GRIC

Foundations for Prosecution Conference

October 19 – 23, 2020
Virtual Via Zoom

CASE PREPARATION

Presented by:

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Deputy Maricopa County Attorney

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
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EXECUTIVE DIRECTOR

CASE PREPARATION

KNOWING YOUR CASE FROM THE INSIDE OUT

Angela Andrews
Maricopa County Attorney's Office

Mindset

- What is your goal?

Mindset

- What is your goal?
  - Get the Bad Guy / Girl
  - Find the Truth
  - Do Justice

Mindset

- What are potential barriers?

Mindset

- What are potential barriers?
  - Workload

  - Training Issues
  - Bias
  - Others?

Reviewing the Case

- *Read / Review EVERYTHING:*
- Reports
- Audio / Video Recordings
- Photographs
- Witness Statements
- Probable Cause / Booking paperwork
- Face Sheets

☐ VERDE VALLEY JUSTICE COURT - 928-639-5120
10 Sound Street - Cottonwood, AZ 86326
☐ COTTONWOOD MUNICIPAL COURT - 928-634-7537
824 North Main Street - Cottonwood, AZ 86326
☐ SEDONA MUNICIPAL COURT - 928-282-1120
102 Headquarter Drive - Sedona, AZ 86336
☐ CLARKDALE MAGISTRATE COURT - 928-634-1691
40 North 9th Street - Clarkdale, AZ 86324
☐ JEROME MAGISTRATE COURT - 928-634-7242
500 Clark Street - Jerome, AZ 86331
☐ CAMP VERDE MUNICIPAL COURT - 928-567-6630
478 South Main Street - Camp Verde, AZ 86322
☐ MAYER JUSTICE COURT - 928-632-7842
12810 Central Avenue - Mayer, AZ 86333

☐ DEWEY-HUMBOLDT MAGISTRATE COURT - 928-632-7008
12340 Central Avenue - Mayer, AZ 86333
☒ PRESCOTT JUSTICE / CITY COURT - 928-771-3310
Yavapai County Courthouse - 120 S. Cortez - Prescott, AZ 86301
☐ PRESCOTT VALLEY MAGISTRATE COURT - 928-772-6277
750 East Civic Circle - Prescott Valley, AZ 86314
☐ CHINO VALLEY MUNICIPAL COURT - 928-636-4614
1982 North Road One West - Chino Valley, AZ 86323
☐ BAGDAD JUSTICE COURT - 928-633-2141
100 Main Street - Bagdad, AZ 86321
☐ YARNELL JUSTICE COURT - 928-427-3318
33591 Lowesway - Yarnell, AZ 85362
☐ SELIGMAN JUSTICE COURT - 928-422-3261
200 North Pine Street - Seligman, AZ 86337

STATE OF ARIZONA,
vs. Sara Szweda
Defendant

CASE NO.
BOOKING NO.

RELEASE QUESTIONNAIRE
Part B

INFORMATION TO BE COMPLETED BY THE DEFENDANT OR BY THE MAGISTRATE - *Instructions to the Defendant: The answers you give to the following questions will be used by the Court to determine the conditions of your release at this time. You are not required to answer any question if you feel the answer might be harmful to you. Your answers will be checked against the information supplied by the police, and with the references you give on the form. Any discrepancies may result in higher bail or harsher conditions of release. Any information you give may be used against you in this or any other matter.*

GENERAL

1. Full Name: Sara Szweda D.Lee
2. Sex: ☐ M ☐ F Race: Indian Age: 23 Place of Birth: City: [illegible] State: AZ
3. Present Citizenry: United States If not a U.S. citizen, how long have you been in this country?
4. Present residence address: (Street, City, State, Zip Code) None — Parma, Jail
5. Length of time at present residence? 1 day Where else have you lived in the past year and for how long?
6. Current mailing address: (Street or P.O. Box, City, State, Zip Code) None Phone: ( )

FAMILY

7. Are you married? ☐ Yes ☒ No Are you living with your spouse? ☐ Yes ☒ No
8. How many other persons (including your children) are living with you? [illegible]
9. How much do you contribute to their support? $ 0
10. Do you have regular contact with any other relatives? ☐ Yes ☒ No If yes, list the names and your relationship: [illegible]

