

DIVISION 1  
COURT OF APPEALS  
STATE OF ARIZONA  
FILED

APR 25 2008

PHILIP G. URRY, CLERK  
By \_\_\_\_\_

IN THE COURT OF APPEALS

STATE OF ARIZONA

DIVISION ONE

|                    |   |                                |
|--------------------|---|--------------------------------|
| STATE OF ARIZONA,  | ) | Court of Appeals               |
|                    | ) | Division One                   |
| Appellant,         | ) | 1 CA-CR 07-0083                |
|                    | ) |                                |
| vs.                | ) | Maricopa County Superior Court |
|                    | ) | No. CR 2000-016781             |
| SEAN WAYNE BOTKIN, | ) |                                |
|                    | ) |                                |
| Appellee.          | ) |                                |
| _____              | ) |                                |

**APPELLEE SEAN BOTKIN'S SUPPLEMENTAL BRIEF RE  
JURISDICTION AND MOOTNESS**

Larry A. Hammond, No. 004049  
Timothy J. Eckstein, No. 018321  
OSBORN MALEDON, P.A., No. 00196000  
2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2794  
(602) 640-9000

Attorneys for Appellee

IN THE COURT OF APPEALS

STATE OF ARIZONA

DIVISION ONE

|                    |   |                                |
|--------------------|---|--------------------------------|
| STATE OF ARIZONA,  | ) | Court of Appeals               |
|                    | ) | Division One                   |
| Appellant,         | ) | 1 CA-CR 07-0083                |
|                    | ) |                                |
| vs.                | ) | Maricopa County Superior Court |
|                    | ) | No. CR 2000-016781             |
| SEAN WAYNE BOTKIN, | ) |                                |
|                    | ) |                                |
| Appellee.          | ) |                                |
| _____              | ) |                                |

**APPELLEE SEAN BOTKIN'S SUPPLEMENTAL BRIEF RE  
JURISDICTION AND MOOTNESS**

Larry A. Hammond, No. 004049  
Timothy J. Eckstein, No. 018321  
OSBORN MALEDON, P.A., No. 00196000  
2929 North Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2794  
(602) 640-9000

Attorneys for Appellee

TABLE OF CONTENTS

|  | <u>Page</u> |
|--|-------------|
| TABLE OF CONTENTS.....   | i           |
| TABLE OF AUTHORITIES .....   | ii          |
| PERTINENT BACKGROUND.....  | 1           |
| ARGUMENT .....   | 3           |
| I. The Court Lacks Jurisdiction Over the State’s Appeal .....  | 4           |
| A. The Law Disfavors State Appeals in Criminal Cases .....   | 4           |
| B. The State’s Appeal is not Permitted under A.R.S. § 13-4032.....   | 5           |
| II. This Matter is Now Moot Because The Trial Court Can No Longer<br>Issue any Order Impacting Mr. Botkin’s Now-Expired Probation..... | 9           |
| CONCLUSION .....   | 11          |
| CERTIFICATE OF MAILING.....  | 12          |
| CERTIFICATE OF COMPLIANCE.....   | 13          |

## TABLE OF AUTHORITIES

|   | <u>Page</u> |
|---|-------------|
| <b>Cases</b>  |             |
| <i>Ariz. v. Manypenny</i> , 451 U.S. 232 (1981).....  | 5           |
| <i>Keller v. Superior Court in and for the County of Maricopa</i> ,<br>22 Ariz. App. 122, 524 P.2d 956 (1974) .....             | 9, 10       |
| <i>State ex rel. Bowers v. Superior Court in and for the County of Navajo</i> ,<br>173 Ariz. 34, 839 P.2d 454 (App. 1992) ..... | 6, 8        |
| <i>State ex rel. McDougall v. Crawford</i> , 159 Ariz. 339, 767 P.2d 226<br>(App. 1989).....                                    | 7, 8        |
| <i>State v. Christian</i> , 205 Ariz. 64, 66 P.3d 1241 (2003).....  | 5           |
| <i>State v. Dawson</i> , 164 Ariz. 278, 792 P.2d 741 (1990).....  | 4, 9        |
| <i>State v. Johnson</i> , 182 Ariz. 73, 893 P.2d 73 (App. 1995) .....   | 9           |
| <i>State v. Royston</i> , 135 Ariz. 271, 660 P.2d 872 (App. 1983).....  | 7           |
| <i>State v. Sammons</i> , 156 Ariz. 51, 749 P.2d 1372 (1988) .....  | 6           |
| <i>State v. Sands</i> , 145 Ariz. 269, 700 P.2d 1369 (App. 1985) .....  | 6           |
| <i>State v. Vargas-Burgos</i> , 162 Ariz., 783 P.2d 264 (App. 1989) .....   | 5           |
| <i>State v. White</i> , 115 Ariz. 199, 564 P.2d 888 (1977) .....  | 10          |
| <i>United States v. Sanges</i> , 144 U.S. 310 (1892) .....  | 4           |
| <i>United States v. Wilson</i> , 420 U.S. 332 (1975) .....  | 4           |
| <b>Statutes</b>   |             |
| A.R.S. § 13-901.....  | 9           |
| A.R.S. § 13-903(C), (D).....  | 10          |
| A.R.S. § 13-917.....  | 5           |

