

MAR - 8 2012

FILED
PATRICIA NOLAND
CLERK, SUPERIOR COURT
3/8/2012 1:52:04 PM
By: Karla Ronquillo

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. JOHN S. LEONARDO
JUDGE

CASE NO. CR20112731-001

CR20112731-002

COURT REPORTER: Deirdre Muzall
Courtroom - 478

DATE: March 07, 2012

STATE OF ARIZONA

Carolyn M. Nedder, Esq. counsel for State

VS.

TIMOTHY MARK GUILFOYLE (-001) and
TIMOTHY P GUILFOYLE JR (-002)
Defendants

Brian X. Metcalf, Esq.
counsel for Defendant Timothy Mark Guilfoyle

Jacob M. Amaru, Esq.
counsel for Defendant Timothy P Guilfoyle Jr

MINUTE ENTRY

JURY TRIAL---DAY TWO

OUT OF THE PRESENCE OF THE JURY:

10:15 AM Defendants not present, out of custody. Mr. Metcalf and Mr. Amaru waive the defendants' presence.

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

Defendants present, out of custody.

IN THE PRESENCE OF THE JURY:

FOR THE STATE (CONTINUED):

Deputy James Miyata is sworn, examined, cross-examined by Mr. Metcalf, and excused.

Defendant Timothy Mark Guilfoyle's (-001) Exhibits M and N, being copies of 8.5" X 11 Color Photographs, are identified.

Defendant Timothy Mark Guilfoyle's (-001) Exhibits F through K, previously identified, are admitted. Deputy Wayne Berlin is sworn, examined, cross-examined by Mr. Amaru and Mr. Metcalf, and excused. State's Exhibit 13, being a copy of 8.5" X 11 Color Photograph, is identified and admitted.

Sgt. David Rodriguez is sworn, examined, cross-examined by Mr. Amaru, questioned by the jury through the Court, and excused.

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Det. Sharlene Reis is sworn, examined, cross-examined by Mr. Amaru and Mr. Metcalf, questioned by the jury through the Court, and excused.

State rests.

11:55 AM The jury is admonished and excused until 1:25 PM this date.

OUT OF THE PRESENCE OF THE JURY:

Mr. Amaru and Mr. Metcalf make a Rule 20 motion and argue to the Court.

Ms. Nedder argues to the Court in response.

THE COURT FINDS that sufficient evidence exists to warrant conviction as to all counts.

IT IS ORDERED the defendants' Rule 20 motion is DENIED as to all counts.

12:02 PM Court stands at recess until 1:30 PM.

OUT OF THE PRESENCE OF THE JURY:

1:31 PM Defendants present, out of custody.

Same counsel and parties present, with Deirdre Muzall reporting.

The Court and counsel discuss requested jury instructions submitted during the lunch break.

IN THE PRESENCE OF THE JURY:

FOR THE DEFENDANT:

Deputy Daniel Vatterrodt is sworn, examined by Mr. Metcalf, cross-examined, and excused.

Defendant Timothy Mark Guilfoyle's (-001) Exhibits D and E, previously identified, are admitted.

Defendant Timothy Mark Guilfoyle's (-001) Exhibit O, being a copy of Supplement – Deputy Vatterrodt, is identified.

Timothy P. Guilfoyle Jr. is sworn, examined by Mr. Amaru, cross-examined, questioned by the Court, questioned by the jury through the Court, and excused.

Defendant rests. Both sides rest.

Ms. Nedder, Mr. Metcalf, and Mr. Amaru make closing arguments to the jury.

The Court instructs the jury on the rules it must follow in deciding this case: a copy of the Final Jury Instructions is provided to each juror.

IT IS ORDERED that all exhibits admitted into evidence shall be provided to the jury for its use during deliberations.

The clerk is directed to select one (1) alternate juror. Juror No. 3 is selected by lot as the alternate juror, admonished, and excused conditionally.

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3:21 PM The jury retires to consider its verdicts under the charge of the bailiff, Stephanie Linden, who was first duly sworn for that purpose.

OUT OF THE PRESENCE OF THE JURY:

(Clerk's Note: The exhibits not admitted are returned to respective counsel pursuant to the Stipulation and/or Order Re: Release of Exhibits signed by the Court.)

3:22 PM Court stands at recess.

IN THE PRESENCE OF THE JURY:

4:55 PM Defendants present, out of custody.

Same counsel and parties present, with Deirdre Muzall reporting.

The jury announces through its foreperson that they have reached verdicts in this case.

The clerk is directed to read and enter the verdicts into the record.

As to Timothy Mark Guilfoyle – CR20112731-001:

The jury finds the defendant NOT GUILTY of the offense of AGGRAVATED ASSAULT, TEMPORARY/SUBSTANTIAL DISFIGUREMENT, as alleged in COUNT ONE for purposes of trial (original Count Two of the Indictment).

The jury finds the defendant NOT GUILTY of the lesser-included offense of ASSAULT.

As to Timothy P. Guilfoyle Jr. – CR20112731-002:

The jury finds the defendant NOT GUILTY of the offense of AGGRAVATED ASSAULT, TEMPORARY/SUBSTANTIAL DISFIGUREMENT, as alleged in COUNT ONE for purposes of trial (original Count Two of the Indictment).

The jury finds the defendant NOT GUILTY of the lesser-included offense of ASSAULT.

The clerk inquires of the jurors whether these are their verdicts and the verdicts of each of them, and so say they all.

4:58 PM The admonishment is lifted and the jury is thanked for its services and discharged.

OUT OF THE PRESENCE OF THE JURY:

IT IS ORDERED that a Judgment of Acquittal is entered on behalf of the defendants as to Count Two of the Indictment.

The Court notes that Count One of the Indictment which was previously severed is still pending as to Defendant Timothy Mark Guilfoyle (-001).

IT IS ORDERED that the Status Conference Re Trial Date currently set on March 12, 2012, at 9:00 AM,

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in Division 15, as to Defendant Timothy Mark Guilfoyle (-001), is affirmed.

IT IS ORDERED that all admitted exhibits be released to respective counsel.

5:00 PM Court stands at recess.

FILED IN COURT: Jury List; Preliminary Jury Instructions; State's Requested Jury Instructions;
Defendant Timothy Mark Guilfoyle's Requested Jury Instructions; Jury Questions Submitted During Trial (3);
Final Jury Instructions; Verdicts(2); Stipulation and Order Re: Release of Exhibits;

cc: Brian X. Metcalf, Esq.
Carolyn M. Nedder, Esq.
Jacob M. Amaru, Esq.
Clerk of Court - Exhibits (Not Guilty)
Pretrial Services

Karla Ronquillo
Deputy Clerk