WORK

11. Are you employed? ☐ Yes ☒ No If not, what is your main source of income? Nothing
12. Employer's names: Michael Pepper
13. Employer's address: Prescott AZ
14. What is the nature of your job? Landing, Restaurant

RECORD

15. Do you have any previous criminal convictions? ☐ Yes ☒ No If yes, explain:
16. Have your ever been arrested and released on bail (or other conditions) pending trial? ☒ Yes ☐ No
17. Did you ever fail to appear as required? ☒ Yes ☐ No If yes, explain: Got confused
18. Does this alleged incident involve any member of your household? ☐ Yes ☒ No [illegible]
If yes, is the person ☐ the victim ☐ a co-defendant ☐ both
19. Are you welcome to return home? ☐ Yes ☒ No If not, where will you go if released today?
20. Is there any organization, church, or person who might agree to supervise you and be responsible for your return to court as required? ☒ Yes ☐ No If yes: (Name, Address, Phone)
21. Are there any other matters (such as your physical or mental health, use of any mind altering substance, or illness in family) which you feel the Court should consider in making its decision? ☒ Yes ☐ No If yes, explain: I'm crazy as bright and should [illegible]
22. Is there any friend, relative, neighbor, minister, or other person who can be called as a reference for this information? ☐ Yes ☒ No If yes: (Name & Phone) [illegible]

7/17/2010 Sara Szweda

☐ VERDE VALLEY JUSTICE COURT - 928-639-5120
☐ COTTONWOOD MUNICIPAL COURT - 928-634-7537
☐ SEDONA MUNICIPAL COURT - 928-282-1120
☐ CLARKDALE MAGISTRATE COURT - 928-634-7591
☐ JEROME MAGISTRATE COURT - 928-634-7640
☐ CAMP VERDE MUNICIPAL COURT - 928-567-6631
☐ MAYER JUSTICE COURT - 928-632-7942
☐ DEWEY-HUMBOLDT MAGISTRATE COURT - 928-632-7608
☐ PRESCOTT JUSTICE/CITY COURT - 928-771-5010
☐ PRESCOTT VALLEY MAGISTRATE COURT - 928-772-6277
☐ CHINO VALLEY MUNICIPAL COURT - 928-636-4614
☐ BAGDAD JUSTICE COURT - 928-633-2141
☐ YARNELL JUSTICE COURT - 928-427-3318
☐ SELIGMAN JUSTICE COURT - 928-422-3221

STATE OF ARIZONA,
vs. Sergio Sizueta
Defendant.

CASE NO.
HOOKING NO.

RELEASE QUESTIONNAIRE
Part B

INFORMATION TO BE COMPLETED BY THE DEFENDANT OR BY THE MAGISTRATE - *Instructions to the Defendant: The answers you give to the following questions will be used by the Court to determine the conditions of your release at this time. You are not required to answer any question if you feel the answer might be harmful to you. Your answers will be checked against the information supplied by the police, and with the references you give on the form. Any discrepancies may result in higher bail or harsher conditions of release. Any information you give may be used against you in this or any other matter.*

GENERAL

1. Full Name: Sergio Sizueta D.O.B.:
2. Sex: ☐ M ☐ F Race: Mexican Age: 23 Place of Birth: City: State: AZ
3. Present Citizenship: United States If not a U.S. citizen, how long have you been in this country?
4. Present residence address: (Street, City, State, Zip Code) None — Homeless
5. Length of time at present residence: 1 day Where else have you lived in the past year and for how long?
6. Current mailing address: (Street or P.O. Box, City, State, Zip Code) None Phone:

FAMILY

7. Are you married? ☐ Yes ☑ No Are you living with your spouse? ☐ Yes ☑ No
8. How many other persons (including your children) are living with you? [illegible]
9. How much do you contribute to their support? $ 0
10. Do you have regular contact with any other relatives? ☐ Yes ☑ No If yes, list the names and your relationship: [illegible]

WORK

11. Are you employed? ☐ Yes ☑ No If not, what is your main source of income? Nothing
12. Employer's name: None
13. Employer's address: Yavapai AZ
14. What is the nature of your job? Laboring Construction