|                              |        |
|------------------------------|--------|
| A.R.S. § 13-917(B) .....     | 1      |
| A.R.S. § 13-3405(D) .....    | 6      |
| A.R.S. § 13-3406(A)(7) ..... | 1      |
| A.R.S. § 13-4032.....        | passim |
| A.R.S. § 13-4032(5).....     | 5, 6   |

Pursuant to the Court's April 10, 2008 Order, Defendant-Appellee Sean Botkin submits this supplemental brief "addressing the issues of jurisdiction and mootness that were discussed during the oral argument."

### **PERTINENT BACKGROUND**

On April 13, 2001, Mr. Botkin began serving a seven-year term of intensive probation for a 2000 offense (the "2000 Case").<sup>1</sup> On September 16, 2004, while on intensive probation for the 2000 offense, Mr. Botkin was arrested and charged with "transfer[ing]," without authorization, a prescription-only drug, in violation of A.R.S. § 13-3406(A)(7) (the "2004 Case").<sup>2</sup>

On December 15, 2004, Mr. Botkin pled guilty to one count of violating A.R.S. § 13-3406(A)(7).<sup>3</sup> The parties stipulated that he would serve a term in the Arizona Department of Corrections ("ADOC"), and the State agreed to dismiss all allegations of prior felony convictions and the allegation that this offense had been committed while Mr. Botkin was on probation.<sup>4</sup> The court accepted the plea.<sup>5</sup>

At the sentencing hearing, the State argued that A.R.S. § 13-917(B) required the court to revoke Mr. Botkin's probation because the 2004 offense occurred

---

<sup>1</sup> CR 94, 95. (Citations to the Clerk's record are indicated with "CR" followed by the index number, and citations to the Clerk's record in the related case CR2004-042577 are indicated with "CR2" followed by the index number.)

<sup>2</sup> CR2 1.

<sup>3</sup> CR 157.

<sup>4</sup> CR2 18.

<sup>5</sup> CR 157.

while he was on intensive probation.<sup>6</sup> Rejecting the State's argument, the court (1) sentenced Mr. Botkin to the presumptive term of one year in prison on the 2004 Case, and (2) reduced his level of probation from intensive to standard probation on the 2000 Case.<sup>7</sup> Mr. Botkin was released from ADOC on August 7, 2005.<sup>8</sup>

While Mr. Botkin was serving his sentence on the 2004 Case, the State appealed the trial court's decision not to revoke probation. On appeal, the parties did not raise the question of appellate jurisdiction, nor was it discussed in this Court's opinion. Jurisdictional issues notwithstanding, this Court reversed and remanded the matter.<sup>9</sup>

On remand, the trial court allowed Mr. Botkin to withdraw from his plea, thereby reinstating both the 2004 charges and intensive probation in the 2000 Case.<sup>10</sup> The court then granted Mr. Botkin's motion to modify his level of probation supervision from intensive to standard, after which the parties presented the trial court with a new plea agreement on the 2004 Case, the acceptance of which the court deferred until sentencing.<sup>11</sup> On December 20, 2006, the State, citing A.R.S. § 13-4032, filed its Notice of Appeal indicating its intent to appeal

---

<sup>6</sup> February 15, 2007 Sentencing Transcript ("2007 Sentencing Tr.") at 5.

<sup>7</sup> CR2 22, CR 158.

<sup>8</sup> 2007 Sentencing Tr. at 6:16-18.

<sup>9</sup> *State v. Botkin* February 28, 2006 Memorandum Decision at 7.

<sup>10</sup> December 4, 2006 Change of Plea Transcript ("Plea Tr.") 4:23-5:3.

<sup>11</sup> *Id.* at 5:4-16; 17:12-17.

