

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2017-005669-001 DT

04/18/2022

HONORABLE FRANK W. MOSKOWITZ

CLERK OF THE COURT
B. Navarro
Deputy

STATE OF ARIZONA

EVELYN R HERNANDEZ
MICHAEL G GINGOLD

v.

CHRISTOPHER CLEMENTS (001)

NIKOLAS D FORNER

JUDGE MOSKOWITZ

TRIAL MINUTE ENTRY
DAY 12;
VERDICT

10:44 a.m. The Jury returns from April 14, 2022 to begin their deliberations.

11:58 a.m. The Jury takes a lunch recess.

1:07 p.m. The Jury returns from lunch to resume their deliberations.

1:41 p.m. Trial to a Jury continues from April 14, 2022.

State's Attorney:	Evelyn Hernandez and Michael Gingold
Defendant's Attorney:	Nikolas Forner
Defendant:	Present

Court Reporter, Tara Kramer, is present.

A record of the proceedings is also made digitally.

The Jury is not present.

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Counsel announce ready.

1:44 p.m. The Jury is all present in the jury box and through their Foreperson return into court their verdict, which is read and recorded by the Clerk and is as follows:

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant as to Count 1: Fraudulent Schemes and Artifices (as to Victims Judson Souers and/or Betty Souers and/or James Westbrook and/or Shirley Westbrook):

☐ Not Guilty

☒ Guilty

Foreperson
Juror #15"

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant as to Count 2: Burglary in the Second Degree (as to Victims Judson Souers and Betty Souers):

☐ Not Guilty

☒ Guilty

Foreperson
Juror #15"

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant as to Count 3: Theft (as to Victims Judson Souers and/or Betty Souers):

☐ Not Guilty

☒ Guilty

If you find the Defendant guilty, then you must further find that the value of the property at the time of the Theft to be (please check one):

☒ \$ 4,000.00 or more but less than \$25,000.00

☐ \$ 3,000.00 or more but less than \$4,000.00

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☐ \$ 2,000.00 or more but less than \$3,000.00
☐ \$1,000.00 or more but less than \$2,000.00
☐ Less than \$1,000.00

Foreperson
Juror #15"

We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find the Defendant as to Count 4: Burglary in the Second Degree (as to Victims James Westbrook and/or Shirley Westbrook):

☐ Not Guilty

☒ Guilty

Foreperson
Juror #15"

At the request of Defense counsel, the Jury is polled by the Clerk to which the Jury individually replies that this is his/her true verdicts.

1:47 p.m. The Jury is reminded of the admonition and excused from the courtroom; court remains in session.

Discussion is held regarding the Aggravating Jury Instructions and they are settled.

The parties advises that they will be presenting argument only.

Discussion is held regarding the Aggravating verdict forms and they are settled.

FILED: Aggravating Jury Instructions (Draft 1)

2:07 p.m. The Jury is now present.

Aggravation Phase:

The Jury is instructed by the Court as to the law regarding the aggravating circumstances and the Aggravating verdict forms.

FILED: Aggravating Jury Instructions

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Counsel present arguments.

2:23 p.m. The Jury retires in charge of their sworn Bailiff to consider their Aggravation Phase verdicts; court remains in session.

Counsel do not have any issues to discuss with the Court at this time.

2:23 p.m. Court stands at recess.

2:42 p.m. Court reconvenes.

State's Attorney:	Evelyn Hernandez and Michael Gingold
Defendant's Attorney:	Nikolas Forner
Defendant:	Present

Court Reporter, Tara Kramer, is present.

A record of the proceedings is also made digitally.

The Jury is not present.

Counsel announce ready.

2:46 p.m. The Jury is all present in the Jury box, and by their Foreperson return into court their verdict, which is read and recorded by the Clerk, and is as follows:

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, as to Count We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, as to **Count 1: Fraudulent Schemes and Artifices (as to Victims Judson Souers and/or Betty Souers and/or James Westbrook and/or Shirley Westbrook)**, do unanimously find beyond a reasonable doubt the following aggravating circumstance checked:

The offense involved an accomplice: Proven.

The offense caused physical, emotional, or financial harm to Victim, Judson Souers: Proven

The offense caused physical, emotional, or financial harm to Victim, Betty Souers: Proven

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The offense caused physical, emotional, or financial harm to Victim, James Westbrook: Proven

The offense caused physical, emotional, or financial harm to Victim, Shirley: Proven

At least one Victim of the offense was 65 or more years of age: Proven

The offense was committed as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value: Proven

Foreperson
Juror #15"

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, as to **Count 2: Burglary in the Second Degree (as to Victims Judson Souers and Betty Souers)**, do unanimously find beyond a reasonable doubt the following aggravating circumstance checked:

The offense involved an accomplice: Proven

The offense cause physical, emotional, or financial harm to the Victim(s): Proven

At least one Victim of the offense was 65 or more years of age: Proven

The offense was committed as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value: Proven

Foreperson
Juror #15"

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, as to **Count 3: Theft (as to Victims Judson Souers and/or Betty Souers)**, do unanimously find beyond a reasonable doubt the following aggravating circumstance checked:

The offense involved an accomplice: Proven

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The offense cause physical, emotional, or financial harm to the Victim(s):
Proven

At least one Victim of the offense was 65 or more years of age: Proven

The offense was committed as consideration for the receipt, or in the
expectation of the receipt, of anything of pecuniary value: Proven

Foreperson
Juror #15"

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, as to **Count 4: Burglary in the Second Degree (as to Victims James Westbrook and/or Shirley Westbrook)**, do unanimously find beyond a reasonable doubt the following aggravating circumstance checked:

The offense involved an accomplice: Proven.

The offense cause physical, emotional, or financial harm to the Victim(s):
Proven

At least one Victim of the offense was 65 or more years of age: Unable to
Decide

The offense was committed as consideration for the receipt, or in the
expectation of the receipt, of anything of pecuniary value: Proven

Foreperson
Juror #15"

Neither party requested the Jury to be polled.

2:51 p.m. The Jury is thanked by the Court and excused from all further considerations in this case. Court remains in session.

IT IS ORDERED setting time for **Trial on the Priors/Entry of Judgment of Guilt and Sentencing for June 7, 2022 at 9:00 a.m. (time certain; 1.5 hours allotted)** in this Division.

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IT IS FURTHER ORDERED that the Adult Probation Department shall prepare a Presentence Report, and that Defendant shall report to the Adult Probation Department if not in custody.

The Defendant waives his participation in the Presentence Report interview.

Pursuant to Rule 7.2,

IT IS ORDERED that the Defendant shall be remanded to the custody of the Maricopa County Sheriff's Office and is to be held without bond pending to sentencing.

ISSUED: c-Release Order

2:53 p.m. Trial concludes.

FILED: Jury List; Verdicts (4); Aggravation Phase Verdicts (4); Trial Worksheet;

LATER:

Defendant's Exhibit 377 having not been redacted,

IT IS ORDERED sealing Defendant's Exhibit 377, not to be opened until further order of the Court.

State's Exhibits 275, 287, and 288 having not been received in evidence,

IT IS ORDERED that said Exhibits shall be retained for appellate purposes only as previously ordered by the Court.

* * * * *

Pursuant to the guilty verdict entered, and there being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked or their written designee. Counsel/party or written designee shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits must be accompanied by a Notice of Refiling Exhibits and presented to

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the Exhibit Department of the Clerk's Office. The Court's exhibit tag must remain intact on all refiled exhibits.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Forms (3)