RECORD

15. Do you have any previous criminal convictions? ☐ Yes ☑ No If yes, explain:
16. Have you ever been arrested and released on bail (or other conditions) pending trial? ☑ Yes ☐ No
17. Did you ever fail to appear as required? ☑ Yes ☐ No If yes, explain: Got confused

21. Are there any other matters (such as your physical or mental health, use of any mind-altering substance, or illness in family) which you feel the Court should consider in making its decision? ☑ Yes ☐ No If yes, explain:
I'm crazy as batshit and should enjoy it

22. Is there any friend, relative, neighbor, minister, or other person who can be called as a reference for this information?
☐ Yes ☑ No If yes: (Name & Phone) [illegible]

Evaluating Your Case

- Can you prove your case beyond a reasonable doubt with the evidence you have?
  - ID?
  - Corroboration?
  - Physical evidence?
- If not, can the officer/deputy do follow up investigation?
- Can you do additional follow up?
  - Should you?

Evaluating Your Case

- Are your witnesses available? Are they cooperative?
  - If not can you prove your case without some witnesses?
  - What about your victim?
- Is your case contingent on lab analysis? Expert witness?
- Prior convictions?

Evaluating Your Case

- Is case charged properly?
  - Date of offense
  - Name of victim/victims
  - Elements including definitions
  - Enhancements

If not what is the remedy?

Move to amend?

Dismiss and Refile/Refile and Dismiss

Evaluating Your Case

- What are the defenses?
  - Can you rebut them?
- Are there suppression issues?
  - If so what evidence is still admissable?
- Is there missing evidence?
  - *Willits* instruction
    - If you find that the State has lost, destroyed, or failed to preserve evidence whose contents or quality are important to the issues in this case, then you should weigh the explanation, if any, given for the loss or unavailability of the evidence. If you find that any such explanation is inadequate, then you may draw an inference unfavorable to the State, which in itself may create a reasonable doubt as to the defendant's guilt. *State v. Willits*, 96 Ariz. 184, 187, 393 P.2d 274, 277-78 (1964);

Talk to the defense attorney.

What Now?

- Offer a plea agreement
- Dismiss/continue pending further investigation
- Dismiss because insufficient evidence?/No Reasonable Likelihood of Conviction at Trial
- Set matter for trial