“from the trial court’s order reducing Defendant’s Intensive Probation to Standard Probation.”<sup>12</sup>

On February 15, 2007, the court accepted Mr. Botkin’s plea on the 2004 Case and sentenced him to time served.<sup>13</sup> The trial court further reinstated Mr. Botkin on standard probation on the 2000 Case.<sup>14</sup> On February 26, 2007, the State filed its Supplemental Notice of Appeal, which identified the identical issue and statutory basis cited in its initial notice.<sup>15</sup>

Oral argument was held before this Court on April 9, 2008. Four days later, on Sunday April 13, 2008, Mr. Botkin’s probationary period expired, and he was accordingly discharged from probation.<sup>16</sup>

### ARGUMENT

This Court lacks jurisdiction over the State’s appeal. A.R.S. § 13-4032, the exclusive source of the State’s right to appeal in criminal cases, provides no basis for this appeal. The State seeks review of a pre-sentencing order that rendered inapplicable a mandatory sentencing scheme. The pre-sentencing order is not appealable, either as an “illegal sentence” or under any other provision of section 4032. Absent any jurisdiction, this Court must dismiss the State’s appeal.

---

<sup>12</sup> CR 194.

<sup>13</sup> 2007 Sentencing Tr. at 13:6-13.

<sup>14</sup> *Id.* at 13:20-24.

<sup>15</sup> CR2 50.

<sup>16</sup> *See* Orders of Discharge from Probation attached hereto as Exhibit 1.



Should the Court take jurisdiction over the appeal, it would still have no ability to award any relief to the State. Under Arizona law, once a person's probation has expired or been terminated, no court has any authority to take action regarding that probation -- including revocation. As such, this Court cannot award any relief to the State that would affect Mr. Botkin, thereby rendering moot the State's appeal.

### **I. The Court Lacks Jurisdiction Over the State's Appeal**

The State has twice noticed its intent to appeal the trial court's December 4, 2006 "order reducing Defendant's Intensive Probation to Standard Probation." Notwithstanding its subsequent efforts to re-describe its appeal in a way to provide some jurisdictional basis, the State has appealed a non-appealable order.

#### **A. The Law Disfavors State Appeals in Criminal Cases**

Pursuant to principles foundational to basic liberty rights, "the State could not sue out a writ of error in a criminal case unless the legislature had expressly granted that right." *United States v. Wilson*, 420 U.S. 332, 336 (1975) (citing *United States v. Sanges*, 144 U.S. 310, 318 (1892)). In accordance with this principle, the Arizona Supreme Court "has acknowledged that appeals by the State in criminal matters are not favored and will be entertained only when that right is clearly provided by constitution or statute." *State v. Dawson*, 164 Ariz. 278, 280, 792 P.2d 741, 743 (1990). Simply put, absent "express legislative authority, [] the

state lacks the ability to appeal in criminal matters.” *Id.* (citing *Ariz. v. Manypenny*, 451 U.S. 232 (1981)).

**B. The State’s Appeal is not Permitted under A.R.S. § 13-4032**

In Arizona, that authority is found in A.R.S. § 13-4032, the statute that sets forth the limited occasions on which the State may appeal in a criminal case. *Id.* The State has suggested that the basis for its appeal here can be found under the provision of section 4032(5) that allows the State to appeal a “sentence on the grounds that it is illegal . . . .” The State is in error, as it is not appealing an illegal sentence; it is appealing the trial court’s order to move Mr. Botkin from intensive to standard probation -- an order issued two months *before* sentencing. When he was sentenced, Mr. Botkin was not on intensive probation and was not subject to A.R.S. § 13-917 or any other mandatory sentencing scheme. Arizona law is clear that pre-sentencing orders -- such as this -- that ultimately affect a defendant’s status for sentencing purposes, are not subject to appellate review under section 4032(5).

Section 4032(5) allows the State to appeal a trial court’s failure to impose a sentence mandated because of the defendant’s status at the time of sentencing. *See, e.g., State v. Christian*, 205 Ariz. 64, 65-66, 66 P.3d 1241, 1242-43 (2003) (finding appellate jurisdiction over State’s appeal of post-conviction determination “that a Proposition 200 prior conviction was not a historical prior felony for

sentence enhancement purposes”); *State v. Vargas-Burgos*, 162 Ariz. 325, 326, 783 P.2d 264, 265 (App. 1989) (noting that State may appeal court’s failure to impose fine required by relevant sentencing statute, A.R.S. § 13-3405(D)); *State v. Sands*, 145 Ariz. 269, 272, 700 P.2d 1369, 1372 (App. 1985) (treating as appeal to “illegal sentence” trial court’s decision that events committed on same occasion could not be considered prior convictions for purposes of sentencing enhancement). As these cases demonstrate, the appeal must be taken from a sentencing ruling made on the basis of the defendant’s status *at the time of sentencing*.

