distinct offense, in a sequence of events, some offenses previous to others.

The Plea Agreement converted two of the separate and distinct Sexual Conduct with a Minor charges, one of which was previous to the other, into Child Abuse charges. The two amended charges in the Plea Agreement listed the exact same date ranges as the charges in the Information. The Child Abuse charges were for separate and distinct criminal sexual offenses with a minor just as the original charges in the Information were, and one of the Child Abuse charges in the Plea Agreement pertained to a criminal sexual offense with a minor student that was previous to the other.

A.R.S. § 13-907(A) states, "[o]n completion of probation for an offense committed in this state or absolute discharge from imprisonment, any person who has not previously been convicted of a felony offense shall automatically be restored any civil rights that were lost or suspended as a result of the conviction if the person pays all victim restitution imposed."

Therefore, because one of the Child Abuse counts was previous to the other,

THE COURT FINDS that the Defendant was previously convicted of a felony offense in that he was convicted of two separate and distinct criminal sexual acts with a minor, one of which predated the other.

Because one of the Child Abuse counts predated the other, the Defendant falls outside A.R.S. § 13-907(A) for the reasons cited above.

THE COURT FINDS that A.R.S. § 13-907(D) applies and the Defendant's restoration of rights is analyzed under A.R.S. § 13-910 (B). Restoration of the Defendant's firearms rights is discretionary and the Court reasserts it's initial denial from July 2, 2024 for all the reasons cited therein.

Additionally, the Plea Agreement stated in sub-paragraphs 4(c) and (d)

c. The court may defer determination on registration as a sex offender. The court may require the defendant to register as a sex offender if the Defendant violates his probation. At the conclusion of the Defendant's probation the court shall determine whether to impose registration as a sex offender.

d. If ordered to comply with sex offender conditions of probation, the Defendant shall be permitted to have contact with biological minor relatives.

THE COURT FINDS that when the La Paz County Probation Department filed to terminate the Defendant's probation on January 14, 2022, the Court failed to make a decision as to whether the Defendant had to register as a sex offender in its January 18, 2022 order. It was never brought to the Court's attention that the decision regarding registration had been deferred and it is unrealistic to expect a Judge to remember such a deferral from two years prior before signing a rote order to terminate probation. Because the choice was never made, the Court makes its determination now:

IT IS ORDERED that the Defendant shall register as a sex offender.

eSigned by HONORABLE MARCUS, A. KELLEY 09/16/2024 20:36:48 pjPCF4MG

Judge Marcus A. Kelley
Presiding Judge
La Paz County Superior Court
1316 Kofa Avenue
Parker, Arizona 85344

Resp (Kelley)
FEB 03 2025
2024-366

January 30, 2025

Commission on Judicial Conduct
Arizona State Courts Building
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

Re: Response to Mr. Feldman's complaint dated September 18, 2024

Members of the Commission:

Summary: I deny Mr. Feldman's accusations. I was not engaging in vindictiveness when I ordered sex offender registration. Mr. Feldman's complaint was, among other things, premature as there have been developments in the case since his complaint. His accusations are supported by neither the facts, nor the record. Judge Landau denied Mr. Feldman's Rule 10.1 Motion to remove me for cause based on, in essence, the same accusations Mr. Feldman made to the Commission on Judicial Conduct. The accusations that I made my decision in retribution for Mr. Feldman's August 12, 2024 filing pertains to my personal, subjective thoughts, which Mr. Feldman has no basis for knowing.

After reviewing Mr. Feldman's September 26, 2024 Motion to Reconsider the sex offender registration Order, I believe Mr. Feldman is correct that the Court lost jurisdiction to impose registration at the termination of probation. I can also readily admit that rather than being skeptical of the answers I got from more experienced Judges, I should have followed up with research, no matter what their answers were to me.

The Commission should dismiss the complaint because, if being incorrect on the law were actionable, then the vast majority of the Arizona judiciary would be in front of the Commission.

Background and Timeline of CR2018-00224, State v. O'Boyle

Judge Quickle's handling of the case

After a 16 Count Information alleging 16 separate sexual acts between Mr. O'Boyle, a public school teacher on the dates of the offenses, and a minor student, Mr. O'Boyle pled guilty to two separate counts of Child Abuse with sexual motivation per A.R.S. § 13-118 on November 18, 2019.

The January 9, 2020 Presentence Report (ATTACHMENT 1) detailed many of the facts that the Court relied on in writing its initial denial of Mr. O'Boyle's application to restore his civil rights.

January 13, 2020 Minute Order reflecting the proceedings at Judgment and Sentencing (ATTACHMENT 2) states that Judge Quickle delayed a ruling on whether Mr. O'Boyle had to register as a sex offender until after he completed probation.

On January 14, 2022, the La Paz County Adult Probation Department filed its Petition to Terminate Probation (ATTACHMENT 3) for Mr. O'Boyle. The Petition mentioned nothing of Judge Quickle's reservation of a ruling on sex offender registration.

Four days later, on January 18, 2022, Judge Quickle signed an Order Terminating Probation (ATTACHMENT 4), but made no mention whatsoever about sex offender registration. Judge Quickle's Order did state that "[t]he defendant failed remain [sic] law abiding, he had one arrest no outcome [sic] at this time."

My handling of the case

I took office in January of 2023.

On February 5, 2024, the Defendant filed an application to have his civil rights restored *pro per*. The threadbare form filing cited no law, but did say that the "conviction is my only felony conviction from any court."

On May 17, 2024 the La Paz County Adult Probation filed its Criminal History Investigation of the Defendant (ATTACHMENT 5). While the report listed the same arrest the Defendant had during probation, it also reflected no further convictions.

The first denial of restoration of Civil Rights

After some study of the case history, I issued my initial denial of the application on July 2, 2024 (ATTACHMENT 6). Mr. Feldman is correct, I cited to no law. However, I was writing to my audience. Mr. O'Boyle was acting *pro per* at that moment, and I believed citation to a specific statute would be meaningless to him. While not specifically stated, I relied on A.R.S. § 13-910(B).

Mr. Feldman's Motion to reinstate the Defendant's Civil Rights and Firearms Rights

On August 12, 2024 Mr. Feldman filed his "Motion for Required Reinstatement of All Civil Rights Pursuant to ARS 13-907" (ATTACHMENT 7), asserting that this was Mr. O'Boyle's first felony offense, that the Court had no discretion, and that the Defendant was entitled to a restoration of his civil rights under A.R.S. § 13-907(A). This is a position that Mr. Feldman ultimately abandoned.

I read Mr. Feldman's Motion, and gave it serious shrift. I considered his arguments and read A.R.S. § 13-907(A). Having worked in the Arizona Senate, I was stunned that the legislature would have written a law that would allow a teacher that engages in sex with a minor student to have his civil rights restored. My thought was that the legislature had not considered the consequences of the law in a case such as this, and the result was unintended. So, I did exactly what they teach us to do in New Judge Orientation: when you have questions about a case or the law, go ask colleagues.

At some point between Mr. Feldman's August 12, 2024 Motion and the August 22, 2024 phone call with Judge Sipe (recounted below), I discovered the fact that the record reflected that Judge Quickle ruled that she would reserve a ruling on sex offender registration until termination of probation, but that, at termination, she never made a ruling.

On August 21, 2025 I spoke by phone with Mohave County Superior Court Presiding Judge Steve Moss. Judge Moss characterized himself as more of a civil Judge than a criminal Judge and he made some suggestions regarding a ruling, but, I, respectfully, rejected those suggestions because the advice centered

on characterizing the Defendant's Child Abuse convictions as serious or dangerous offenses. Judge Moss referred me to Mohave County's Presiding Criminal Judge, Judge Billy Sipe.



My discussion with Judge Sipe, Presiding Criminal Judge in Mohave County

The next day, August 22, 2024, Judge Sipe called me. In essence, Judge Sipe stated that Mohave County views cases where there are multiple felony convictions in one case as prior felonies for civil rights restoration analysis. This advice seemed more legally sound than the advice I was previously given.



Because of my prior discovery of the failure to issue a ruling on sex offender registration, I asked Judge Sipe if I could order the Defendant to register. Judge Sipe said he thought the Court lost jurisdiction if the ruling is not made at termination of probation.

My discussion with Gila County Presiding Judge Tim Wright

The same day, August 22, 2024, I spoke with Gila County Presiding Judge Tim Wright. I relayed to him the advice that Judge Sipe had given me. Judge Wright counseled me that if I was going to deny restoration of civil rights, I would have to make a case that the two child abuse convictions were two separate offenses, one preceding the other. I believe my second ruling denying restoration of civil rights (ATTACHMENT 8) reflects Judge Wright's advice in this regard.



I also addressed sex offender registration with Judge Wright. Judge Wright also said he thought the Court loses jurisdiction if the Order is not made at the termination of probation.

With respect to the response from both Judges on the loss of jurisdiction, I asked either Judge Wright, or Judge Sipe, or both, where I could find the law with respect to the loss of jurisdiction. The response I got was, in essence, "I don't know." Not that it was their responsibility, but it was not suggested that the loss of jurisdiction was in statute, rule, or caselaw. I was skeptical that it was actually in the law if neither very experienced Judge suggested to me that the law regarding loss of jurisdiction was in a rule, statute, or case.

My second denial of civil rights and restoration of firearms rights

After intentionally sitting on my ruling for almost a month after the calls with Judges Sipe and Wright, ruminating over the case, asking myself if I really wanted to order the Defendant to register, ensuring that I was being slow and deliberate and unemotional, I issued my second ruling denying reinstatement of civil rights September 17, 2024 and ordering sex offender registration (ATTACHMENT 8). My line of thought was that Mr. Feldman could appeal the ruling. If I was wrong, the Court of Appeals would let me know.

Judge Landau denied Mr. Feldman's Rule 10.1 Motion

On the very next day, September 18, 2024, Mr. Feldman filed a Rule 10.1 Motion for Change of Judge for Cause. On September 23, 2024 Judge Landau denied Mr. Feldman's 10.1 Motion because Mr. Feldman failed to include an affidavit as required by the Rule. The same day, September 23, 2024, Mr. Feldman filed the exact same 10.1 Motion, this time with an affidavit (ATTACHMENT 9)

On September 25, 2024 Judge Landau denied Mr. Feldman's Rule 10.1 Motion (ATTACHMENT 10). Again, the Rule 10.1 Motion cites many, if not all, of the accusations that Mr. Feldman levelled against me in his complaint to the Commission and Judge Landau rejected these arguments.

Judge Landau's ruling echoes my line of thought with respect to being incorrect on the law: "[i]f the Defendant's position is that the ruling is contrary to law and not supported by any statutory and case law, there are appellate remedies available."