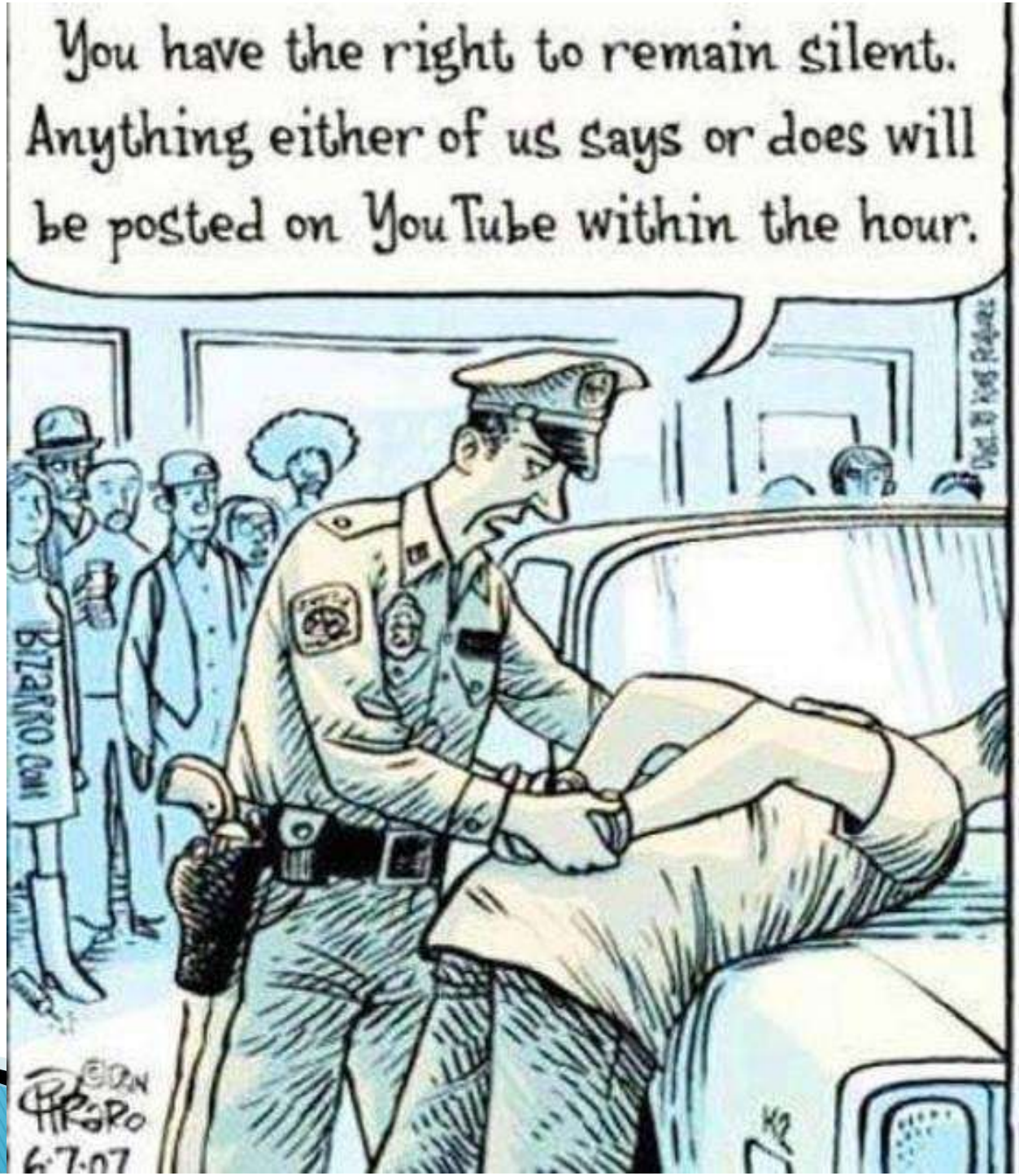
Prosecution Standard

- State v. Gomez, 212 Ariz. 55, 59, 127 P.3d 873, 877 (2006) ("Indictments can be dismissed for various reasons, including a prosecutor's determination that the person charged did not in fact commit the crime or—as this case illustrates—that there is no reasonable likelihood of conviction").

- See Kenneth J. Melilli, Prosecutorial Discretion in an Adversary System, 1992 BYU L. Rev. 669, 684 (1992) ("[V]irtually all prosecutors require, at least at the time of trial, that the government's case present a reasonable likelihood of conviction.").

Pretrial Motions

- *Defensive Pleadings*
  - Suppression
  - Remand
  - Dismiss
  - Motion in Limine
  - Notice of a specific issue or action


You have the right to remain silent. Anything either of us says or does will be posted on YouTube within the hour.
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6-7-07

Pretrial Motions

- *Offensive Pleadings*
  - Notice pleading: Allegations of priors / on probation / on release, etc.
  - Motions in Limine
  - Notice of a specific issue or action

Pretrial Motions

- Don't reinvent the wheel
  - Office motion bank / library
  - APAAC www.apaacaz.gov
  - NDAA www.ndaa.org
  - Prosecutor's Encyclopedia

    www.nypti.org

Pretrial Interviews

- Not required by GRIC rules but required by Judges
- Who attends?
- How recorded?
- Prepping for an IV
- Objections during interviews
- Problems/ Issues during interviews
- Evidence viewing

https://www.youtube.com/watch?v=RjtnRmy0H-U

Trial Preparation

- Proposed Jury Instructions
- Proposed voir dire
- Final Witness / Exhibit Lists
- Review Juror List, if available
- Confirm subpoenas
- Prepare trial notebook
- Visual Aids
- Prepare witness outlines

Witness Outlines

- Prepare ahead
- Cover elements of offense (s)
- Find what works for you
- Don't reinvent the wheel.

INTERVIEW

Q) *Did you further interview the defendant? What did he tell you?*

OUTLINE

1) Interview of Defendant

a) He smoked meth with the clear glass pipe – 2 days earlier

b) Smoked MJ that morning – "wake and bake"

c) Didn't know the guy he bought the meth from in Cottonwood

d) buys in bulk to save $$

e) Addiction to meth

f) meth will last a few mo.

g) paid 1200 to 1500 / oz.

Witness Outlines

Note when/how you will admit exhibits.

Note relevant points in transcripts or recordings that you may want/ need to use.