In this case, there is no argument that the trial court disregarded Mr. Botkin’s status at the time of sentencing. Rather, the State is arguing that the trial court was estopped from altering Mr. Botkin’s probation status such that he should have been on intensive probation at the time he was sentenced on the 2004 Case, thereby subjecting him to the mandatory sentencing scheme of section 917(B). But that argument -- that “a different sentence would be mandated if the court” had not changed Mr. Botkin’s probation status -- does not pose a challenge to an illegal sentence under section 4032(5). *State v. Sammons*, 156 Ariz. 51, 53-54, 749 P.2d 1372, 1374-75 (1988).

In fact, on at least three prior occasions the Arizona Court of Appeals has confronted -- and rejected -- the contention that a pre-sentencing order that removes a defendant from a mandatory sentencing scheme may be challenged on

appeal as an “illegal sentence.” *State ex rel. Bowers v. Superior Court in and for the County of Navajo*, 173 Ariz. 34, 38, 839 P.2d 454, 458 (App. 1992) (holding that State could not appeal trial court’s pre-trial strike of allegation of prior convictions to avoid mandatory sentencing statute); *State ex rel. McDougall v. Crawford*, 159 Ariz. 339, 767 P.2d 226 (App. 1989) (finding that State’s challenge was not to illegal sentence when it sought review of municipal court’s pre-sentencing strike of prior conviction allegation); *State v. Royston*, 135 Ariz. 271, 272, 660 P.2d 872, 873 (App. 1983) (concluding that State had no right of appeal to pre-trial strike of prior conviction allegation). Of these cases, *Crawford* is most directly on point.

In *Crawford*, the state appealed from an order of the superior court dismissing its special action petition on the ground that it had right to a direct appeal. The underlying petition sought review of a municipal judge’s order striking an allegation of a prior DUI conviction and subsequent sentencing of the defendant as though he had no priors. 159 Ariz. at 339, 767 P.2d at 226. “Because this sentence was undeniably legal for the only offense on which defendant was convicted, the state contend[ed] that it had no right to appeal and therefore a special action was appropriate to seek review of the city court’s order . . . .” 159 Ariz. at 340, 767 P.2d at 227.

Observing that state appeals in criminal cases “are not favored and cannot be taken in the absence of a constitutional provision or statute clearly conferring that right,” this Court held that the provision of A.R.S. § 13-4032(5) “authorizing an appeal by the state from an illegal sentence was [not] intended to allow the state to appeal from alleged errors committed by the trial judge which result in a failure to convict the defendant on all allegations presented by the state.” *Id.* at 340-41, 767 P.2d at 227-28 (emphasis omitted). Instead, “*the state’s right to appeal from an ‘illegal sentence’ only applies when, based on the conviction or convictions actually occurring in the trial proceedings, the trial judge imposes a sentence that is in violation of statutory mandates.*” *Id.* at 341, 767 P.2d at 228 (emphasis added). “To hold otherwise,” the Court concluded “would result in an unintended expansion of the state’s right to appeal from error committed by the trial judge in the preconviction phase of the trial court proceedings.” *Id.*; *see also Bowers*, 173 Ariz. at 38, 839 P.2d at 458 (“an order striking an allegation of prior convictions is appealable after sentencing as an illegal sentence [], if *after conviction*, the trial court refuses to impose an enhanced sentence based on those priors”).

That is not to say that the State never has a remedy even in appropriate cases. To the contrary, as these cases show, this Court may, when properly invoked, choose to exercise its discretionary special action jurisdiction to review pre-sentence rulings that ultimately affect the sentence. *See, e.g., Bowers*, 173

Ariz. at 38, 839 P.2d at 458 (granting special action jurisdiction “to allow the state to contest the denial of” its ability to an enhanced sentence based on the alleged priors). In this case, however, the State chose to forego clearing the hurdles present in a special action in favor of an improper direct appeal. And, as explained below, it is too late now for it to change course. Indeed, exercising special action jurisdiction now -- well after the State sought to take a direct appeal -- would eviscerate the limited nature of A.R.S. § 13-4032, directly contrary to the strong presumption against State appeals in criminal matters. *Dawson*, 164 Ariz. at 280, 792 P.2d at 743.

