

The Superior Court of Arizona in Maricopa County - Adult Probation Department
Chief Probation Officer Barbara A. Broderick

PRESENTENCE INVESTIGATION

State of Arizona v. Mike Gerard Tyson, CR2006-19849-001-SE

Superior Court Criminal Division P

Sentencing Date: November 19, 2007

Sentencing Judge: Helene Abrams
PSJ Officer: Kim Ong

Prosecutor: Shane Krauser, DCA
Defense Counsel: Thomas Marlowe, Brian Russo, and David Chesnoff, PVT

Present Offense:

The following information is summarized from Buckeye Police Departmental Report #06-014475:

On December 29, 2006, at approximately 1:27 A.M., the defendant was stopped by police for a traffic violation. He was found to be driving under the influence and was arrested. He was searched and found in possession of two small baggies of cocaine (field tested). Another small baggie of cocaine was found in his vehicle. The illicit drugs were later tested and found to be .56, 1.11, and .49 grams of cocaine. When questioned by police, the defendant admitted to using marijuana and cocaine earlier that day, and he had also taken the prescription drug Zoloft. He also admitted to being an addict.

Statement of Interested Parties:

Attached to this report are letters written on behalf of the defendant, as well as treatment information.

Commentary:

In regard to the present offense, the defendant states he left home and went by a nightclub and picked up a few baggies of cocaine. On his way home, the police stopped him. He does not know why he was stopped, but he believes he may have been driving erratically. The defendant also states he had approximately two grams of cocaine in his possession, and he was using it and drinking alcohol all day.

As to sentencing, the defendant would like to be placed on probation. He states he would be more of an asset out of prison than in prison. He would like to take care of his children and his other obligations. The defendant states he made a mistake and deserves another chance. He also states he has taken the right steps to address his problems and to help those in the community going through the same things. He advises that everything he is doing now is to

The Superior Court of Arizona in Maricopa County - Adult Probation Department
Chief Probation Officer Barbara A. Broderick

State of Arizona v. Mike Gerard Tyson, CR2006-179849-001-SE

make him a better and more positive person. The defendant has also submitted a written statement.

The defendant states his parents divorced when he was three and he was raised by his mother. He was aware of physical and verbal altercations between his mother and her boyfriends. His mother would beat him, but he did not feel it had a negative effect on him, as he feels he probably deserved it. He also states he was exposed to people getting hurt or killed in the neighborhood he was raised in.

The last grade he completed in school was the ninth, and he is currently working on obtaining his GED. When he did attend school, he participated in full-time special education classes. He was also suspended from school several times for fighting and truancy.

The defendant has been unemployed for the past eighteen months. Most of his income is obtained through investments and properties. In the past, he has worked as a professional boxer, spokesperson, actor, and author. He does not believe he will have difficulty finding a job.

The defendant has been divorced for five years, and he is not in a relationship at this time. He has five children from two separate relationships. Three of his children live in Maryland and the other two in Arizona. He does pay child support and has regular contact with all of his children. The defendant has sold his home in Arizona but plans on purchasing one for his children and their mother. He would like to remain in California if placed on probation so he can continue with his treatment.

The defendant first tried alcohol at the age of ten. His mother was an alcoholic. During the time of the present offense, he states he was drinking frequently to intoxication. He would drink a couple of times a week and it would be all day. His use of alcohol resulted in him being isolated and not having many friends. The defendant completed a self-administered alcohol screening evaluation, and he scored in the range of having an alcohol problem. He has attended substance abuse treatment two times in the past but did not complete them. He is currently attending one now and has been there since January 2007. He is also going through the twelve step programs (AA, NA, and CA) and he has a sponsor. The defendant states this has been the longest time he has been at a treatment facility, and he feels this has been the best program he has been involved with to date.

The defendant states the only illicit drugs he used were marijuana and cocaine. For the past four or five years, he states he was using both drugs on a continuous basis, and he has not used either one in over nine months. He admits to having a substance abuse issue, and he is currently addressing this by attending treatment as mentioned previously.

