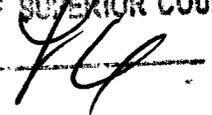


SUPERIOR COURT OF ARIZONA, COCHISE COUNTY
LIVINGSTON SUTRO, CHIEF PROBATION OFFICER

FILED

2010 FEB -9 PM 4: 01

ADULT PROBATION DISPOSITION/COVER SHEET DENISE I. LUNDIN
CLERK OF SUPERIOR COURT

BY 

NAME: James Charles Ray
SENTENCING DATE: 02/11/2010 SENTENCE TIME: 13:30
SENTENCING JUDGE: Donna M Beumler
CRIMINAL DIVISION: VI
PROSECUTOR: Lori Zucco - County Attorney
DEFENSE: David Thorn - Public Defender

NEW OFFENSE

CAUSE No.: CR200900042 CHARGE: Count I 13-1702 RECKLESS
BURNING N 1 M

DISPOSITION: _____

FELONY__ MISDEMEANOR__ OPEN-END__ RESTITUTION__ FINE__ REIMBURSEMENT

NEW OFFENSE

CAUSE No.: CR200900042 CHARGE: Count II 13-1702A RECKLESS
BURNING N 1 M

DISPOSITION: _____

FELONY__ MISDEMEANOR__ OPEN-END__ RESTITUTION__ FINE__ REIMBURSEMENT

**James Charles RAY
AKA: Jace RAY
CR200900042**

SENTENCING DATA:

Present Offense:

Count I: Without lawful authority, recklessly set or caused to be set on fire any wildland other than the person's own or to permit a fire that was set or caused to be set by the person to pass from the person's own grounds to the grounds of another person, committed on or about March 20, 2008, in violation of A.R.S. §§13-1706(A), 13-1706(C)(2), 13-1701, 13-1709, 13-105, 13-701, 13-702, and 13-801, a class 1 misdemeanor and Count I of the Indictment as charged.

Count II: Committed reckless burning by recklessly causing a fire or explosion which results in damage to an occupied structure, a structure, or wildland or property, committed on or about March 20, 2008, in violation of A.R.S. §§13-1702(A), 13-1701, 13-1709, 13-105, 13-701, 13-702, and 13-801, a class 1 misdemeanor and Count II of the Indictment as charged.

Penalty:

On each Count, he may be incarcerated in the Cochise County Jail for up to six (6) months and may be fined any amount up to \$2,500. Further, he may be granted probation for up to three (3) years.

County Attorney Recommendations/Stipulations:

The State will make sentencing recommendations at the scheduled Sentencing Hearing. The State will also present information regarding requested restitution pursuant to §13-1709 at the scheduled Restitution Hearing.

Co-defendant(s)/disposition(s): None.

D.O.C. Classification:

Each offense is a class 1 misdemeanor.

Mandatory Sentencing Provisions:

A.R.S.

§12-114.01

REQUIREMENT

\$10 probation surcharge if any fines and/or assessments are ordered.

**James Charles RAY
AKA: Jace RAY
CR200900042**

§12-116

\$20.00 Time Payment Fee if restitution or any other financial penalties are assessed.

STATEMENTS OF OFFENSE:

Official Version:

Inasmuch as the Court presided over the bench trial in this case, the following is a brief summary of the information in the investigative reports:

On March 20, 2008, at about 10:30 a.m., the Bisbee Fire Department received a call about a brush fire in the area of 30 Moon Canyon in Bisbee. Officers with the Bisbee Police Department also responded to the scene and wrote the investigative reports in this case. The Bisbee Fire Department personnel were unable to control the initial fire, primarily due to high winds, and fire suppression personnel from the U.S. Bureau of Land Management, the U.S. Forestry Service, and the Arizona Forestry Service eventually participated in controlling and suppressing this fire, which burned more than 800 acres. The fire also caused the authorities to recommend evacuation to several residents in the area for their safety, although no homes were damaged.

The investigation revealed that the defendant had started a fire in a burn pit on his property, with the intention of burning cut limbs and similar material, and he said that a bush which was near the pit caught on fire and he was unable to put it out. The defendant had a burn permit from the Bisbee Fire Department which he obtained on February 8, 2008, and he said he thought he could burn under this permit as long as he had a hose and other safety equipment available. The police officer spoke with a neighbor, who said he saw the defendant mixing oil and gasoline in a can before the fire was started, but the defendant denied using any accelerants on the fire, saying he only used newspaper to get it started.

The police officer spoke with several of the Bisbee firemen, and they told him that burn permits were valid only for the date on which they were issued. They also said one of the requirements for obtaining a burn permit was that the area had to be inspected by fire personnel that day to ensure that the proposed burn site was clear of grass and other vegetation. In an interview on April 24th the police officer spoke with the fireman who issued the defendant his burn permit on February 8th, and the fireman said he explained that the permit was only valid on that day. He said he also explained the requirement for a new permit and inspection for any future proposed burns. Finally, the fireman said he would not have issued any burn permits on March 20th due to the weather, which was hot and windy.

The defendant was indicted in CR20090042 on January 29, 2009. He pled not guilty, and he was found guilty by the Court of both Counts in the Indictment on October 28, 2009.

**James Charles RAY
AKA: Jace RAY
CR200900042**

Defendant's Version:

The defendant was not interviewed by this writer for this presentence report. However, on February 9, 2010, he submitted his Adult Information Sheets to this writer, and the following information was contained therein.

The following was typed verbatim from the defendant's written version:

"3-20-08 Burning trash @ my house & heat caused a bush to ignite outside burn-pit which caused BLM land to burn – 2 years ago 2008"

With regard to victim impact, the defendant wrote, "Made them angry." With regard to what sentence he felt the Court should impose in this case, the defendant wrote, "None – was complete accident."

Victim's Statement:

The State will present information to the Court at the scheduled Restitution Hearing regarding the reimbursement of fire suppression costs pursuant to §13-1709. The following information was provided to this writer for inclusion in this report:

Bureau of Land Management:	\$ 51,521.19
Bisbee Fire Department:	\$ 6,692.58
Bisbee Police Department:	\$ 10,752.28
U.S. Forestry Service:	\$ 53,485.38
AZ Forestry:	\$237,767.82

The total of all of the above is: **\$360,219.25.**

REIMBURSEMENT INFORMATION:

The defendant has not yet been assessed attorney fees in accordance with Administrative Order 2004-10. The Court may wish to address the matter at sentencing.

SENTENCING OPTIONS:

Intensive Probation Supervision (IPS) Eligibility:

Inasmuch as the instant offenses are misdemeanors, the defendant is not eligible for IPS.

James Charles RAY
AKA: Jace RAY
CR200900042

MITIGATING AND AGGRAVATING FACTORS:

In reviewing the case, the Probation Department considered the following Mitigating and Aggravating factors:

Mitigation:

1. None.

Aggravation:

1. Financial harm to the victims.

IF INCARCERATED AS TO COUNT I, it is respectfully suggested that it be for three (3) months in the Cochise County Jail and that he receive credit for zero (0) days' time served.

IF INCARCERATED AS TO COUNT II, it is respectfully suggested that it be for three (3) months in the Cochise County Jail and that he receive credit for zero (0) days' time served.

IF GRANTED PROBATION, it is respectfully suggested that it be for three (3) years on the following terms and conditions:

CONDITIONS: 1 THROUGH 16, 19 (100 hrs. as directed), 24 (Cognitive Skills).

Respectfully submitted,


Richard Walker, Deputy
Adult Probation Officer

Reviewed: 