Proceedings post-Rule 10.1 denial, Judge Landau's handling of the case

On the same day, September 25, 2024, Judge Landau relayed to me that he had spoken to retired Judge Ron Reinstein about the case. Apparently, both Judges Landau and Reinstein opined that I should reassign the case to Judge Landau for all further proceedings if for no other reason than to avoid further controversy.

I agreed and reassigned the case to Judge Landau (ATTACHMENT 11). I did so because I had no proprietary feelings about the case.

The very next day, September 26, 2024, Mr. Feldman filed his Motion to Reconsider my September 17, 2024 ruling (ATTACHMENT 12). Interestingly, in his Motion to Reconsider, Mr. Feldman abandoned his efforts to restore the Defendant's civil rights and firearms rights. His focus was solely eliminating the requirement to have Mr. O'Boyle register as a sex offender.

October 16, 2024 was the date of a hearing Judge Landau set on the Motion to reconsider. Mr. Feldman failed to attend, but sent an associate or partner, Mr. Brad Smith, in his stead, citing a scheduling conflict. Mr. Smith consistently put distance between himself and the tone of Mr. Feldman's filing (enclosed Liberty recording on flash drive).

On November 11, 2024, Mr. Feldman appeared before Judge Landau for oral argument on his Motion to Reconsider. Judge Landau struck the requirement that the Defendant register as a sex offender, but Judge Landau left the remainder of my Order denying Mr. O'Boyle his civil rights intact as Mr. Feldman abandoned his arguments for restoration (ATTACHMENT 13).

DISCUSSION OF THE COMPLAINT

I reiterate that I deny Mr. Feldman's accusations.

The letter from the Commission states that Mr. Feldman claimed that I violated the Code of Judicial Conduct by improperly denying the Motion for Restoration of Civil Rights and ordered sex offender registration in retaliation for challenging the prior order of the Court.

Restoration of Civil Rights is now a non-issue.

First, Mr. Feldman conceded the issue of restoration of civil rights at the very latest by the November 11, 2024 hearing in front of Judge Landau. This happened after Mr. Feldman's complaint dated September 18, 2024. As stated in the summary, this reflects that Mr. Feldman's complaint was premature. Mr. Feldman's complaint is dated because there were further proceedings in the case that bear on his complaint. Because Mr. Feldman conceded on the issue of denial of civil rights, I will not address it further. I believe it to be irrelevant now.

Sex Offender Registration

Second, is the issue of sex offender registration. After very recently reading and researching Mr. Feldman's September 26, 2024 "Motion to Reconsider Illegal Order for Defendant to Register as a Sex Offender," while I believe Mr. Feldman's tone is unprofessional, and he engages in ad hominem, I believe his legal arguments are correct, that on the issue of sex offender registration, the Court must make the pronouncement at the conclusion of sentencing per the *State v. Serrano* case he cited. Had Mr. Feldman submitted the same arguments to me after my second, September 17, 2024, denial, I would have likely agreed with him. But we will never know the validity of that assertion because of the reactionary nature of the complaint. I never received the presumption of fairness I was entitled to, discussed more fully below, from Mr. Feldman.

In retrospect, I should have chosen not to order registration, but I deny that my decision to do so was driven by subjective vindictiveness or that my conduct was violative of the Code of Judicial Conduct.

There was no vindictiveness.

There was no subjective intent on my part to punish Mr. O'Boyle because Mr. Feldman filed his August 12, 2024 Motion to reinstate Mr. O'Boyle's civil rights.

As Judge Landau stated in his September 25, 2024 Minute Order "[t]he argument that the trial court vindictively attacked the defendant is a matter of opinion and not supported by any facts or statements contained in the motion or affidavit" and "[t]he defendant simply did not like the judge's ruling." Again, Mr. Feldman filed his complaint prematurely. Since the filing of his complaint, a Judge has found that I was not vindictive. Now, the Commission is in the rather interesting position of potentially contradicting a Judge who ruled that I was not vindictive. In my opinion, Judge Landau's ruling on the Rule 10.1 Motion should be dispositive for the Commission.

As noted above, a trial Judge is presumed to be free of bias and prejudice; to rebut this presumption, a party must set forth a specific basis for the claim of partiality and prove by a preponderance of the evidence that the Judge is biased or prejudiced. *State v. Medina*, 193 Ariz. 504 (1999). Judicial rulings of the challenged Judge do not usually constitute a valid basis for a bias or prejudice motion without showing either an extrajudicial source of bias or prejudice. *State v. Ellison*, 213 Ariz. 116 (2006). Judicial bias requiring a change of Judge ordinarily arises from an extrajudicial source and not from what the Judge has done in his participation in the case. *State v. Ganados*, 235 Ariz. 321 (App. Div.2 2014). Unfavorable judicial rulings against a party and antagonism between trial counsel and the trial judge during judicial hearings would be insufficient to support a recusal motion. *State v. Curry*, 187 Ariz. 623 (App. Div.1 1996). Again, I received none of these presumptions from Mr. Feldman, Mr. Feldman cites no extrajudicial source of bias, and his Rule 10.1 Motion was denied by Judge Landau. Mr. Feldman has no basis for his claim what I acted vindictively.

I deny the accusation, and the Commission should dismiss Mr. Feldman's complaint.

Promoting Public Confidence in the Judiciary, Canon 1, Rule 1.2

I reject Mr. Feldman's accusation that I violated Canon 1, Rule 1.2.

I underscore that Rule 1.2 is about public confidence in the judiciary and has nothing to do with whether the defense bar is happy with a Judge.

I submit to the Commission that if the public learned of the light sentence Mr. O'Boyle received in light of the facts as recounted in the Presentence Report, the public would be outraged.

Had I been the sentencing Judge, I would have rejected the plea agreement. While Mr. Feldman argues that Mr. O'Boyle was not sentenced to sex offender terms of probation, or the computer usage addendum associated with sex offender terms, or that sex offender registration, he should have been. I also posit that such decisions would have buoyed public confidence in the judiciary.

Mr. Feldman's claim is that my decision to order sex offender registration erodes public confidence in the judiciary because of an unbecoming temperament, partiality, and unfitness. I disagree. I believe the decision, although incorrect, would improve public sentiment.

I readily concede that the judiciary must remain independent, and that following the law overrides catering to public perception.

Competence, Canon 2, Rule 2.5

I reject Mr. Feldman's accusation that I violated Canon 2, Rule 2.5.

The way Mr. Feldman is reading Canon 2, Rule 2.5, he's arguing that I did not perform my judicial duty competently and, reading comment 1, that competence means the legal knowledge, skill thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office. Of course, the immediate lawyer response is, "what's reasonable?" Mr. Feldman's, at least implied, expectation is that every Judge has an encyclopedic and eidetic knowledge of the law and that no Judge can ever get anything wrong. Such is simply not reasonable.

Mr. Feldman's ad hominem includes that I've demonstrated "ignorance of the law that is so paramount that it would have to equate to willful ignorance, or he intentionally disregarded well-established and commonplace case law in an effort to punish Mr. O'Boyle for questioning his authority." This is demonstrably false. First, I sought the counsel of other Judges, so, I did not intentionally turn away from, or put blinders on, with respect to the law. I was simply skeptical when two Judges more experienced than me could not tell me where to go to find the black letter law with respect to losing jurisdiction on sex offender registration. The lack of specificity suggested tradition to me, rather than written law. Also, if a county's Presiding Criminal Judge cannot cite the law, then perhaps the law that Mr. Feldman refers to is not quite so well-established and commonplace as he insists.

Mr. Feldman's ad hominem is palpable. While I concede that maybe I should have done some legal research after my discussions with Judges Sipe and Wright, to claim that I am somehow incompetent is just not a tenable argument. Again, I deny Mr. Feldman's accusations and the Commission should dismiss the complaint.

Factors

While I maintain that there was no vindictiveness, that Judge Landau's Rule 10.1 denial is dispositive, and that the complaint should be dismissed, I must address the Rule 19 on the chance that the Commission finds that I have committed misconduct.

With respect to factor (a), the nature, frequency, and extent of the misconduct, I would argue that there is no misconduct, but if the Commission finds otherwise, it is minor and infrequent in that this is the only complaint that the Commission has ever asked me to respond to.

On factor (b), the Judge's experience and length of time on the bench, I've been a licensed attorney for roughly ten years and I have been on the bench two of those ten years. I would argue that I'm a fresh-out-of-the box Judge with much to learn still.

Regarding factor (c), the alleged misconduct happened in my official capacity.

With respect to factor (d), to the best of my understanding, there was no injury because Judge Landau reversed my decision on sex offender registration before it had any impact.

With respect to factor (e), no matter what the complainant may say, I did not exploit my position for improper purposes. Considering the persistent plague of teachers we see in the news engaged in sexual activity with students, and the public displeasure with the same, and in light of the harsh punishments many of those teachers receive, I believe it is appalling that Mr. O'Boyle, in essence, escaped with no punishment whatsoever in this case. My actions were with an eye to ensuring post-conviction proceedings

were more in line with public expectations. Because Judgment and Sentencing is within the role of a Judge, seeking to make rulings, within the scope of the law, that reflect public sentiment is not an improper purpose. Continuing to allow Mr. O'Boyle to avoid the consequences of his actions would only bring disrepute on the judiciary in the eyes of the public.

On factor (f), in the sense that I now understand that Judges Sipe and Wright were right, I did lose jurisdiction, and that sex offender registration can only be done at Judgment and Sentencing, or at the termination of probation, and that the law regarding that is located in the *State v. Serrano* case and the law cited therein, I understand that I was wrong on the law in my Order requiring sex offender registration for the Defendant. I understand that, going forward, I need to order registration before I lose jurisdiction. I will not make the same mistake again in any case.

Re factors (g) and (h), I have not had prior disciplinary action and therefore I believe these factors are inapposite.

Re factor (i) I am fully cooperating and I am being completely transparent.

With respect to factor (j), again, I disagree that there is any misconduct, but I am not suffering from any personal or emotional problems or from any physical or mental disability or impairment.

CONCLUSION

I invite the Commission to interview Judges Sipe, Landau, and Wright and ask them if, in my conversations with them, they detected that I was being retributive, or if I was outraged at Mr. Feldman's filings, or whether I was seeking the counsel of my peers as I was taught at New Judge Orientation.

While I admit that I should not have issued the Order that Mr. O'Boyle register as a sex offender based on the law Mr. Feldman cited, and I should have researched sex offender registration before issuing the Order, I reject Mr. Feldman's accusation that my conduct was violative of the ACJC.

The Commission should dismiss the complaint as it is baseless, premature, hyperbolic, and obviously intended to punish me for having the temerity not to grant Mr. Feldman's or Mr. O'Boyle's motions.