The present offense will result in the defendant's third known felony conviction and second known misdemeanor conviction. He was sentenced to prison for his first two felony convictions and was released in March 1995. He was on parole, and he states he completed it.

The Superior Court of Arizona in Maricopa County - Adult Probation Department
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State of Arizona v. Mike Gerard Tyson, CR2006-19849-001-SE

Since that time his only other criminal conviction was an assault charge in New York (2003). He is also a registered sex offender.

In the current offense, the defendant was driving under the influence and was in possession of illicit drugs. Since his arrest he has taken the initiative by attending substance abuse treatment, addressing his mental health issues, and getting out into the community to talk about his substance abuse issues, the wrong choices he has made in his life, and the path he has now taken to become sober.

There are no stipulations contained in the plea agreement. This officer has taken into account several factors in regard to the defendant. He was sentenced to prison for his first two felony convictions and thus has suffered the appropriate consequences for his actions. Since that time there have been no other known arrests or convictions related to sex offenses. If this offense were sex related or violent, then prison would be the correct sanction, as this would show a repetitive criminal behavior. However, this is a felony drug offense and a misdemeanor DUI; offenses that this officer does not believe warrant prison at this time.

Thus this officer believes the most appropriate sanction at this time is supervised probation along with substance abuse treatment. The specialized mental health terms will also be recommended. As to count III, it is recommended he serve one day in jail and attend the Victim Impact Panel. The cost of incarceration for one day in jail is \$100.51 and \$42.41 for each day thereafter, should more jail time be added. Furthermore, prison is still an option if the defendant fails to comply with his probation grant.

As stated previously, if placed on probation, the defendant would like to have this grant transferred to the State of California. He plans to live there when he completes treatment. This officer was initially concerned with the type of supervision he would be receiving in California. This officer did contact their Interstate Compact Officer, and she informed this officer that the defendant would be required to report to a probation officer in person due to his risk score and if urinalysis testing is ordered. This officer believes the defendant needs this type of supervision in order for him to maintain his sobriety, and thus this officer will recommend mandatory drug testing as a condition of his probation grant.

Recommendation:

Count I:

It is respectfully recommended that the defendant be granted three year(s) supervised probation to begin on November 19, 2007. Abide by the following additional conditions:

- Condition #16 Abide by the following judgment and order of restitution, fines and fees:
- 16b. Probation Service Fee of \$200.00 per month beginning on January 1, 2008.
 - 16c. Drug Fine of \$2,000.00

The Superior Court of Arizona in Maricopa County - Adult Probation Department
Chief Probation Officer Barbara A. Brodetick

State of Arizona v. Mike Gerard Tyson, CR2006-179849-001-SE

- 16d. Plus a surcharge of 80 percent, in the total amount of \$3,600.00 in payments of \$50.00 per month beginning on January 1, 2008.
- 16i. Probation Surcharge in the total amount of \$10.00 beginning on January 1, 2008.
- 16n. Interstate Compact Application Fee of \$300.00.
- 16o. Time Payment Fee of \$20.00.
- Condition #17 Not consume or drink any substance containing alcohol.
- Condition #19 Complete 360 hours of approved community restitution at a minimum rate of 20 hours per month as directed by the APD.
- Condition #23 Be permitted to apply for Interstate Compact supervision in the state of California. Do not proceed until reporting instructions are received and the APD issues a written travel permit.
- Condition #24 Participate in counseling as directed by APD pertaining to:
 Substance Abuse
 Mental Health
- Condition #25 Abide by the attached special conditions of probation:
 Mental Health
- Condition #26 Mandatory drug testing throughout his probation grant.