**II. This Matter is Now Moot Because the Trial Court Can no Longer Issue any Order Impacting Mr. Botkin’s Now-Expired Probation**

The trial court’s power in the area of probation, including the power to revoke probation, “is purely statutory and it must be exercised within the time and the terms indicated by the statute.” *Keller v. Superior Court in and for the County of Maricopa*, 22 Ariz. App. 122, 524 P.2d 956 (1974). The operative statute, A.R.S. § 13-901(C), allows the trial court to issue an arrest warrant, modify probation conditions or, “if the defendant commits an additional offense or violations a condition, [] revoke probation . . . at any time before the expiration or termination of the period of probation.” (emphasis added). Once probation expires or terminates, “the court lacks jurisdiction to revoke probation.” *State v. Johnson*, 182 Ariz. 73, 893 P.2d 73 (App. 1995).

On April 13, 2008, Mr. Botkin's final, seven-year probationary term expired. He was, as the law requires, discharged from probation that same day. (Ex. 1.) Following that discharge, no trial court may revoke his now-expired probation. *State v. White*, 115 Ariz. 199, 205, 564 P.2d 888, 894 (1977) (holding that the probation statute "is the source of the court's subject matter jurisdiction and the power to revoke probation exists only during the term of probation"). As such, this Court cannot award the State any relief that would affect Mr. Botkin, thereby mooting this appeal as to him.

The State may argue that this result is unfair to the State and that this Court could extend Mr. Botkin's probationary, should it decide to rule in the State's favor on the underlying appeal. The State's argument is without merit. The law provides that a term of probation can be tolled only under two circumstances: (1) where the probationer has absented himself from the jurisdiction or from any required supervision; and (2) if a petition to revoke probation has been filed and not yet ruled on by a trial court. A.R.S. § 903(C), (D). Absent one of these two situations -- neither of which apply here -- the expiration of probation is absolute and totally divests the trial court of the ability to revoke probation. *See, e.g., White*, 115 Ariz. at 201, 564 P.2d at 891 (1977) (vacating probation revocation where petition was filed more than four months prior to but not granted until one month after expiration); *Keller*, 22 Ariz.App. at 122-24, 524 P.2d at 956-58

(vacating revocation order where petition was filed before but not ruled on until two weeks after expiration).

Accordingly, (1) there is no authority to allow Mr. Botkin's probation to be tolled, (2) his probationary period has now expired, and (3) there is no statutory authority that would allow it to be revoked on any remand.

### CONCLUSION

For the above reasons, the Court should dismiss the State's appeal for lack of jurisdiction and/or because of mootness.

RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of April, 2008.

OSBORN MALEDON, P.A.

By



---

Larry A. Hammond  
Timothy J. Eckstein  
2929 North Central Avenue  
Suite 2100  
Phoenix, Arizona 85012-2794

Attorneys for Appellee



**CERTIFICATE OF MAILING**

The undersigned has filed and served this Supplemental Brief this 25<sup>th</sup> day of April, 2008, as follows:

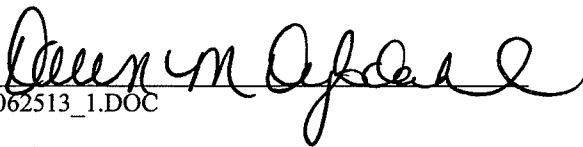
Original plus six (6) copies hand-delivered to:

Clerk of the Arizona Court of Appeals  
1501 West Washington, Room 203  
Phoenix, Arizona 85007-3329

Two (2) copies mailed to:

David E. Wood  
Deputy County Attorney  
Maricopa County Attorney's Office  
3131 West Durango Street  
Phoenix, Arizona 85009

Attorneys for Appellant

  
2062513\_1.DOC

## CERTIFICATE OF COMPLIANCE

Pursuant to ARCAP 14, I certify that the attached brief uses proportionately spaced type of 14 points or more, is double spaced using a roman font, and contains 2,506 words.

DATED this 25<sup>th</sup> day of April, 2008.



---

Timothy J. Eckstein



## TABLE OF CONTENTS

| <b>Tab</b> | <b>Description</b>   |
|------------|--|
| Ex. 1      | February 21, 2007 and February 29, 2008 Orders of Discharge from Probation |

1

**SUPERIOR COURT OF THE STATE OF ARIZONA  
MARICOPA COUNTY**

Division **CRJ02**  
Pros Atty **DCA**  
APO **Brian Bednar, PSC**

THE STATE OF ARIZONA

vs.