Marcus A. Kelley
La Paz County Presiding Superior Court Judge

ATTACHMENT 1
PRESENTENCE REPORT
09 JAN 2020

20 JAN -9 AM 8:34

ADULT PROBATION DISPOSITION/COVER SHEET

NAME: Michael OBoyle

SENTENCING DATE: 01/13/2020 **SENTENCE TIME:** 01:30

SENTENCING JUDGE: Jessica Quickle

CRIMINAL DIVISION: SUP

PROSECUTOR: Rachel Shackelford - County Attorney

DEFENSE: Adam Feldman - Privately Retained

NEW OFFENSE

CAUSE No.: CR201800224

CHARGE: Count 1 13-3623B CHILD/VUL
ADULT ABUSE-CRIM NEG N 6 F



S1500CR201800224

DISPOSITION: _____

FELONY__MISDEMEANOR__OPEN-END__RESTITUTION__FINE__REIMBURSEMENT

NEW OFFENSE

CAUSE No.: CR201800224

CHARGE: Count 2 13-3623B CHILD/VUL
ADULT ABUSE-CRIM NEG N 6 F

DISPOSITION: _____

FELONY__MISDEMEANOR__OPEN-END__RESTITUTION__FINE__REIMBURSEMENT

**ADULT PROBATION DEPARTMENT
OF THE SUPERIOR COURT IN LA PAZ COUNTY, ARIZONA
(928) 669-6188
FAX (928) 669-9770**

Case No. CR2018-00224

IMPORTANT NOTICE OF CONFIDENTIALITY

You are advised that the criminal history information contained in this presentence report is subject to (1) ARS 13-4425, (2) the Arizona Plan for Security and Privacy of Criminal History Record Information, (3) U.S. Department of Justice Regulation 28CFR20, and (4) Rule 123 of the Arizona Supreme Court. This information is to be used only for matters pertaining to the defendant's criminal case for which the presentence report was prepared.

Additionally, some information contained in this report relative to diagnosis, treatment and health history may be subject to restrictions on dissemination as imposed by law or rule.

Presentence Report On:

O'BOYLE, Michael Ryan

The attached Presentence Report was ready for

Distribution by: DF at 8:30 hours on 1/9/20

DEFENSE COUNSEL: Adam Feldman

PROSECUTOR: Rachel Shackelford

JUDGE: Honorable Jessica Quickle

SENTENCING DATE: January 13, 2020

INVESTIGATING OFFICER: Eileen Ponce

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Age: 37

CR2018-00224 Amended Count One: Child Abuse Non-dangerous; Non-repetitive A.R.S. §§ 13-3623(B)(3); 13-118 **F6**

Amended Count Two: Child Abuse Non-dangerous; Non-repetitive A.R.S. §§ 13-3623(B)(3); 13-118 **F6**

OFFENSE DATE: On, or about, or between August 1, 2012, and December 15, 2012

PENALTY:

- Up to 3 years probation available

or

PRISON RANGE

.33	.5	1	1.5	2
substant mit	mitigated	presumptive	aggravated	substant agg

and

- Defendant must serve approximately 85 percent of the sentence imposed before (s)he is eligible for release on any basis
- Community supervision for a period of one day for every seven days of the sentence imposed
- Up to \$150,000 fine available plus applicable surcharge and \$20 probation surcharge

PLEA AGREEMENT:

- The defendant shall be sentenced to supervised probation on both counts to be served concurrently.
- The parties stipulated that Amended Count One and Amended Count Two were done with sexual motivation under A.R.S. 13-118.
- The court may defer determination on registration as a sex offender. The court may require the defendant to register as a sex offender if the Defendant violates his probation. At the conclusion of the Defendant's probation the court shall determine whether to impose registration as a sex offender.
- If ordered to comply with sex offender conditions of probation, the Defendant shall be permitted to have contact with biological minor relatives.
- All other terms shall be at the Court's discretion.
- The following charges are dismissed, or if not yet filed, shall not be brought against the Defendant: any remaining charges in this case.

TOTAL JAIL DAYS: Twelve (12) days (arrested, 6/28/18 to 7/09/18, O.R.)

CUSTODY STATUS: Out of custody

CO-DEFENDANTS: None

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Page 2

Age: 37

PRESENTENCE INVESTIGATION REPORT

PRESENT OFFENSE SUMMARY:

La Paz County Sheriff's Department, Report No. 140500207. Reported by Detective J. Johnson. For more information, please see ENCLOSURE 2.

On April 21, 2014, while conducting an investigation for a violation of a court order, the reporting party, L. Johnson, advised Detective Johnson that her ex-boyfriend, Michael O'Boyle (a teacher at Salome High School) possibly had an inappropriate sexual relationship with an underage student, K. M: . M: was now 18 years of age and in an open relationship with O'Boyle but, based on text messages she had previously viewed between the two, it was believed the relationship began while M was still a student at Salome High School and not of adult age. The principal of Salome High School was contacted, and he stated he was not aware of any intimate relationship between the two while the female was a student or under the age of 18.

On April 5, 2018, Detective Johnson met with the female subject, K. M: , at the Prescott Police Department. M: advised the detective that during her junior year of high school, she was a teacher's aide for O'Boyle. The summer before her senior year, O'Boyle texted her asking that she be his teacher's aide again. Approximately two weeks into her senior year, their relationship became flirtatious. One day he smacked her on the buttocks and the flirtation then became sexual in nature. They then began to text each other frequently sending messages of a sexual nature. The sexual involvement began in August of 2012, when she was 17 years of age. They began to have oral sex and sexual intercourse soon thereafter. M estimated they had sexual relations between 30-50 times while she was 17 years of age, and the sexual interaction occurred both on school property and places they met off of school property. She had her 18th birthday in December of 2012.

After she graduated high school, she began attending South Mountain College. During that time, O'Boyle asked her to send video of her masturbating to his email account, which she did. O'Boyle had a live-in girlfriend (J), so he accessed the video at a computer at Salome High School. An information technology staff member at the high school discovered it, and O'Boyle was released from his teaching position. O'Boyle advised her there was to be an investigation and requested that she tell the investigator that nothing happened between the two of them. She agreed and told the investigator nothing occurred, in order to protect O'Boyle. At 18 years of age, she discovered she was pregnant with O'Boyle's child.

M also advised the officer that she ended the relationship with O'Boyle on May 8, 2017. They had been living together in Prescott Valley and had two children, however, he had become abusive. Because she was still trying to protect O'Boyle, she only called law enforcement to the residence on one occasion when he was being loud and breaking things in front of their 3-year-old son. She also stated that on the previous day during a child exchange, O'Boyle scratched her on her arm, and she showed the detective her scratches.

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Page 3

Age: 37

M: claimed that he had been physically and verbally abusive on other occasions and even threatened to kill her in 2014, when she was pregnant. M: indicated she was now in a new relationship, and O'Boyle was in a relationship with a female, L. C who also was a former student of Salome High School. M: indicated she believed O'Boyle also had an inappropriate relationship with L. C while C was still a student at Salome High School.

M: stated other students at the high school reported their suspicions of her and O'Boyle having a sexual relationship, but the only person she ever told about the relationship (at that time) was her older sister. Detective Johnson then contacted the sister, who stated M had called her and told about the relationship with O'Boyle in 2012. They are very close and share personal information. M: 's sister indicated there were approximately 5-10 instances when her sister told her about sexual experiences with O'Boyle. She was also aware an investigation was conducted due to other students reporting their concerns about the relationship between O'Boyle and her sister, but believed the case was dropped due to O'Boyle having many supporters. The sister further stated she witnessed O'Boyle strike M: in the face with a shoe in 2014. She was told by her sister that O'Boyle had also threatened her life. In addition, her sister has sent her pictures of bruises on her body reportedly caused by O'Boyle.

Detective Johnson spoke with other former students who indicated seeing flirtations between O'Boyle and M: in 2012. He also interviewed M: 's mother and O'Boyle's former girlfriend (J), who provided statements as to what they experienced and why they believed an inappropriate relationship had occurred while M was 17 years of age. During an interview with Salome High School Principal, B. Maynes, Maynes advised the detective that, while O'Boyle was employed at Salome High School, two investigations had occurred (Arizona Trust and the Arizona Board of Education). Both O'Boyle and M were interviewed. M: denied the allegations and no action was taken. Detective Johnson then interviewed the technology staff member who later found the pornographic material O'Boyle was viewing. The staff member confirmed he traced the pornographic content back to O'Boyle's computer and observed emails between O'Boyle and M: which contained pornographic content. M: was no longer a student at the school at that time, but O'Boyle was asked to resign for violating school policies.

On June 18, 2018, Detective Johnson and Attorney Shackelford of the La Paz County Attorney's Office conducted a telephonic conference with Judge Slaughter regarding the findings of this investigation. As a result, O'Boyle was charged with 16 counts of Sexual Conduct with a Minor and an arrest warrant was issued. On June 19, 2018, a search warrant was obtained for O'Boyle's residence and property in Prescott Valley, Arizona. On June 20, 2018, O'Boyle was arrested, and a search was conducted of his property. O'Boyle was read his Miranda Rights and on the advice of his attorney, chose not to answer questions.

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Page 4

Age: 37

DEFENDANT'S STATEMENT:

On December 18, 2019, the undersigned Probation Officer telephonically interviewed the defendant at the La Paz County Probation Department. The defendant indicated he reviewed the police report a very long time ago, and he recalls much inaccurate information within personal testimonies given to the investigator on the case. However, based on his attorney's advice, he chooses not to make a statement, verbal or written, regarding the offense.

VICTIM IMPACT STATEMENT:

Lucero Ruiz, Victim Witness Coordinator for the La Paz County Attorney's Office, provided the undersigned officer with documentation pertaining to the victim in this case. On November 21, 2019, the La Paz County Probation Department sent a victim impact letter to Ms. M. No response was received. The undersigned officer contacted Ms. M. by telephone on January 6, 2020, and she simply stated she did not wish to make any statement.

RISK/NEED ASSESSMENT:

Based on the Offender Screening Tool (OST), the following is an assessment of the defendant's risk to reoffend and criminogenic needs. There are 10 categories, or domains, assessed in the OST. Domains that do not contribute to the defendant's overall risk to reoffend, or represent a criminogenic need area for the defendant do not require intervention. Domains that contribute to the defendant's overall risk to reoffend and criminogenic needs may require intervention. Domains that significantly contribute to the defendant's overall risk to reoffend and criminogenic needs must be addressed when developing community supervision strategies. The OST is a standardized, statewide, validated tool approved by the Administrative Office of the Courts (AOC).