Count III:


It is respectfully recommended that the defendant be granted three year(s) supervised probation to begin on November 19, 2007. Abide by the following additional conditions:

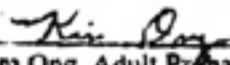
- Condition #16 Abide by the following judgment and order of restitution, fines and fees:
- 16c. Fine of \$250.00
- 16d. Plus a surcharge of 80 percent, in the total amount of \$450.00 in payments of \$25.00 per month beginning on January 1, 2008.
- 16j. DUI Incarceration Cost in the total amount of \$100.51, at \$10.00 per month beginning on January 1, 2008.
- 16k. Prison Construction and Operations Fund in the total amount of \$500.00, at \$25.00 per month beginning on January 1, 2008.
- 16l. State General Fund in the total amount of \$500.00, at \$25.00 per month beginning on January 1, 2008.
- 16o. Time Payment Fee of \$20.00.
- Condition #17 Not consume or drink any substance containing alcohol.
- Condition #21 Be incarcerated in the county jail for ten day(s), beginning on November 19, 2007.
- Report to APD within 72 hours of release.
- Condition #23 Be permitted to apply for Interstate Compact supervision in the state of California. Do not proceed until reporting instructions are received and the APD issues a written travel permit.

The Superior Court of Arizona in Maricopa County - Adult Probation Department
Chief Probation Officer Barbara A. Broderick

State of Arizona v. Mike Gerard Tyson, CR2006-179849-001-SE

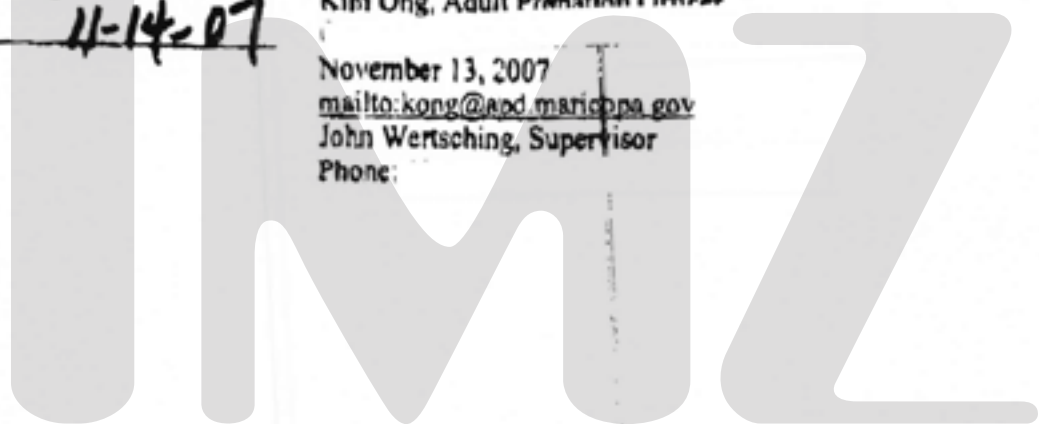
- Condition #24 Participate in counseling as directed by APD pertaining to:
Substance Abuse
Mental Health
Victim Impact Panel
- Condition #25 Abide by the attached special conditions of probation:
Mental Health
- Condition #26 Mandatory drug testing throughout his probation grant.

Reviewed by: 
 Judge: _____
 Date: 11-14-07

Respectfully submitted by:


 Kim Ong, Adult Probation Officer

November 13, 2007
<mailto:kong@apd.maricopa.gov>
 John Wertsching, Supervisor
 Phone: _____



THE STATE OF ARIZONA,

Plaintiff,

vs.

MIKE GERARD TYSON,

Defendant.

NO. CR 2008-176949-001DT

PLEA AGREEMENT

NOT PROPOSITION 200 ELIGIBLE

PAGE 3 OF 3

I have personally and voluntarily placed my initials in each of the above boxes and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, and I voluntarily accept a total binding agreement.

Date 8-24-07

Defendant [Signature]
MIKE GERARD TYSON

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I have also explained the nature of the charge(s) and the elements of the crime(s). I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date 8-24-07

Defense Counsel [Signature]

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date 9/24/07

Prosecutor [Signature]
SHANE F. KRAUBER, #021172

