

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

FILED IN MY OFFICE
DISTRICT COURT CLERK

STATE OF NEW MEXICO,

2019 JUN 17 PM 3:03

Plaintiff,

vs.

NO: D-1329-CR-201800063
DA# SV 17 2539
STATE #:Not Available

KIMSEY D BARBOAN

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

Defendant Address:

[REDACTED]
Albuquerque, NM, 87102

- JUDGMENT, SENTENCE, AND COMMITMENT
- JUDGMENT, SENTENCE, AND ORDER PARTIALLY SUSPENDING SENTENCE
- JUDGMENT, SENTENCE, AND ORDER SUSPENDING SENTENCE
- CONDITIONAL DISCHARGE
- ORDER DEFERRING SENTENCE

THIS MATTER having come before the Honorable Louis McDonald, District Court Judge on June 17, 2019, for sentencing, the State appearing and being represented by Assistant District Attorney Amy Lopez Dooling and the Defendant appearing in person and represented by counsel of record, Michael Rosenfield and Maxwell Pines and the Defendant having been convicted on June 17, 2019, of the following crimes pursuant to:

- Guilty Plea(s) Guilty Plea Pursuant to North Carolina v. Alford
- No Contest Plea(s) Verdict(s) is hereby sentenced as follows:

to the custody of the:

- Sandoval County Detention Center New Mexico Corrections Department
- [not appropriate for cases where conditional discharge is authorized or sentence is deferred]

for the following terms of imprisonment:

Case Number D-1329-CR-201800063	Statute Number	Class PM/M/ F4/F3/ F2/F1	State Tracking Number	Date Of Offense	Serious Violent Offense Y/N*	Charging Document (Circle One)	
Count 1	§ 30-2-3	F3		December 16, 2017	Y	Indictment	
Offense Name Voluntary Manslaughter, a lesser included offense of Count 1	<input type="checkbox"/> Conditional Discharge - STOP <input type="checkbox"/> Deferred Sentence - STOP <input checked="" type="checkbox"/> Sentence - Enter Sentence Data Below			Concurrently to Counts(s)	Consecu- tively to Count(s)	Enhancement Code (Circle) F O H HO	Parole (Circle) Y N
	Years	Months	Days				
	6						
Years						Years	Years
Case Number D-1329-Cr-201800063	Statute Number	Class PM/M/ F4/F3/ F2/F1	State Tracking Number	Date Of Offense	Serious Violent Offense Y/N*	Charging Document (Circle One)	
Count 2	§ 30-16D-1	F4		December 16, 2017	N	Indictment	
Offense Name Unlawful Taking of a Motor Vehicle	<input type="checkbox"/> Conditional Discharge - STOP <input type="checkbox"/> Deferred Sentence - STOP <input checked="" type="checkbox"/> Sentence - Enter Sentence Data Below			Concurrently to Count(s)	Consecu- tively to Count(s)	Enhancement Code (Circle) F O H HO	Parole (Circle) Y N
	Years	Months	Days				
		18					
Years					1	Years	Years
Case Number D-1329-CR-201800063	Statute Number	Class PM/M/ F4/F3/ F2/F1	State Tracking Number	Date Of Offense	Serious Violent Offense Y/N	Charging Document (Circle One)	
Count 4	§ 66-8-102	M		December 16, 2017	N	Indictment	
Offense Name Driving While Intoxicated (third offense)	<input type="checkbox"/> Conditional Discharge - STOP <input type="checkbox"/> Deferred Sentence - STOP <input type="checkbox"/> Sentence - Enter Sentence Data Below			Concurrently to Counts(s) 1 + 2	Consecu- tively to Count(s)	Enhancement Code (Circle) F O H HO	Parole (Circle) Y N
	Years	Months	Days				
Years						Years	Years

Enhancements: F = Firearm, O = Old Age, H = Handicap, HO = Habitual Offender

* Applies to crimes committed after July 1, 1999. See below for any special enumerations required for this status.

