

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF PIMA

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5 STATE OF ARIZONA,
6 Plaintiff,

7 vs.

Case No. CR20080406
2 CA-CR 2010-0376

8 ADAM WALTON,
9
10 Defendant.

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Tucson, Arizona
October 26, 2010

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BEFORE: THE HON. HOWARD FELL, JUDGE PRO TEMPORE
 Division SR

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APPEARANCES:

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Michelle Araneta, Esq.,
appearing for the State;

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Stephen Paul Barnard, Esq.,
appearing for the Defendant.

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SENTENCING

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KRISTINE B. VALDEZ, RPR
CERTIFIED COURT REPORTER #50182
Pima County Superior Court
Tucson, Arizona 85701

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P R O C E E D I N G S

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THE COURT: State of Arizona versus Adam
Walton, 20080406.

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Michelle Araneta for Fred Pascoe, Steve
Barnard for Mr. Walton, present, out custody.

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THE COURT: Mr. Walton, your name, please?

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MR. WALTON: Adam Walton.

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THE COURT: Sit down. Your date of birth.

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MR. WALTON: 11/18/84.

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THE COURT: All right. Based on
your change -- based on your trial, rather, that you
had on December -- I'm sorry, September 2nd, 2010,
it's the judgment of the Court you're guilty of
amended Count One, which is the D.U.I., misdemeanor,
that was in violation of A.R.S. 28-1381.

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And Count Two, the Aggravated D.U.I., that's
the Class Four, nondangerous, nonrepetitive, committed
the same date, June 16th of '07 in violation of A.R.S.
28-1383.

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I read all the materials and everything that
Mr. Barnard sent over.

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Ms. Araneta, did Mr. Pascoe have a
recommendation?

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MS. ARANETA: Your Honor, I'll submit to the
Court's discretion. There's no recommendation. I

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1 reviewed everything and it appears that --

2 THE COURT: It is -- what it is?

3 MS. ARANETA: It is what it is.

4 THE COURT: Mr. Barnard.

5 MR BARNARD: Judge, I guess you already read
6 the sentencing memorandum, so I don't have to add to
7 that. I want to point out a couple of things.

8 This incident happened three years ago and
9 he's been effectively on supervised probation during
10 that time.

11 THE COURT: Yeah.

12 MR BARNARD: Not perfect, but even according
13 to the probation officer, he's really changed his ways
14 from beginning to up until this point.

15 He's recognized himself, for instance, that
16 there's an alcohol problem probably related to his
17 diagnosed anxiety depression issues that makes it
18 tougher.

19 THE COURT: Yeah, but Adam, there's medicine
20 for that, don't self-medicate.

21 MR. BARNARD: He's taking them now.

22 He, in addition to what probation wants him
23 to do he's, as you know, going to AA three times a
24 week. He's now enrolled at Pima Medical Institute
25 doing very, very well. He's the sole caregiver for

1 his grandmother right now. I think he is definitely
2 an appropriate candidate for probation.

3 As you probably know, there is an appeal
4 contemplated. The appeal is on really a legal issue,
5 not so much with whether he recognizes there is an
6 alcohol issue. That's -- the admissibility of the
7 blood, if you remember this case, the testimony was
8 the probable cause is he used alcohol. Our position
9 is that's not enough. I don't know what the Court of
10 Appeals could do -- will do, but I think it's a viable
11 issue.

12 And so I would ask that Adam be placed on
13 probation and that -- I'm going to ask you pursuant to
14 Rule 7.2 that he remain on release pending the appeal.
15 You can make a determination as to whether you think
16 there's a reasonable chance of success, that's up to.

17 THE COURT: Adam, do you want to say
18 anything this morning?

19 MR. WALTON: I pretty much wrote everything
20 in my letter, that was from the heart. I am the sole
21 caregiver for my grandmother whose terminally ill and
22 it means a lot to me. And I just don't want to -- I
23 want to be there when she passes.

24 And school-wise, I'm -- I mean my life is in
25 such a different place now that I'm just -- I got

1 everything going for me and that's pretty much it.
2 Like I said in my letter, pretty much said everything
3 I had to say.

4 THE COURT: All right. It's the judgement
5 of the Court that imposition of sentence is suspended.
6 You're placed on probation for three years. For the
7 misdemeanor D.U.I., you have to pay a fine of \$250
8 plus a \$200 surcharge. For the felony D.U.I., \$750
9 plus a \$600 surcharge. You'll be paying \$65 a month
10 while you're on probation, also a \$1500 to the State
11 General Funds, \$1500 to the Prison Construction Fund.

12 You will be on the Aggravated D.U.I.
13 caseload. You will drink no alcohol, participate in
14 substance abuse counseling, no driving without a valid
15 license, 240 hours of community service, employment
16 and/or school, an ignition lock on your vehicle.

17 You're ordered to serve four months in the
18 Department of Corrections. You don't have any time
19 credit.

20 I'll set a status conference for December
21 1st at nine o'clock to determine the date at which Mr.
22 Walton will be taken into custody to serve the four
23 months in the Department of Corrections. I don't
24 believe that the statute mandates that the four months
25 be served right off the bat, so let's see what happens

1 with your life. But eventually, unless something
2 happens on the appeal, but otherwise you're going to
3 serve this four months. I just -- because you haven't
4 had any difficulty, any significant difficulties, you
5 haven't been drinking, I feel that it's safe for the
6 community, so I'm going let you stay out of custody.
7 And then, as I said, we'll talk about this again on
8 December 1st at nine o'clock.

9 MR. WALTON: Thank you, Your Honor.

10 THE COURT: Okay.

11 MR. WALTON: Thank you.

12 MR BARNARD: Thank you, Judge.

13 THE COURT: All right. You have right to
14 file a petition for Post-Conviction Relief. If you
15 want to do that, you need to do that within 90 days.
16 Sign for Post-Conviction relief rights, your
17 conditions of probation, and I'll see you back on
18 December 1st.

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C E R T I F I C A T E

I, Kristine B. Valdez do hereby certify that
as an Official Court Reporter for the Pima County
Superior Court I reported the foregoing proceedings to
the best of my skill and ability; and that the same
was transcribed under my supervision via
computer-aided transcription; and that the foregoing
pages of typewritten matter are a true, correct, and
complete transcript of all the proceedings had as set
forth in the title page hereto.

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