**DOMAINS THAT DO NOT CONTRIBUTE TO OVERALL RISK TO REOFFEND
OR CRIMINOGENIC NEEDS**

DOMAIN	Summary
Physical Health	<ul style="list-style-type: none">• Able to work and meet responsibilities without physical limitation
Mental Health	<ul style="list-style-type: none">• No current or past diagnosis or treatment for any mental health disorder• Completed an anger management class as part of a diversion program (domestic incident) approximately 3 years ago

DOMAINS THAT CONTRIBUTE TO OVERALL RISK TO REOFFEND AND CRIMINOGENIC NEEDS

DOMAIN	Summary
Residence/ Neighborhood	<ul style="list-style-type: none"> • Born and raised in Michigan; after college graduation, moved to Salome, AZ, to accept his first teaching position at Salome High School; remained in Salome for approximately 7 years • Moved to Prescott Valley, AZ, approximately 7 years ago and has lived at his current residence in Prescott Valley for approximately 4 years • His girlfriend, L Cr , and his 3 minor sons also live in his residence

DOMAINS THAT SIGNIFICANTLY CONTRIBUTE TO OVERALL RISK TO REOFFEND AND CRIMINOGENIC NEEDS

DOMAIN	Summary
Vocational/Financial	<ul style="list-style-type: none"> • Employed as a teacher at Salome High School for approximately 7 years, followed by employment as a teacher with AAEC High School in Prescott Valley for over 5 years • Current charges led to the end of his employment as a teacher; has since struggled to obtain employment which meets his family's financial needs: Yavapai Plumbing (apprentice) 2-3 months, Mayer Water District (field tech.) 6 months, NJ Builders (carpenter) 4-5 months • Obtained full-time employment approximately 5 months ago with Elm Utility Services as a Damage Prevention Specialist (utility locator) earning \$17 per hour; is hoping a conviction in this case will not cause him to lose his present position • Currently able to meet his financial obligations • Girlfriend is also employed, but she is currently on maternal leave; no other source of financial assistance
Education	<ul style="list-style-type: none"> • High school graduate • Earned a Bachelor of Science Degree in History (social studies minor) from Western Michigan University; later completed a Master Degree through Grand Canyon University • Never suspended or expelled from school • Reads above 6th grade reading level

<p>Family and Social Relationships</p>	<ul style="list-style-type: none"> • Was raised by his biological parents, Daniel and Nancy O'Boyle; 2 siblings • Described his upbringing as "excellent"; no childhood history of witnessing domestic violence or suffering from physical abuse • Described his current family relations as "very supportive" • Associates with prosocial companions • No family members with criminal records • Never married; two children with previous girlfriend, K M (victim in this case): (5) and (3); they share custody • One child, (2 months), with present girlfriend, L C
<p>Alcohol</p>	<ul style="list-style-type: none"> • Began consuming alcohol during his senior year of high school • One alcohol-related arrest (2007) • Reports alcohol use is not a problem for him
<p>Drug Abuse</p>	<ul style="list-style-type: none"> • Began using marijuana during college; obtained a medical marijuana card approximately one year ago (uses for knee pain) • Reports no other experimentation or use of illicit drugs
<p>Attitude</p>	<ul style="list-style-type: none"> • Did not express an attitude supportive of crime • Expressed opinion that the victim only decided to pursue charges after they ended their relationship and he started dating someone new; does not appear to accept responsibility for any wrongdoing • Expressed positive goals for the future • Expressed a positive attitude regarding community-based supervision
<p>Criminal Behavior</p>	<ul style="list-style-type: none"> • First arrested at age 24 • 1 prior adult misdemeanor conviction (2005) • Defendant indicated he completed a diversion program in 2016 for a domestic violence incident (no conviction) • No prior probation or parole revocation(s) • No prior violent offense conviction(s)

OVERALL ASSESSED RISK/NEED LEVEL: LOW 5

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Page 7

Age: 37

COLLATERAL INFORMATION:

An Arizona Sex Offender Assessment Screening Profile for Regulatory Community Notification was conducted on December 30, 2019. Should the Court determine the defendant be required to register with the local Sheriff's Department, the defendant would be a low-level 1, which would not require him to appear on any public website or any community notification.

The nature of the defendant's charges indicates he would be a good candidate for Sex Offender Conditions of Probation. An intake assessment with the Sex Offender Therapist should be completed to determine whether the defendant should enter Sex Offender Treatment and to determine if the client should be allowed unsupervised contact with any minor children, to include family members.

STATEMENT OF INTERESTED PARTIES: None.

A.R.S. § 13-901.01: N/A.

IMMIGRATION STATUS: The defendant is a citizen or legal resident of the United States.

COUNTY-RELATED EXPENSES: None.

IPS ELIGIBILITY:

The defendant was pre-screened for the Intensive Probation Supervision (IPS) Program, and it is not recommended because regular supervised probation appears to be the appropriate disposition in this case. Should IPS be the desire of the Court, it is recommended that the IPS team for La Paz County perform a more complete study into the defendant's eligibility for this program.

INFORMATION NOT FOR DISCLOSURE:

Additional identifying information and/or criminal history may be contained in ENCLOSURE 1 of this report and is for disclosure only to the Court, the prosecutor, the defense attorney, and other authorized criminal justice agencies.

SUMMARY AND EVALUATION:

The 37-year-old defendant stands before the Court on his first felony conviction. As indicated in the risk/need assessment, the defendant is employed and has a stable residence in Prescott Valley. According to statements within the police report, the incident took place while the victim was a senior in high school, and he was a teacher at the high school. The relationship continued and they later lived together and had two children. They have since ended their relationship and the victim indicated she decided to report the situation based on physically abusive behaviors the defendant has perpetrated against her, and a desire to prevent this from happening to other females in his life.

The Arizona Sex Offender Assessment Screening Profile indicates the defendant is considered a Level 1 (low risk) offender. However, an intake assessment with the Sex Offender Therapist should be completed to determine whether the defendant should enter Sex Offender Treatment and to determine if the client should be allowed unsupervised contact with minor children. If granted probation, his risk/need level suggests that placement on standard probation would be an appropriate disposition.

RECOMMENDATION:

After a review of all the facts in this case, probation appears to be the appropriate disposition. It is recommended the imposition of sentence be suspended with the defendant ordered on **supervised probation for a term of two (2) years**; comply with the State of Arizona fifteen uniform conditions of probation and the following additional conditions.

Condition #	Condition
16	Not consume or possess any substances containing alcohol.
17	Complete a total of 100 hours of approved community restitution as directed in writing and approved by the APD. <i>(optional)</i>
18	Serve [TBD by Court] days / months in the county jail with credit for 12 days served. Report to the APD within 72 hours of release from jail. Comply with all program rules.
19	Not have contact with the victims in any form, unless approved in writing by the APD.
20	Comply with the following behavior-based sanctions: <ul style="list-style-type: none">• Up to 100 community restitution hours (in addition to any ordered under condition #17) as directed by the APD.• Up to 353 days in the county jail (in addition to any ordered under condition #18), at the discretion of the Court, upon recommendation from the APD.
21	Abide by the attached special conditions of probation: Sex Offender

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Page 9

Age: 37

ASSESSMENTS

Based on the Offender Screening Tool assessment and the defendant's financial statement provided to the Adult Probation Department, the defendant does not have income or assets to pay Court assessments in full on judgment and sentence date. The defendant requests a time payment plan and agreed to pay \$150.00 as a down payment on judgment and sentence date.

Time Payment Fee:	<u>\$ 20.00</u>
Monthly Probation Fee:	<u>\$ 75.00</u>
Probation Surcharge:	<u>\$ 20.00</u>
Fine and Surcharge Total: <i>(optional)</i>	<u>\$ 457.50</u>
Fine: <u>\$250.00</u>	
Surcharge (83%): <u>\$207.50</u>	
A.R.S. § 12-116.09 <i>(if fine assessed)</i>	<u>\$ 2.00</u>
A.R.S. § 12-116.04 <i>(if fine assessed)</i>	<u>\$ 13.00</u>
Courtesy Supervision Transfer Fee (Non-Refundable)	<u>\$ 150.00</u>
A.R.S. § 12-116.06 Assessment	<u>\$ 50.00</u>
TOTAL	<u>\$ 712.50</u>

RESTITUTION: None.

It is recommended that all Court-ordered monies be paid as follows: **At Sentencing: \$150.00. Monthly Total: \$100.00.**

Respectfully submitted,

Eileen Ponce, Deputy Probation Officer

APPROVED BY:

Tyson Ross, Chief Probation Officer
January 8, 2019

Defendant: O'BOYLE, Michael Ryan
Case No: CR2018-00224
Address: Prescott Valley, Arizona

Page 10

Age: 37

Encls: 1. Criminal History
 2. Law Enforcement Report

Original Document to: Clerk of the Court (Hon. Jessica Quickle's copy) Encl. 1, 2

Copy: Rachel Shackelford, Deputy County Attorney	Encl. 1
Adam Feldman, Attorney for Defendant (Priv.)	Encl. 1
Defendant	Encl.
Probation Department	Encl. 1, 2
Lucero Gonzalez, Victim Witness Coordinator	Encl.

ATTACHMENT 2
SENTENCING MINUTE
ENTRY
13 JAN 2020

IN THE SUPERIOR COURT

LA PAZ COUNTY, STATE OF ARIZONA

Judge: QUICKLE, JESSICA L

Megan Spielman, Clerk of the Superior Court

By: Stacy Hale for Nichole Pena

Court Reporter: DIGITAL RECORDING

Hearing Date:01/13/2020

STATE OF ARIZONA

Plaintiff,

CASE NO: S1500CR201800224

VS

IMPOSITION OF SENTENCE
(PROBATION)

MICHAEL RYAN O'BOYLE

HEARING START TIME: 01:47 PM

Defendant.

HEARING END TIME: 02:05 PM

This matter comes on properly before the Court with the following appearances:

Chief Deputy County Attorney: Ryan Dooley

Defense Counsel: Adam Feldman

Defendant: Present (Out of Custody)

The Court advises that it has reviewed the presentence report and its attachments. The Defendant has shown no legal cause to delay.

It is the Judgment of the Court that the Defendant is guilty amended count one, child abuse, a class six designated felony and amended count two, child abuse, a class six designated felony.

Mr. Feldman makes a statement on behalf of the Defendant. The Defendant makes a statement on his own behalf. Mr. Dooley makes a statement on behalf of the State.

IT IS ORDERED accepting the plea agreement on the record if it has not already been done.

IT IS ORDERED suspending the imposition of sentence for a period of 2 years placing the Defendant on supervised probation under the terms and conditions stated by the Court and sentencing the Defendant to 12 days in the La Paz County Jail with credit for 12 days previously served.

IT IS ORDERED that the Probation Department shall allow the Defendant to have contact with the victim as necessary to fulfill any Orders that are placed out of Family Court with respect to his children.

IT IS ORDERED differing determination of sex offender registration requirements until the conclusion of the defendant's probation, pursuant to the plea agreement.

The Court advises the Defendant of the fines, fees and assessments imposed herein as set forth in the sentencing documents and Financial Judgment executed this date.

IT IS ORDERED that the Defendant shall pay \$150.00 today and make monthly payments in the amount of \$100.00 continuing every month thereafter until the balance is paid in full.

IT IS ORDERED dismissing any charges pursuant to the plea agreement, exonerating any bond and vacating any future hearings.

La Paz County Case no. S1500CR201800224
State vs. MICHAEL RYAN O'BOYLE
Page Two-01/13/2020

The Defendant is advised of his notice of rights of review after conviction, a copy of which is given to him.

The Defendant's right index finger is affixed to the sentencing document.

The Defendant is admonished to report to the Adult Probation Department.

CC:

La Paz County Attorney
Electronically Distributed

Adam Feldman
Electronically Distributed

La Paz County Probation
Electronically Distributed

La Paz County Sheriffs' Department
Electronically Distributed

ATTACHMENT 3
PETITION TO TERMINATE
PROBATION
14 JAN 2022

Submitted this 14th day of January, 2022

Tyson Ross
Chief Probation Officer

Rita (L) Garrity
Deputy Probation Officer

Original Document to: Clerk of the Court

Copies of the foregoing mailed, delivered
this 14th day of January, 2022, to:

La Paz County Attorney

Michael O'Boyle
8065 E Spouse Dr
Prescott Valley, AZ 86314

Marian Montijo
Deputy Clerk of Court

Probation

By SA

ATTACHMENT 4
ORDER TO TERMINATE
PROBATION
18 JAN 2022

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA,)
 Plaintiff,)
)
 vs.)
)
MICHAEL O'BOYLE,)
)
)
)
)

CR 2018-00224
ORDER OF TERMINATION OF PROBATION

A Petition for Termination of Probation for MICHAEL O'BOYLE was filed by the La Paz County Probation Department.

It appears that the defendant has completed probation conditions as follows:

1. The defendant completed the 100 community restitution hours ordered by the Court.
2. The defendant paid all fines/fees.
3. The defendant-maintained employment.

The defendant failed to comply with the following conditions:

1. The defendant failed remain law abiding, he had one arrest no outcome at this time.

WITH GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED that Michael O'Boyle be terminated from probation. Further a Criminal Restitution Order shall be issued for any unpaid balance.


Civil Rights, except the right to possess a firearm, are automatically restored for first-time felony offenders if they have

completed probation and have paid all fines and restitution. However, the civil right to carry a firearm is not automatically restored.

A person who has completed probation may apply to have the right to carry a firearm restored two (2) years after completion of probation.

A person who has two (2) or more felony convictions and who has completed probation may apply to the Court to have their civil rights restored.

A person who has completed probation for a misdemeanor or certain felony offenses has the right to apply to the Court to have the judgment of guilt set aside. Forms to apply for restoration of the right to carry a firearm, to restore civil rights after two or more felony convictions, or to vacate judgment of guilt and dismiss the charges are available at the Clerk of the Court office.


eSigned by QUICKLE, JESSICA L 01/18/2022 10:29:19 DECTJYWH

Honorable Jessica Quickle
Superior Court Judge

Copies of the foregoing mailed, delivered
This same date to:

Michael O'Boyle
8065 E Spouse Dr
Prescott Valley, AZ 86314

La Paz County Attorney

Marian Montijo
Fiscal Clerk

Probation Department

ATTACHMENT 5
CRIMINAL HISTORY
INVESTIGATION
17 MAY 2024

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA,)	S-1500CR2018-00224
Plaintiff,)	
)	
vs.)	CRIMINAL HISTORY INVESTIGATION FOR
)	APPLICATION TO RESTORE FIREARM RIGHTS
)	
MICHAEL RYAN O'BOYLE,)	
Defendant.)	
)	

On January 13, 2020, in the La Paz County Superior Court, a Judgment of Guilt was entered against the defendant on convictions for 2 counts of CHILD ABUSE, CLASS SIX FELONIES. The defendant was sentenced to 2-years supervised probation. On January 18, 2022, the defendant was granted a termination from probation. The defendant has filed an Application to Restore Civil Rights, and on March 7, 2024, Honorable Marcus A. Kelley directed the La Paz County Probation Department to conduct a criminal history investigation no less than ten (10) days after receipt of the order, however, the probation department did not receive the order.

An NCIC/ACIC criminal history check, conducted on May 17, 2024, indicates the defendant was arrested on September 6, 2021, in Prescott Valley, AZ, for Unlawful Flight from Law Enforcement, Assault, Endangerment, and Disorderly Conduct. However, records indicate the case was dismissed on February 8, 2022. It appears there have been no new convictions for this defendant since his sentencing in the La Paz County case.

INFORMATION NOT FOR DISCLOSURE:

Additional identifying information and/or criminal history may be contained in ENCLOSURE 1 of this report and is for disclosure only to the Court, the prosecutor, the defense attorney, and other authorized criminal justice agencies.

A Public Safety Assessment (PSA) was conducted on September 7, 2021. For more information, see ENCLOSURE 2. Court financial records indicate the defendant has paid all fines/fees in full. For additional information, see ENCLOSURE 3.

Submitted this 17th day of May, 2024.


Eileen Ponce, Probation Officer

Enclosures: 1. Criminal History
 2. Public Safety Assessment
 3. Court Financial Records

Original Document to: Clerk of the Court (Judge Marcus A. Kelley's copy) Encl. 1, 2, 3

Copies of the foregoing mailed/delivered
this 17 day of May, 2024, by RA.

Copy: La Paz County Attorney Encl. 1, 2, 3

Michael O'Boyle
8065 E. Spouse Dr.
Prescott Valley, AZ 86314

Probation Encl. 1, 2, 3

Public Safety Assessment (PSA) Report

Defendant Information

Name: O'Boyle, Michael Ryan **APETS Def. ID:** 153262753
DOB: 10/4/1982 **Gender:** Male **Ethnicity:**
State of Residence: Arizona **Country of Residence:** United States
Arrest Date: **PSA Assessment Date:** 9/7/2021

New Violent Criminal Activity Flag

 Elevated Risk of Violence

New Criminal Activity Scale



Failure to Appear Scale



Case/Charge Information

Case: **Booking:** 21-05824

Charge(s):

Statute:	Description:	Class/Type:	Count(s):
28-622	UNLAW FLIGHT FROM LAW ENF VEH	F	1
13-1203A	ASSAULT-TOUCHED TO INJURE	M	1
13-1201A	ENDANGERMENT	M	1
13-2904A	DISORDERLY CONDUCT-FIGHTING	M	2

Public Safety Assessment

Risk Factors	Responses
1. Age at Arrest	23 or older
2. Current Violent Offense	Yes
a. Current Violent Offense and 20 Years Old or Younger	No
3. Pending Charge at the Time of the Offense	No
4. Prior Misdemeanor Conviction	Yes
5. Prior Felony Conviction	Yes
6. Prior Violent Conviction	2
7. Prior Failure to Appear Pretrial in Past Two Years	0
8. Prior Failure to Appear Pretrial Older than Two Years	No
9. Prior Sentence to Incarceration	No

Public Safety Assessment (PSA) Report

Release Matrix Presumptive Release Level: If Released, Maximum Conditions Recommended

Recommendation Notes:

Prescott Justice Court

** CURRENTLY ON STANDARD SUPERVISED PROBATION THROUGH LA PAZ COUNTY SUPERIOR COURT, IS BEING COURTESY SUPERVISED BY YAVAPAI COUNTY ADULT PROBATION WITH AN ESTIMATED EXPIRATION DATE OF 01/11/2022. (CR201800224).

* ARS 13-3601 applies.

05/08/07 - Operate Impaired (M)

01/13/20 - Child/Vul Adult Abuse-Crim Neglect x2 (F)

The PSA risk assessment considers the defendant's criminal and court appearance history and whether the current offense is violent. On the basis of available information, the Court shall also take into consideration the factors detailed in Arizona Revised Statute 13-3967, Release on bailable offenses before trial.

Case Number	Transaction Date	Type Of Transaction	Cost Type Description	Debit	Credit
S1500CR201800224	01/16/2020	Fee/Fine Receivable# 216675	2011 \$13 ADDTNL ASSESSMENT	\$0.00	(\$13.00)
			2012 SURCHARGE 83%	\$0.00	(\$207.50)
			BASE FINE	\$0.00	(\$250.00)
			PROB SURCH 2009	\$0.00	(\$20.00)
			TIME PYMT \$20 JCEF	\$0.00	(\$20.00)
			TRNSFR OF PROB SUPERVISION APP	\$0.00	(\$150.00)
			Total Transaction	\$0.00	(\$660.50)
01/17/2020	Receipt #81633	TIME PYMT \$20 JCEF	\$20.00	\$0.00	
		TRNSFR OF PROB SUPERVISION APP	\$130.00	\$0.00	
		Total Transaction	\$150.00	\$0.00	
02/10/2020	Receipt #P000065360	2011 \$13 ADDTNL ASSESSMENT	\$1.46	\$0.00	
		2012 SURCHARGE 83%	\$23.27	\$0.00	
		BASE FINE	\$28.03	\$0.00	
		PROB SURCH 2009	\$2.24	\$0.00	
		PROBATION	\$75.00	\$0.00	
		TRNSFR OF PROB SUPERVISION APP	\$20.00	\$0.00	
		Total Transaction	\$150.00	\$0.00	
03/25/2020	Receipt #P000065759	2011 \$13 ADDTNL ASSESSMENT	\$3.98	\$0.00	
		2012 SURCHARGE 83%	\$63.45	\$0.00	
		BASE FINE	\$76.45	\$0.00	
		PROB SURCH 2009	\$6.12	\$0.00	
		PROBATION	\$150.00	\$0.00	
		Total Transaction	\$300.00	\$0.00	
04/16/2020	Receipt #P000065944	2011 \$13 ADDTNL ASSESSMENT	\$7.56	\$0.00	
		2012 SURCHARGE 83%	\$120.78	\$0.00	
		BASE FINE	\$145.52	\$0.00	
		PROB SURCH 2009	\$11.64	\$0.00	
		PROBATION	\$75.00	\$0.00	
Total Transaction	\$360.50	\$0.00			
05/27/2020	Receipt #P000066194	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
06/29/2020	Receipt #P000066433	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
07/15/2020	Receipt #P000066567	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
09/01/2020	Receipt #P000066948	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
09/30/2020	Receipt #P000067141	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
11/02/2020	Receipt #P000067368	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
11/19/2020	Receipt #P000067478	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
12/17/2020	Receipt #P000067630	PROBATION	\$75.00	\$0.00	
Total Transaction	\$75.00	\$0.00			
01/15/2021	Receipt #P000067779	PROBATION	\$75.00	\$0.00	

Case Number	Transaction Date	Type Of Transaction	Cost Type Description	Debit	Credit
			Total Transaction	\$75.00	\$0.00
	02/16/2021	Receipt #P000067973	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	03/17/2021	Receipt #P000068251	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	04/15/2021	Receipt #P000068517	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	05/17/2021	Receipt #P000068713	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	06/21/2021	Receipt #P000068976	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	07/14/2021	Receipt #P000069155	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	08/16/2021	Receipt #P000069338	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	09/15/2021	Receipt #P000069553	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	10/14/2021	Receipt #P000069730	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	11/29/2021	Receipt #P000069967	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
	12/13/2021	Probation Receivable# 216674	PROBATION	\$0.00	(\$1,800.00)
			Total Transaction	\$0.00	(\$1,800.00)
	12/14/2021	Receipt #P000070065	PROBATION	\$75.00	\$0.00
			Total Transaction	\$75.00	\$0.00
			Total For Case S1500CR201800224	\$2,460.50	(\$2,460.50)

**ATTACHMENT 6
ORDER DENYING
RESTORATION OF CIVIL
RIGHTS AND FIREARMS
RIGHTS
02 JULY 2024**

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Representing Self or Lawyer for _____
Lawyer's Bar Number: _____

**SUPERIOR COURT OF ARIZONA
IN LA PAZ COUNTY**

STATE OF ARIZONA

Case Number: CR2018-00224

-vs-

MICHAEL RYAN O'BOYLE

**ORDER REGARDING
APPLICATION TO RESTORE
CIVIL RIGHTS AND FIREARM
RIGHTS**

Date of Birth:

(A.R.S. §§ 13-906, 13-908 and 13-910)

Based on the information presented to the Court, **THE COURT FINDS:** (only those items marked)

- The prosecutor has received a copy of the Application to Restore Civil Rights and Right to Possess and Carry a Firearm.
- The defendant **has met** the statutory requirements for the application to restore civil rights.
- The defendant **has met** the statutory requirements for the application to restore civil rights and to possess and carry a firearm.