Aggravation/Mitigation. The sentence for count(s) _____ is: Aggravated Mitigated for _____ years.

Enumeration of Discretionary Special Violent Offender Findings. _____

Total Term.

The total term of imprisonment to be served is: 7 years 6 months _____ days
of which:

Suspended Sentence: _____ years _____ months _____ days
of aforesaid sentence is suspended in its entirety.

Partially Suspended Sentence: 3 years 6 months _____ days
of aforesaid sentence is suspended;

and the remaining

Actual Term: 4 years _____ months _____ days
of the aforesaid term shall be the actual term of imprisonment to be served:

Consecutively to the sentence imposed in Case Number _____

Concurrently to the sentence imposed in Case Number _____

Sentence of imprisonment may be served in the Sandoval County Detention Center:

Straight Time

Subject to Good Time

CCP Authorized

CCP Ordered

Therapeutic Communities is recommended while in the Department of Corrections. *a/k/a RDAP*

Defendant shall register as a sex offender pursuant to Section 29-11A-1 et seq., as amended.

Restitution. See probation section for details. The court authorizes the Department Of Corrections through its case workers to withhold _____% of inmates income while incarcerated.

Pre-sentence Confinement Credit. Pre-sentence confinement credit in the amount of 547 days is awarded as of this date and post-sentence confinement credit until transported to the Department of Corrections shall also be awarded.

Parole. Defendant, if imprisoned at any time pursuant to the above conviction in a facility designated by the Department of Corrections shall be placed on parole for 2 year(s) after release and be required to pay parole costs. (1 year for F4; 2 years for F3, F2 and F1).

Deferred Sentence.

It is ordered that imposition of sentence be deferred for _____ years _____ months _____ days on condition that the Defendant be placed on probation.

Conditional Discharge. It is hereby ordered that, without adjudication of guilt, further proceedings be deferred for _____ years _____ months _____ days, pursuant to

NMSA §31-20-13 (cum. Supp. 1996), OR

NMSA §30-31-28 (cum. Supp. 1996) (Controlled Substances Act) and the Defendant be placed on probation.

Probation. Defendant is placed on **Supervised** **Unsupervised** probation for a term of:

_____ 3 years _____ 6 months _____ days. Probation officer may request early termination of probation if appropriate.

Probation may be transferred to _____ County, New Mexico.

the State(s) of _____.

No Probation. Suspended without further condition.

PROBATION CONDITIONS

IN ADDITION TO ALL STANDARD CONDITIONS OF PROBATION UNLESS UNSUPERVISED

Defendant Shall Obtain and Maintain Full-time Employment (30 hours/week or more), or full-time education (at least 14 semester or trimester hours at an accredited college, university, or technical-vocational institute; or full-time high school or GED studies, or DVR program), or a combination of employment and education.

Defendant shall not drive any vehicle for _____ years unless it has a functioning Ignition Interlock device.

Defendant Shall Perform _____ Hours of Community Service in a program/facility approved by probation authority.

Defendant Shall Enter, Attend, and Successfully Complete Counseling/Treatment Program(s) as required by the plea and disposition agreement and/or as recommended by probation authorities. These may include but are not limited to

Defendant Shall be Subject to Random Urinalysis.

Defendant Shall Not Have or Use Any Firearms

Alcoholic Beverages Illegal Drugs

Sandoval County DWI 1st Multiple Offender Program

Defendant Shall Not Enter or Remain In Any Tavern, Bar, or Lounge

Victim Impact Program Sandoval County Drug Ct

Alcohol/Substance Abuse Treatment

Defendant Shall Make a Donation of \$ _____ to _____

PB&J OR La Buena Vida Parenting Classes

Anger/Conflict Management DV Counseling

Defendant Shall Pay Restitution as required by the plea and disposition agreement

Defendant Shall Register as a Sex Offender pursuant to section NMSA 1978 §29-11A-1, *et seq.*, as amended.

in the amount of \$ _____

OR

Defendant shall provide for the financial support of legal dependents.

to be determined by the probation authority in a payment plan chosen or approved by the probation authority.

