

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. CHRISTOPHER BROWNING
JUDGE

CASE NO. CR20110236-001

COURT REPORTER: Mike Bouley
Courtroom - 578

DATE: July 13, 2011

STATE OF ARIZONA

Julia R. Kaiser, Esq. counsel for State

VS.

AO (-001)
Defendant

Jacob M. Amaru, Esq. counsel for Defendant

MINUTE ENTRY

JURY TRIAL - DAY TWO

10:03 a.m. Defendant is present, out of custody.

OUT OF THE PRESENCE OF THE JURY

State's Exhibit 11a, being the redacted version of State's Exhibit 11, is identified.

State's Exhibit 13, being an easel drawing, is identified.

Mr. Amaru argues defendant's objection to the State introducing State's Exhibit 11a into evidence.

Ms. Kaiser argues in response.

Defendant's objection is overruled.

IN THE PRESENCE OF THE JURY

FOR THE STATE:

Officer Cindy Spasoff is sworn, examined, cross-examined and excused by the Court.

State's Exhibits 8 through 10, 6 and 7, each previously identified, are admitted.

Officer Greg Ewer is sworn, examined and excused by the Court.

Criminalist Sarah Cione is sworn, examined, questioned by the jury through the Court, and excused by the Court.

State's Exhibit 14, being an easel drawing, is identified.

11:21 a.m. The jury is admonished and excused until 1:30 p.m. this date.

OUT OF THE PRESENCE OF THE JURY

The Court advises the defendant of his right to testify.

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Deputy Clerk

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The Court and counsel settle final jury instructions and forms of verdict.

Defendant's Exhibit A, being a transcript interview of Annie G., is identified.

1:20 p.m. Defendant is present, out of custody. Same counsel are present. Rita Borboa reporting.

OUT OF THE PRESENCE OF THE JURY

Mr. Amaru advises the Court that the defendant will not dispute the validity of the HGN test, and argues the defendant's objection to Officer Spasoff being recalled to stand.

Counsel argue to the Court.

Defendant's objection is overruled.

IN THE PRESENCE OF THE JURY

FOR THE STATE (Continued):

Officer Spasoff, previously sworn, is recalled to the stand, examined and excused by the Court.

Annie G. is sworn and examined.

BENCH CONFERENCE

Mr. Amaru moves for a mistrial and argues to the court.

Ms. Kaiser argues in response.

IT IS ORDERED that the motion is denied.

IN OPEN COURT

Ms. G is further examined, cross-examined and excused by the Court.

State's Exhibits 11a, and 12 through 14, each previously identified, are admitted.

State rests.

FOR THE DEFENDANT:

Defendant, AO is sworn, examined and cross-examined.

Defendant rests. Both sides rest.

The Court instructs the jury on the rules they must follow in deciding this case, a copy of which is furnished to each juror for their use during deliberations.

Counsel make closing arguments to the jury.

The Court directs the clerk to select the alternate juror.

Juror # 1 is selected as the alternate by lot and is excused with the thanks of the Court.

IT IS ORDERED that all exhibits admitted into evidence be released to the jury during deliberations.

3:03 p.m. The jury retires to consider its verdicts under charge of the bailiff, Jared Johnson, who was

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first duly sworn for that purpose.

OUT OF THE PRESENCE OF THE JURY

The Court notes that it considered, *sua sponte*, a Rule 20 Motion; and based thereon, THE COURT FINDS that there is substantial evidence to warrant a conviction in this matter. IT IS ORDERED that any such motion is denied.

Court stands at recess.

4:26 p.m. Defendant is present, out of custody. Same counsel are present. Rita Borboa reporting.

The Honorable Deborah Bernini, Division 12, presiding.

The Court reads counsel the question posed by the jury. The jury having reached a verdict prior to the question being asked, the Court questions counsel as to whether they object to proceeding directly with the verdict, to which neither counsel object.

IN THE PRESENCE OF THE JURY

The jury announces, through its foreperson, that they have reached verdicts in this case, finding the defendant, AO, as follows:

NOT GUILTY of the offense of Aggravated Driving Under the Influence of an Intoxicating Liquor While License was Suspended as alleged in Count One of the Indictment; and further find the defendant, AO,

GUILTY of the lesser-included offense of Driving of a Vehicle While Under the Influence of an Intoxicating Liquor;

NOT GUILTY of the offense of Aggravated Driving of a Vehicle with a Blood Alcohol Concentration of 0.08 or More While License was Suspended as alleged in Count Two of the Indictment; and further find the defendant, AO,

GUILTY of the lesser-included offense of Driving of a Vehicle with a Blood Alcohol Concentration of 0.08 or More.

The clerk inquires of the jury if these are their verdicts and so say they all.

The Court questions counsel as to whether they wish the jury polled, to which Ms. Kaiser so requests.

4:31 p.m. The jury is excused with the thanks of the Court.

OUT OF THE PRESENCE OF THE JURY

IT IS ORDERED setting the matter for judgment of guilt and sentencing on August 22, 2011, at 8:30 a.m., in Division 27.

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IT IS ORDERED that a presentence report be prepared by the probation department.

The defendant is directed to cooperate in the presentence investigation.

IT IS ORDERED that the defendant's prior release conditions are affirmed.

IT IS ORDERED that any exhibits not admitted into evidence be released to respective counsel.

Court stands at recess.

FILED IN COURT: Jury List; Preliminary Jury Instructions; Jury Questions Submitted During Trial (3); Final Jury Instructions; Jury Questions Submitted During Deliberations (1); Verdict (2); Sentence Notification Form

cc: Jacob M. Amaru, Esq.
Julia R. Kaiser, Esq.
Adult Probation
Pretrial Services

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Deputy Clerk