IT IS ORDERED:

- GRANTING the application to restore civil rights **and** right to possess and carry a firearm.
- GRANTING the application to restore civil rights **excluding** the right to possess and carry a firearm.
- GRANTING the application to restore the right to possess and carry a firearm.

[√] DENYING the application to restore civil rights and right to possess and carry a firearm for the following reasons:

[] The applicant **has not met** the statutory requirements for the application (as noted above):

[√] Other reasons: Restoration of firearms rights is discretionary under the applicable statutes. In this case, there are many facts about the charged offenses that are deeply disturbing to the Court. First, that the Defendant would sexually prey on minors while in a position of public trust is absolutely incendiary. Second, the Defendant impregnated his victim. Third, his “relationship” with the victim was not a monogamous one where he loved, honored, and cherished her by marrying her. Instead, he had open relationships with other women. Fourth, the Defendant used public instrumentalities to access pornographic material. Fifth, he encouraged his prey to lie to investigators so he could escape punishment for his outrageous deeds. Sixth, and this bears directly on the restoration of firearms rights, this Defendant became abusive to his victim, yelled, broke items in front of his child, and even injured the mother of his child. Apparently, pictures of bruises on the victim exists that were reportedly inflicted on the victim by the Defendant. Additionally, the victim’s sister related that she had witnessed the Defendant strike his victim in the face with a shoe. But that is not all. The Defendant threatened to kill his victim while she was pregnant. The sister’s statements are consistent. So, the Defendant demonstrated that not only did he not care about his victim’s life, but he did not care about the life of his unborn child. Seventh, the Defendant was accused by his victim of having a second inappropriate relationship with another student, on whom he sired another child. Eighth, even after the Defendant was forced to resign from Salome High School, he chose to again seek employment at another school in Prescott Valley, another position of public trust where he could be around another pool of minors. Ninth, the presentence report reflects that the Defendant refuses to accept responsibility for his crimes and this Court believes that the Defendant seeking to avoid the ramifications of his actions by seeking restoration of firearms rights is consistent with his failure to accept responsibility. Tenth, the Defendant has taken a diversion program for Domestic Violence which suggests, in conjunction with all of the above, that the Defendant has a propensity for anger and violence. Eleventh, while the case was dismissed, the Defendant was subsequently charged with Unlawful Flight from a Law Enforcement Vehicle, Assault with Intent to Injure, Endangerment, and Disorderly Conduct – Fighting in Yavapai County in 2021. His September 2021 Public Safety Assessment denoted an elevated risk of violence and recommended maximum conditions if released.

This Court is not going to allow a Defendant that has no respect for life, who has little to no control over his anger, who injures others, who displays no respect for the rule of law, and who violates the public trust access to firearms. The risk that this Defendant may injure someone else with a firearm while he is not in control of himself is too great to restore firearms rights to this Defendant.

Even if you are granted the right to possess and carry a firearm pursuant to this order you may still be prohibited from possessing and carrying a firearm under other state or federal laws.

DATED this 2nd day of July, 2024.

Judicial Officer

ATTACHMENT 7
DEFENSE COUNSEL'S
MOTION FOR
REINSTATEMENT OF CIVIL
RIGHTS
12 AUG 2024

Feldman Royle, PLLC

Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR2018-00224 MOTION FOR REQUIRED REINSTATEMENT OF ALL CIVIL RIGHTS PURSUANT TO ARS 13-907
---	---

Defendant, by and through undersigned counsel, submits this Motion for Required Reinstatement of All Civil Rights, as is required pursuant to ARS 13-907. Defense submits the following in support:

On November 18, 2019, Mr. O'Boyle pled guilty to two counts of Child Abuse, both class 6 non-dangerous, designated felonies. On January 13, 2020, Mr. O'Boyle was sentenced to two years of supervised probation with twelve days jail. Despite having the authority to impose a three-year term of supervised probation with as much as two years in the county jail as a term of said probation, the Court believed only two years of supervised probation, twelve days of jail, and credit for the twelve days previously served was

appropriate given the underlying facts of the case. On January 18, 2022, Mr. O'Boyle was successfully discharged from his probation.

Mr. O'Boyle has no prior or subsequent felony convictions. Moreover, there is no indication that Mr. O'Boyle has any outstanding probations debts or restitution claims from his conviction in the instant matter.

ARS 13-907 provides: "On completion of probation for an offense committed in this state or absolute discharge from imprisonment, any person who has not previously been convicted of a felony offense **shall automatically be restored any civil rights that were lost or suspended as a result of the conviction if the person pays all victim restitution imposed.** A person who is entitled to the restoration of any civil rights pursuant to this subsection is not required to file an application pursuant to section 13-908, **except that if the person does file an application, the court shall grant the application** without receiving a response from the state or holding a hearing" (Emphasis added). Moreover, the statute only exempts the restoration of firearm rights when the offense is a dangerous offense or a serious offense.

ARS 13-706(F)(1) defines "serious offense" and "dangerous offense." The statute goes further to enumerate a list of specific felonies that fall within the definitions of "serious" and "dangerous" offenses. For the purpose of this motion, it is noteworthy that Child Abuse is not an enumerated offense for being serious or dangerous under the law. Therefore, Mr. O'Boyle's reinstatement of all civil rights should have been automatically restored, or in the alternative, should have been restored upon his formal request to do so.

On February 5, 2024, Mr. O'Boyle filed a motion seeking to restore his rights pursuant to ARS 13-907. On July 2, 2024, this Court provided an order indicating that Mr. O'Boyle

had met all necessary requirements to reinstate his civil rights, including his firearm rights. However, the Court denied Mr. O'Boyle's request to reinstate his civil rights, citing to unspecified "applicable statutes." The Court went further to list eleven reasons why the Court was refusing to reinstate Mr. O'Boyle's civil rights.

Plainly stated, the Court erred in its scathing rebuke of Mr. O'Boyle and abused its discretion in denying Mr. O'Boyle's reinstatement of civil rights when such rights "shall automatically be restored." Despite the Court's assertion that "[r]estoration of civil rights is discretionary under applicable case law," such is not the case in the instant matter. Therefore, the Court's scathing rebuke of Mr. O'Boyle's character based upon unfounded accusations, disproven allegations, dismissed accusations, etc... was nothing more than expressions of disdain for the defendant. Despite the Court's right to its disfavor of the defendant, the Court does not have the authority to refuse his request to reinstate his civil rights.

Because Arizona law is unequivocal as to a Defendant's ability to reinstate all civil rights, pursuant to ARS 13-907, defense respectfully requests this Court follow the existing law and reinstate all civil rights for Mr. O'Boyle.

RESPECTFULLY SUBMITTED this 12th day of August, 2024.

Feldman Royle, PLLC

By: Adam Feldman
Attorney for Defendant

Electronically filed 12th day of August, 2024.
to:

Clerk of the Court
La Paz County Superior Court
1316 Kofa Avenue, Suite 607
Parker, Arizona 85344

Restoration of Rights - Assigned Judicial Officer
La Paz County Superior Court
1316 Kofa Avenue, Suite 607
Parker, AZ 85344

La Paz County Attorney's Office
1320 Kofa Avenue
Parker, AZ 85344

By: /s/ Cynthia Dominguez

ATTACHMENT 8
SECOND ORDER DENYING
RESTORATION OF CIVIL
RIGHTS
17 SEP 2024

Feldman Royle, PLLC
Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR201800224 PROPOSED ORDER: MOTION FOR REQUIRED REINSTATEMENT OF ALL CIVIL RIGHTS PURSUANT TO ARS 13- 907
---	--

Upon receipt of Defendant's August 12, 2024 Motion for Required Reinstatement of All Civil Rights Pursuant to A.R.S. § 13-907 ("Motion"),

IT IS ORDERED DENYING the Defendant's Motion.

On January 13, 2020, the Defendant was sentenced to probation under Amended Count One and Amended Count Two, both were Child Abuse charges and designated class 6 felonies. The original Information did not contain any charges of child abuse, rather, it contained sixteen counts of Sexual Conduct with a Minor, graphically detailing the multiple times the Defendant violated the law and the public trust by having sex with

a minor student attending the school at which he taught. These illegal sexual events ranged in date from August 1, 2012 to December 15, 2012.

Count One pertained to the Defendant having sexual intercourse with the minor student on Centennial Road.

Count Two pertained to the Defendant having sexual intercourse with the minor student in the Special Education room.

Count Three pertained to the Defendant having sexual intercourse with the minor student in the Defendant's classroom.

Count Four pertained to the Defendant having oral sex with the minor student in the Defendant's classroom.

Count Five pertained to the Defendant having sexual intercourse with the minor student in the weightlifting room.

Count Six pertained to the Defendant having oral sex with the minor student in the weightlifting room.

Count Seven pertained to the Defendant having sexual intercourse with the minor student in the shop classroom.

Count Eight pertained to the Defendant having sexual intercourse with the minor student in the attic in the gym.

Count Nine pertained to the Defendant having sexual intercourse with the minor student in the confession room in the gym.

Count Ten pertained to the Defendant having oral sexual with the minor student in the band room.

Order Denying "Required" Reinstatement of All Civil Rights

Count Eleven pertained to the Defendant having sexual intercourse with the minor student on a dirt road off of Salome Road.