Defendant Shall Not Have Contact or Association with Any Street Gangs or their members

Defendant's License Shall be Revoked for _____ and he/she Shall Not Drive Without a Valid New Mexico Driver's License.

Defendant Shall Not Go to or Remain in Any of the Following Areas or neighborhoods except when physically accompanied by a police or probation officer: _____

Defendant Shall Not Have Contact with Victim(s) or Family(ies) of Victim(s). The defendant shall not contact in person, by phone, or through anyone other than the defendant's probation officer or attorney any of the following persons or their families: _____

Defendant Shall Not Go to or Within _____

_____ Of above named persons or their families residences or work places.

Defendant shall be subject to the STEPS program

Special Conditions of probation as follows: _____

Upon release from the Department of Corrections, the Defendant shall be placed on supervised probation for 3 years 6 months and shall be required to enter and successfully complete a year long inpatient alcohol/drug treatment program if he hasn't completed a similar program at NMDC. The inpatient program will be followed by intensive outpatient drug/alcohol treatment.

PROBATION COSTS:

Probation costs are hereby waived following an evidentiary hearing at which the Court has determined that the imposition of such costs would pose a financial hardship on the Defendant.

Defendant shall pay monthly probation costs in an amount to be determined by the Probation and Parole Division of the Corrections Department. At the discretion of the Probation and Parole Division of the Corrections Department, probation costs may be waived for any month that defendant is paying for:

- Treatment Restitution Counseling

FEES AND FINES:

Defendant must pay the following:

For Any Offense:

\$5 Domestic Violence Treatment Fee

For Any Felony:

\$100 DNA Identity Fee Provide DNA sample by _____

For Felony or Misdemeanor DWI:

\$65 DWI Lab fee

\$75 DWI Prevention Fee

FINE of \$ _____

Misdemeanor DWI Mandatory Traffic Fees:

\$20 Corrections Fee

\$10 Court Automation Fee

\$3 traffic safety fee

\$2 Judicial Education Fee

\$5 Brain Injury Fee

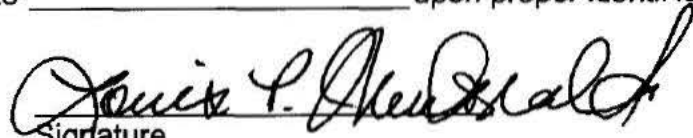
\$10 Court Facilities Fee

Controlled Substances Act 30-31-1:

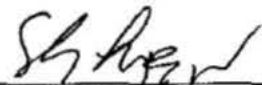
\$75 Crime Drug Lab Fee

- Defendant is referred to the Sandoval County DWI Program
- Defendant shall report to SCDC on _____ to begin his/her jail sentence
- DISMISSAL OF REMAINING CHARGES:** Pursuant to the Plea and Disposition Agreement, count(s) 3, 5, 6 in CR- 201800063 [and] count(s) _____ in CR- _____ [is][are] hereby dismissed.
- DISMISSAL OF CHARGES** that could have been brought in DA File #[s] _____

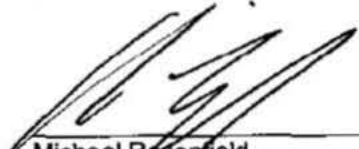
The bond shall be released to _____ upon proper identification.


Signature
District Judge - Division:

NOTED, and ALL OBJECTIONS PRESERVED:



Amy Lopez Dooling
Assistant District Attorney
13th Judicial District Attorney's Office
PO Box 1750
Bernalillo, NM 87004
(505)771-7400



Michael Rosenfield
Counsel for Defendant
Address and phone number: