

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LANE

State of Oregon,)	
Plaintiff)	
)	Case No.: 17CR66971
vs.)	
)	JUDGMENT
)	
Francisco Yvanez Diaz, Jr,)	Case File Date: 10/09/2017
Defendant)	District Attorney File #: 039301709

DEFENDANT

True Name: Francisco Yvanez Diaz, Jr
Date Of Birth: 12/27/1968

State Identification No (SID): 12595082OR

HEARING

Proceeding Date: 11/16/2017

Defendant appeared in person and was in custody. The court determined that the defendant was indigent for purposes of court-appointed counsel, and the court appointed counsel for the defendant. The defendant was represented by Attorney(s) JORDON HUPPERT, OSB Number 111124. Plaintiff appeared by and through Attorney(s) KATHERINE GREEN, OSB Number 093680. Defendant knowingly waived two day waiting period before sentencing.

COUNT(S)

It is adjudged that the defendant has been convicted on the following count(s):

Count 1 : Strangulation - Constituting Domestic Violence

Count number 1, Strangulation - Constituting Domestic Violence, 163.187(4), Felony Class C, committed on or about 10/08/2017. Conviction is based upon a Guilty Plea on 11/16/2017.

Probation

Defendant is sentenced to Bench Probation for a period of 36 month(s) and shall be subject to the following conditions of Probation:

Furthermore, Defendant is subject to the following Special Conditions of Probation (ORS 137.540(2)): Defendant shall:

- Comply with the conditions of probation on all other counts herein.

Jail as a Condition of Probation

Defendant is confined to jail for 30 day(s). Defendant is remanded to the custody of the Lane County Sheriff for transportation to the Supervisory Authority for service of this sentence. Considered served. Defendant may receive credit for time served.

The Defendant may be considered by the supervisory authority for any form of alternative sanction authorized by ORS 423.478, and the defendant shall pay any required per diem fees.

Statutory Provisions

Defendant is ordered to submit blood or buccal sample and thumbprint pursuant to ORS 137.076.

Count 2 : Assault in the Fourth Degree - Constituting Domestic Violence

Count number 2, Assault in the Fourth Degree - Constituting Domestic Violence, 163.160(3), Felony Class C, committed on or about 10/08/2017. Conviction is based upon a Guilty Plea on 11/16/2017.

Sentencing Guidelines

The Crime Severity Classification (CSC) on Count Number 2 is 6 and the Criminal History Classification (CHC) is B.

The court finds substantial and compelling reason for a Downward Dispositional Departure, as stated on the record. This departure is pursuant to the following aggravating or mitigating factor(s):

- Stipulation of Parties
- The parties stipulate that if defendant violates probation with victim contact, the defendant will be sentenced as a 7B with a 25-30 month sentence with Department of Corrections; defendant will be sentenced as a 6B for any other violations.

Probation

Defendant is sentenced to Supervised Probation for a period of 36 month(s) and shall be subject to the following conditions of Probation:

Defendant is subject to the following general conditions of probation (ORS 137.540):

- Pay supervision fees, fines, restitution or other fees ordered by the court.
- Not use or possess controlled substances except pursuant to a medical prescription.
- Submit to testing for controlled substance, cannabis or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.
- Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
- Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.
- If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.
- Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.
- Permit the parole and probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.
- Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.
- Obey all laws, municipal, county, state and federal.
- Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
- Not possess weapons, firearms or dangerous animals.
- Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.
- Report as required and abide by the direction of the supervising officer.
- Submit to a risk and needs assessment as directed by the supervising officer

Furthermore, Defendant is subject to the following Special Conditions of Probation (ORS 137.540(2)): Defendant shall:

- Have no contact of any kind with Magan Michelle McDermott, without the prior written permission of the probation officer. This includes attempting contact by a 3rd party.
- Not knowingly be within 1,000 feet of the residence, employment or motor vehicle of Magan Michelle McDermott without the prior written permission of the probation officer.
- Submit to assessment and evaluation to develop a case plan for supervision and/or treatment. Follow all recommendations of the evaluator.
- Participate in random polygraph examinations to obtain information for risk management and treatment at the direction of the probation officer. The probationer is responsible for paying the expenses of the examinations.
- Not buy, possess or consume alcoholic beverages nor be in any place where the principal purpose is

the sale or serving of alcohol.

- Not purchase, use, or possess controlled substances, except as in accordance with a valid prescription.
- Comply with Curfew/Electronic Supervision Program/Geographic restrictions at the direction of the probation officer.
- Not enter into or participate in any intimate relationship/encounters with any person without the prior written permission of the probation officer.
- Not own, possess or have access to weapons, firearms, or any dangerous animals.
- Comply with any valid restraining order.

Jail as a Condition of Probation

Defendant is confined to jail for 30 day(s). Defendant is remanded to the custody of the Lane County Sheriff for transportation to the Supervisory Authority for service of this sentence. Defendant may receive credit for time served. Considered served.

The Defendant may be considered by the supervisory authority for any form of alternative sanction authorized by ORS 423.478, and the defendant shall pay any required per diem fees.

This sentence shall be concurrent with all previously imposed sentences.

Statutory Provisions

Defendant is ordered to submit blood or buccal sample and thumbprint pursuant to ORS 137.076.

If convicted of a felony or a crime involving domestic violence, you may lose the right to buy, sell, transport, receive, or possess a firearm, ammunition, or other weapons in both personal and professional endeavors pursuant to ORS 166.250, ORS 166.291, ORS 166.300, and/or 18 USC 922(g).

Payment Schedule

Payment of the fines, fees, assessments, and/or attorney's fees noted in this and any subsequent Money Award shall be scheduled by the clerk of the court pursuant to ORS 161.675.

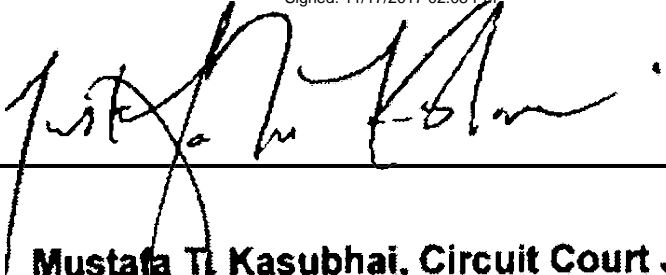
Payable to:

Lane County Circuit Court
125 E. 8th Ave.
Eugene, Oregon 97401
P: 541-682-4020
F: <http://courts.oregon.gov/Lane>

Dated the _____ day of _____, 20____

Signed: 11/17/2017 02:00 PM

Signed: _____



Mustafa T. Kasubhai, Circuit Court Judge