Count Twelve pertained to the Defendant having oral sex with the minor student on a dirt road off of Salome Road.

Count Thirteen pertained to the Defendant having oral sex with the minor student on a dirt road off of Salome Road.

Count Fourteen pertained to the Defendant having sexual intercourse with the minor student in fields after a Homecoming event.

Count Fifteen pertained to the Defendant engaging in masturbatory sex with the minor student during the showing of the movie 300 in class.

Count Sixteen pertained to the Defendant engaging in masturbatory sex with the minor student in a closet behind the weight room.

It is clear from the Information that the Defendant committed multiple felonies over a four-and-a-half-month period consisting of numerous sexual offenses, all separate, distinct offense, in a sequence of events, some offenses previous to others.

The Plea Agreement converted two of the separate and distinct Sexual Conduct with a Minor charges, one of which was previous to the other, into Child Abuse charges. The two amended charges in the Plea Agreement listed the exact same date ranges as the charges in the Information. The Child Abuse charges were for separate and distinct criminal sexual offenses with a minor just as the original charges in the Information were, and one of the Child Abuse charges in the Plea Agreement pertained to a criminal sexual offense with a minor student that was previous to the other.

Order Denying "Required" Reinstatement of All Civil Rights

A.R.S. § 13-907(A) states, "[o]n completion of probation for an offense committed in this state or absolute discharge from imprisonment, any person who has not previously been convicted of a felony offense shall automatically be restored any civil rights that were lost or suspended as a result of the conviction if the person pays all victim restitution imposed."

Therefore, because one of the Child Abuse counts was previous to the other,

THE COURT FINDS that the Defendant was previously convicted of a felony offense in that he was convicted of two separate and distinct criminal sexual acts with a minor, one of which predated the other.

Because one of the Child Abuse counts predated the other, the Defendant falls outside A.R.S. § 13-907(A) for the reasons cited above.

THE COURT FINDS that A.R.S. § 13-907(D) applies and the Defendant's restoration of rights is analyzed under A.R.S. § 13-910 (B). Restoration of the Defendant's firearms rights is discretionary and the Court reasserts it's initial denial from July 2, 2024 for all the reasons cited therein.

Additionally, the Plea Agreement stated in sub-paragraphs 4(c) and (d)

c. The court may defer determination on registration as a sex offender. The court may require the defendant to register as a sex offender if the Defendant violates his probation. At the conclusion of the Defendant's probation the court shall determine whether to impose registration as a sex offender.

d. If ordered to comply with sex offender conditions of probation, the Defendant shall be permitted to have contact with biological minor relatives.

THE COURT FINDS that when the La Paz County Probation Department filed to terminate the Defendant's probation on January 14, 2022, the Court failed to make a decision as to whether the Defendant had to register as a sex offender in its January 18, 2022 order. It was never brought to the Court's attention that the decision regarding registration had been deferred and it is unrealistic to expect a Judge to remember such a deferral from two years prior before signing a rote order to terminate probation. Because the choice was never made, the Court makes its determination now:

IT IS ORDERED that the Defendant shall register as a sex offender.

eSigned by HONORABLE MARCUS. A. KELLEY 09/16/2024 20:36:48 pjpCF4MG

ATTACHMENT 9
MOTION FOR CHANGE OF
JUDGE FOR CAUSE
23 SEP 2024

Feldman Royle, PLLC

Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR2018-00224 MOTION TO RECUSE PURSUANT TO 10.1
---	---

Defendant, by and through undersigned counsel, submits this Motion to Recuse Judge Marcus A. Kelley pursuant to Rule 10.1 of the Arizona Rules of Criminal Procedure. Defense submits the following in support:

On September 17, 2024, Judge Marcus A. Kelley authored an opinion in response to Defendant's Petition to Reinstate Civil Rights, pursuant to ARS 13-907, and ultimately denied said petition. However, the Court vindictively attacked Mr. O'Boyle for his petition by issuing an illegal order against the Defendant. More specifically, the Court *sua sponte* required Defendant to register as a sex offender more than 2.5 years after the termination of his probation in opposition of all existing statutory and case law. Consequently,

undersigned counsel filed a complaint with the Arizona Commission on Judicial Conduct. The complaint alleges that Judge Kelley violated his ethical obligations as a judicial officer and should be sanctioned for said egregious conduct.

Defense intends to seek remedial measures in the instant matter to ameliorate the damage caused by Judge Kelley's illegal attack against Mr. O'Boyle. However, all remedial measures, whether it be in the form of a motion for reconsideration or a petition for post-conviction relief, must be filed before the judge that issued the final order. Because this judicial officer is the same judicial officer that undersigned counsel is pursuing sanctions against, an irreparable conflict exists so as to warrant Judge Kelley's immediate recusal for any further consideration of any issues in the instant matter.

Rule 10.1(a) provides, "A party is entitled to a change of judge if the party shows that the assigned judge's interest or prejudice would prevent a fair and impartial hearing or trial." It should be clear to any independent observer that a judicial officer who uses his position of power to order a vindictive and illegal sentence against a defendant simply because of the defendant's challenge of a judicial officer's previous ruling has demonstrated he can no longer be fair and impartial for any future proceedings involving Mr. O'Boyle or undersigned counsel. As such, Judge Kelley must be recused pursuant to Rule 10.1(a).

Defense submits that the motion to recuse is timely since Rule 10.1(b)(1) provides, "A party seeking a change of judge for cause must file a motion no later than 10 days after discovering that grounds exist, but may not file a motion after a hearing or trial begins." Undersigned counsel learned of the grounds for recusal upon receipt of the Court's illegal

order, which was disseminated on September 17, 2024. Moreover, the hearings for reconsideration and/or post-conviction relief have not begun.

Wherefore, undersigned counsel respectfully requests that Judge Marcus A. Kelley recuse himself from association with any aspect of the instant matter for all future proceedings.

RESPECTFULLY SUBMITTED this 23rd day of September, 2024.

Feldman Royle, PLLC

By: Adam Feldman

Electronically filed 23rd day of September, 2024.
to:

Clerk of the Court
La Paz County Superior Court
1316 Kofa Avenue, Suite 607
Parker, Arizona 85344

Honorable Judge Marcus A. Kelly
La Paz County Superior Court

Rachel Shackelford
La Paz County Attorney's Office
1320 Kofa Avenue
Parker, AZ 85344

By: /s/ Cynthia Dominguez

ATTACHMENT 10
JUDGE LANDAU'S ORDER
DENYING RULE 10.1
MOTION FOR CHANGE OF
JUDGE FOR CAUSE
23 SEP 2024

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

HONORABLE JERRY LANDAU
PRESIDING JUDGE OF THE SUPERIOR COURT

HOLLIE LUCAS
CLERK OF THE SUPERIOR COURT

September 25, 2024

MINUTE ORDER

STATE OF ARIZONA, VS. MICHAEL O'BOYLE,	Plaintiff, Defendant,	CASE NO. S1500CR201800224 MINUTE ORDER
--	------------------------------	---

The Plaintiff having filed a Motion for Change of Judge for Cause pursuant to Rule 10.1 Rules of Criminal Procedure (10.1 Motion), the Court rules as follows:

The Defendant on September 18, 2024 filed a 10.1 Motion.

This court on September 23, 2024 denied the Motion without prejudice as it was not accompanied by an affidavit as required by Rule 10.1 (b)(1).¹

The Defendant on September 23, 2024 filed a Second 10.1 Motion.

The Court having reviewed the Second 10.1 Motion, finds the following:

1. The second Motion for Change of Judge is timely filed.
2. An affidavit was filed with the second motion however, it is noted that affidavit simply incorporates the motion and adds no further information.
3. The argument that the trial court vindictively attacked the defendant is a matter of opinion and not supported by any facts or statements contained in the motion or the affidavit.
4. The defendant's motion seems to argue that the judge illegally denied the Defendant's Motion to Restore Civil Rights. The Defendant also argues that the order requiring the defendant to register as a sex offender is contrary to all existing statutory and case law.

¹ It is noted in the court's ruling on the first 10.1 Motion, it referred to Rule 11.1, a typo that should have stated Rule 10.1

However, the Defendant neither cites nor quotes any specific statute, rule, or case law to sustain the argument regarding either the restoration of civil rights or registration of a sex offender. Even if the defendant presented authority, disagreement with a judge's ruling in itself is not grounds for a motion pursuant to Rule 10.1. The Defendant does not provide any facts to sustain his position that the ruling by the judge is predicated on his inability to be fair and impartial. The ruling could easily be construed as evaluating the case and deciding the issue². If the Defendant's position is that the ruling is contrary to law and not supported by any statutory and case law, there are appellate remedies available.

5. That the attorney for the defendant is pursuing sanctions against the judge is not per se grounds to cause a change of judge pursuant to Rule 10.1. This court is cognizant of Rule 81, Canon 2.3 of the Judicial Rules of Ethics concerning bias and prejudice, formerly Canon 3E. This Court also reviewed Judicial Ethics Advisory Opinions 98-02 and 96-14. In the case before us, neither in the motion nor the affidavit did the defendant present any specific facts to substantiate the judge was not nor could not be fair and impartial. The defendant simply did not like the judge's ruling.

This Court finds the second defendant's motion does not provide any grounds in which to grant a Rule 10.1 Motion.

IT IS THEREFORE ORDERED denying the Second Motion for Change of Judge and returning the case to Judge Kelley for all further proceedings.

² It is noted the judge who rules on the Motion for Requirement Reinstatement was not the trial judge who sentenced the defendant.

ATTACHMENT 11
REASSIGNMENT OF THE
CASE TO JUDGE LANDAU
25 SEP 2024

**IN THE SUPERIOR COURT
LA PAZ COUNTY, STATE OF ARIZONA**

Judge: Marcus A. Kelley

Hollie Lucas, Clerk of the Superior Court
Date: September 25, 2024

STATE of ARIZONA,

Plaintiff,

vs.

MICHAEL RYAN O'BOYLE,

Defendant.