Q)Did he claim ownership of any of the items?

OUTLINE

1)D's claimed ownership

- a) clear glass pipe with residue (9a) photo is #9
- b) blue glass pipe with green residue (10a) photo is #10
- c) "Red Glass" cigarette papers
- d) "blueberry skunk" papers
- d) clear bag with green leafy substance (13a) (photo is #13)
- ** Recording (#22 at 25:40)

Pretrial Witness Prep

- Victims and Civilians
  - Do you provide the police report?
  - Who is present?
  - Do you record the meeting?
  - If you record the meeting do you disclose it?

Pretrial Witness Prep

- Officers and Experts
  - Talk to them about using common language
  - Tell them what you information you want to obtain from them
  - Don't expect them to fill in the blanks

Pretrial Witness Prep

- Officers and Experts
  - Have copies of the reports
  - Do you have the review a copy of the report?

Theme

- Do you need one?

Theme

- Provide framework for jurors to follow
- Allows jurors to see facts from State's perspective
- Should be simple
- Doesn't have to be clever

Presentation

- Evidence
  - Photos
  - Weapons
  - Drugs
  - Documents
  - 911 calls
  - Jail calls
  - Other Physical Items

Presentation

- Different learners / different impact
- Pay attention to juror limitations
- Consider courtroom limitations
- Consider filing notices to court and defense regarding specific evidence

After Trial

- Debrief
- Evaluate
- Follow-up
- Prepare for next time!

FELONY TRIAL 30 DAY CHECKLIST

☐	Staffed Case with Supervisor	Initials_____ Date_____
☐	Subpoenaed all witnesses including rebuttal witnesses	Initials_____ Date_____
☐	Checked witnesses for scheduling conflicts	Initials_____ Date_____
☐	Obtained certified copies of all priors and necessary Records	Initials_____ Date_____
☐	Arranged to have defendant fingerprinted (Priors/MIW)	Initials_____ Date_____
☐	Scheduled defense interviews	Initials_____ Date_____
☐	Scheduled meeting with case agent	Initials_____ Date_____
☐	Filed Motion for court interpreter for witnesses (if needed)	Initials_____ Date_____
☐	Noticed expert	Initials_____ Date_____
☐	Reviewed file to make sure applicable motions have been filed (penalty enhancement, aggravation, 404(b), 609)	Initials_____ Date_____

FELONY TRIAL 10 DAY CHECKLIST

☐	Communicated with every witness and noted any schedule conflicts	Initials_____ Date_____
☐	Checked for updated report supplements	Initials_____ Date_____
☐	Disclosed civilian criminal histories and impeachment and exculpatory material	Initials_____ Date_____
☐	Checked prior sentencing report and prior convictions documents	Initials_____ Date_____
☐	Disclosed any fingerprint analysis and filed updated witness list	Initials_____ Date_____
☐	Viewed impounded evidence and coordinated getting it to court	Initials_____ Date_____
☐	Assessed redactions needs for audio/video/photo evidence	Initials_____ Date_____
☐	Filed motions in limine and checked for motions filed by defense	Initials_____ Date_____
☐	Prepared joint pretrial statement and filed jury instructions and voir dire questions	Initials_____ Date_____

FELONY TRIAL CHECKLIST

☐	Performed updated check on criminal history of civilian witness and integrity check on officers	Initials_____ Date_____
☐	Visited crime scene with case agent	Initials_____ Date_____
☐	Prepared opening statement outline and/or PowerPoint	Initials_____ Date_____
☐	Prepared closing argument outline and/or PowerPoint presentation	Initials_____ Date_____
☐	Prepared direct examination and cross examination outlines	Initials_____ Date_____
☐	Created a physical or digital trial notebook	Initials_____ Date_____
☐	Secured necessary technological equipment (i.e. ELMO, TV, adapter, projector etc.)	Initials_____ Date_____
☐	Advised subpoenaed witnesses of trial schedule	Initials_____ Date_____
☐	Prepared copy of police report and other "refreshing documents"	Initials_____ Date_____
☐	Prepared copy of evidence list for clerk	Initials_____ Date_____
☐	Delivered all items of evidence to the clerk of the trial court to be marked	Initials_____ Date_____

PREPARED = RELAXED

QUESTIONS???

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