CASE NO: S1500CR201800224

NOTICE: REASSIGNMENT OF JUDGE

By order of the La Paz County Superior Court Presiding Judge MARCUS A. KELLEY, the assigned Judge in this case,

NOTICE IS HEREBY GIVEN that this matter is reassigned to the Honorable Jerry Landau for all further proceedings.

eSigned by HONORABLE MARCUS. A. KELLEY 09/25/2024 11:45:46 CcegErDp

CC:

La Paz County Attorney
Electronically Distributed

Adam Feldman,
Counsel for the Defendant
Electronically Distributed

La Paz County Probation Dept.
Electronically Distributed

ATTACHMENT 12
MOTION TO RECONSIDER
ORDER TO REGISTR AS A
SEX OFFENDER

26 SEP 2024

Feldman Royle, PLLC

Adam Feldman (State Bar Number: 023201)
3200 N. Central Ave, Suite 1850
Phoenix, Arizona 85012
Telephone: (602) 540-7887
afeldman@topazattorney.com

Attorney for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF LA PAZ

STATE OF ARIZONA, Plaintiff, vs. MICHAEL O'BOYLE, Defendant	Case Number: CR2018-00224 MOTION TO RECONSIDER ILLEGAL ORDER FOR DEFENDANT TO REGISTER AS A SEX OFFENDER
---	---

Defendant, by and through undersigned counsel, submits this Motion to Reconsider Judge Kelley's Illegal Order for Defendant to Register as a Sex Offender. Defense submits the following in support:

Factual History:

On November 18, 2019, Mr. O'Boyle pled guilty to two counts of Child Abuse, both class 6 non-dangerous, designated felonies. The offenses alleged sexual motivation thus subjecting Mr. O'Boyle to the following possible conditions of probation: 1) lifetime supervised probation; 2) up to one year of jail per count; 3) sex offender probation through

the adult probation department; 4) computer usage addendum as part of sex offender probation; and 5) registration as a sex offender.

On January 13, 2020, the Honorable Jessica Quickle sentenced Mr. O'Boyle to two years of supervised probation with twelve days jail and credit for the twelve days he had previously served. The Court did not impose sex offender terms of probation nor did the Court impose the computer usage addendum associated with sex offender terms. Moreover, registration as a sex offender was not imposed at the time of sentencing nor was a date set to revisit the issue of imposition of registration as a sex offender.

After adult probation petitioned for successful termination of probation, the Court successfully discharged Mr. O'Boyle from probation on January 18, 2022. It is noteworthy that neither adult probation nor the La Paz County Attorney's Office requested the imposition of sex offender registration. Consequently, the court did not consider or impose sex offender registration upon the termination of Mr. O'Boyle's probation. As of January 18, 2022, Mr. O'Boyle's sentence became final and complete.

Mr. O'Boyle, in *pro persona*, filed a motion to reinstate his civil rights pursuant to ARS 13-907. The Court authored its opinion on July 2, 2024 indicating that Mr. O'Boyle had met all statutory rights to reinstate his civil rights. However, the Court authored an eleven-point opinion as to why, in its discretion, the Court was denying the request to reinstate Mr. O'Boyle's civil rights. It is noteworthy for the purpose of this petition that Judge Kelley did not address the issue of whether Mr. O'Boyle would be required to register as a sex offender in this original order. Presumably, the Court did not address this issue as it would have been in violation of all existing law to do so.

Believing that the Court had erred as a matter of law, undersigned counsel filed a motion to reinstate civil rights pursuant to ARS 13-907 and cited to specific statutes in support of Defendant's position. Defense concluded that the Court's original opinion erred as a matter of law and that the Court was required to reinstate Mr. O'Boyle's civil rights. The State did not author a response to Mr. O'Boyle's motion, and the Court ruled on the motion without opposition or support from the State.

On September 17, 2024, Judge Kelley authored his order denying Mr. O'Boyle's motion to reinstate civil rights. As part of the Court's denial of Mr. O'Boyle's petition to reinstate his civil rights, the Court *sua sponte* ordered Mr. O'Boyle to register as a sex offender more than 2.5 years after successful discharge from his probation. The Court did not cite to any authority in which a judicial officer can retroactively require a defendant to register as a sex offender more than 2.5 years after discharge from probation.

Law and Argument:

Imagine a scenario where a defendant enters into a probation plea agreement, successfully completes his probation, and files for reinstatement of civil rights more than 2.5 years after his successful completion of probation. Now imagine that a judicial officer reviews the petition, denies the petition, but then decides to send the defendant to prison because of his personal views on what should have happened during the earlier proceedings. This scenario is unfathomable and would be tantamount to the felonious act of unlawful imprisonment. Why is the instant matter any different from the farcical scenario provided above?

The most basic aspect of criminal law is found within the United States and Arizona constitutions under the Due Process Clause, which provides in pertinent part that the government can not deprive a citizen of life, liberty, or property without due process of the law. Inexplicably, Judge Kelley believed that his authority exists outside of the protections of the constitution and that he somehow presides over Mr. O'Boyle for the remainder of his life. The Court equally believed that it could impose sanctions against Mr. O'Boyle, at any time on a whim, simply because the Court once had jurisdiction over a criminal matter within its jurisdiction. However, such a blatant abuse of the judicial oath, the judicial office, and all existing law must be revisited for immediate reconsideration.

State v. Serrano, 234 Ariz. 491 (2014) is specifically on point to the issue in the instant matter. In *Serrano*, the defendant was convicted by a jury of his peers and sentenced to prison. Neither party addressed the issue of sex-offender registration at the time of sentencing. Consequently, the Court did not impose the discretionary term of sex offender registration. The following day, the State filed a motion for clarification and requested that the Court impose sex offender registration arguing that the parties failed to address the issue at sentencing. The Court granted the motion for clarification and ordered the defendant to register as a sex offender one month after the date of the original prison sentence. This decision was overturned by the Court of Appeals.

The Arizona Court of Appeals articulated as follows in *Serrano*:

We do not "require trial judges *sua sponte* to rule on issues not raised before them," *State v. Cannon*, 148 Ariz. 72, 76, 713 P.2d 273, 277 (1985), and it is generally the parties' responsibility to seek discretionary orders... Here, had the state filed its post-sentencing motion before sentencing had occurred, then the trial court's silence on the issue would be treated as a denial of the state's request

for a registration order. “A motion that is not ruled on is deemed denied by operation of law.” *State v. Hill*, 174 Ariz. 313, 323, 848 P.2d 1375, 1385 (1993). *A fortiori*, a motion that is never made has the same result.

The issue of sex offender registration was not raised at the sentencing for Mr. O’Boyle or any time prior to Mr. O’Boyle’s termination of probation. This is not particularly surprising as he was not even required to participate in sex offender terms of probation and was successfully discharged from his probation. It was the parties’ responsibility to bring this issue to the Court’s attention prior to the termination of probation. Had the issue been raised but not decided, the issue would be deemed denied. Moreover, “a motion that is never made has the same result.” Serrano at 494.

State v. Falkner, 112. Ariz. 372, 542 P.2d 404 (1975) is well established law indicating that trial courts lack inherent authority to modify a criminal judgment and sentence. Moreover, the legislature has equally demonstrated that any discretionary order that a person register as a sex offender shall occur at the time of sentencing to ensure that defendant’s receive their due process rights. *See State ex rel. Corbin v. Pickrell*, 136 Ariz. 589, 594, 667 P.2d 1304, 1309 (1983). *See State v. Henry*, 224 Ariz. 164, 228 P.3d 900 (App.2010) (noting due process right to notice of registration requirement); *see also State v. Stummer*, 219 Ariz. 137, 194 P.3d 1043 (2008) (observing “sex offender status has significant and farreaching consequences”); *Fushek v. State*, 218 Ariz. 285, 183 P.3d 536 (2008) (finding sex offender registration sufficiently severe consequence to trigger certain constitutional procedural rights).

The State, or Judge Kelley in his own defense, may argue that a sentence is not final when a defendant has been placed on probation thus subjecting a defendant to the

registration requirement pursuant to ARS 13-3821. This would be a correct assertion since probation is the deferred imposition of imprisonment. However, a probation sentence becomes final when probation is terminated or the individual's probation is revoked and he is sent to prison. *State v. Contreras*, 180 Ariz. 450, 885 P.2d 138 (App.1994) ("When the trial court suspends sentence and orders probation, the sentence is not final. The court retains jurisdiction over the probationary terms and the probationer until the term of probation is successfully completed or until it is revoked and a prison sentence ordered.") (citing *State v. Holguin*, 177 Ariz. 589, 870 P.2d 407 (App.1993) and A.R.S. § 13-603(B)).

In summation, there is no existing case law or statutory law that supports Judge Kelley's *sua sponte* decision to impose sex offender registration against Mr. O'Boyle. Mr. O'Boyle's sentencing was complete on January 18, 2022. It remains unfathomable that a judicial officer could reasonably believe he had any authority over Mr. O'Boyle more than 2.5 years after probation was successfully terminated. It remains even more inconceivable that a student of the law, let alone a judicial officer, would think that trampling over one's due process rights on a decision that has such significant and farreaching implications was legal, let alone appropriate.

Wherefore, undersigned counsel respectfully requests that Judge Marcus A. Kelley's decision to require Mr. O'Boyle be vacated as it is in opposition to the law.

RESPECTFULLY SUBMITTED this 26th day of September, 2024.

Feldman Royle, PLLC

By: /s/ Adam Feldman

Electronically filed 26th day of September, 2024.
to:

Clerk of the Court
La Paz County Superior Court
1316 Kofa Avenue, Suite 607
Parker, Arizona 85344

Judge Marcus A. Kelley
Judge Jerry Landau
La Paz County Superior Court

Rachel Shackelford
La Paz County Attorney's Office
1320 Kofa Avenue
Parker, Arizona 85344

By: /s/ Cynthia Dominguez

ATTACHMENT 13
MINUTE ENTRY VACATING
ORDER TO REGISTER AS A
SEX OFFENDER

22 NOV 2024

IN THE SUPERIOR COURT
LA PAZ COUNTY, STATE OF ARIZONA

Judge: LANDAU, JERRY G

Hollie Lucas, Clerk of the Superior Court

By: Stacy Hale

Court Reporter: DIGITAL RECORDING

Hearing Date: 11/22/2024

STATE OF ARIZONA

Plaintiff,

CASE NO: S1500CR201800224

vs.

ORAL ARGUMENT-MOTION FOR RECONSIDERATION

MICHAEL O'BOYLE

Defendant.

HEARING START TIME: 02:03 PM

HEARING END TIME: 02:19 PM

This matter comes on properly before the Court with the following appearances:

Chief Deputy County Attorney: Rachel Shackelford

Defense Counsel: Adam Feldman (via Zoom)

Defendant: via Zoom (Out of Custody)

This is the time set for Oral Argument on the Defendant's Motion for Reconsideration.

The Court and Defense counsel discuss the Motion for Reconsideration.

Upon review of everything and the cases cited, **IT IS ORDERED** vacating the requirement that the Defendant register as a sex offender.

The Court notes for the record that it will not discuss restoration of civil rights as the Defense is not looking to have the Court vacate or reconsider that.

Mr. Feldman requests that the same parties that were endorsed with respect to his client having to register as a sex offender, be endorsed as to today's order.

The Court notes for the record that the remainder of Judge Kelley's Order will remain in place with respect to restoration of civil rights and right to firearms.

CC:

La Paz County Attorney
Electronically Distributed

Adam Feldman
Electronically Distributed

La Paz County Probation Department
Electronically Distributed

La Paz County Sheriff's Department
Electronically Distributed

Resp - Exhibit 1
Hmg Recording

FEB 03 2025
2024 - 366