**SEAN WAYNE BOTKIN**

**DOB: 07/19/1986**

Case Number: ~~CR2000-016781~~

**ORDER OF DISCHARGE FROM PROBATION**

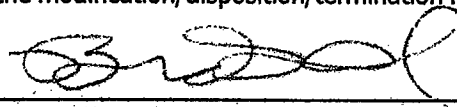
The defendant was formally judged guilty of the crime of **XLVIII: AGGRAVATED ASSAULT WITH A DEADLY WEAPON/DANGEROUS INSTRUMENT, A CLASS 3 FELONY.**

|                 |                  |                         |                  |           |
|-----------------|------------------|-------------------------|------------------|-----------|
| Probation Start | Date: 04/13/2001 | Prob. Length: 5 year(s) |                  | Standard  |
| Reinstated      | Date: 06/29/2004 | Prob. Length: 5 year(s) | from: 04/13/2001 | Intensive |
| Reinstated      | Date: 01/14/2005 | Prob. Length: 5 year(s) | from: 04/14/2002 | Standard  |

**EXPIRATION SUMMARY:**

The defendant is nearing completion of the probation grant in the aforementioned case. While under supervision, the defendant complied with the following conditions: Cognitive Skills and Mental Health. In addition, the defendant reported as directed, maintained employment or schooling and maintained a stable residence.

**Victim Status:** Vicki Multhany has opted in and will be notified of the modification/disposition/termination hearing date/time when it is set by the Court.

Dated this 21 day of February, 2007.   
BB:bc/02/20/2007 Probation Officer Brian Bednar Phone 602-619-3198

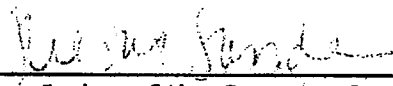
**IT IS ORDERED** pursuant to Rule 27.4(A) that the defendant is hereby discharged from probation in this case effective 04/14/2007.

**THE COURT NOTES** the defendant failed to comply with conditions \_\_\_\_\_

**IT IS ORDERED** pursuant to A.R.S. Sec. 13-360(M) that all proceedings against the defendant in this case are dismissed.

**IT IS ORDERED** the undesignated offense:  **REMAIN UNDESIGNATED\***;  **Be Designated a MISDEMEANOR**

\*Notice: The defendant may request misdemeanor designation for an undesignated offense; see A.R.S. 13-702(G). All request must be submitted to the Court in writing and provide detailed reasons to support the request.

Dated this 5th day of March, 2007.   
Judge of the Superior Court

**ORDER OF DISCHARGE FROM PROBATION**

cc: Court (Original)

APD File

Defendant

Pros Atty.

APD Macros

Rev. 01/02/2007

*WMA*

11111111  
**SUPERIOR COURT OF THE STATE OF ARIZONA  
MARICOPA COUNTY**

Division CRC 03  
Pros Atty DCA  
APO Brian Bednar, PSC

THE STATE OF ARIZONA  
VS.  
**SEAN WAYNE BOTKIN**  
DOB: 07/14/1986

Case Number: **CR2000-016781**

**ORDER OF DISCHARGE FROM PROBATION**

The defendant was formally judged guilty of the crime of **COUNT XXXI: KIDNAPPING, A CLASS 2 FELONY**

|                 |                  |                             |                            |
|-----------------|------------------|-----------------------------|----------------------------|
| Probation Start | Date: 04/13/2001 | Prob. Length: Seven year(s) | Standard                   |
| Reinstated      | Date: 06/29/2004 | Prob. Length: Seven year(s) | from: 04/13/2001 Intensive |
| Reinstated      | Date: 01/14/2005 | Prob. Length: Seven year(s) | from: 04/14/2001 Standard  |
| Reinstated      | Date: 02/15/2007 | Prob. Length: Seven year(s) | from: 04/13/2001 Standard  |

**EXPIRATION SUMMARY:**

The defendant is nearing completion of the probation grant in the aforementioned case. While on probation, the defendant successfully completed the following special conditions: mental health counseling. In addition, the defendant reported as directed, maintained employment or schooling, maintained a stable residence and paid Court monies in full.

Victim Status: The victim has opted-in but does not wish to be heard in this matter.

Dated this 19<sup>th</sup> day of February, 2008  
BB:tl/02/15/2008

  
Probation Officer Brian Bednar

Phone 602-619-3198

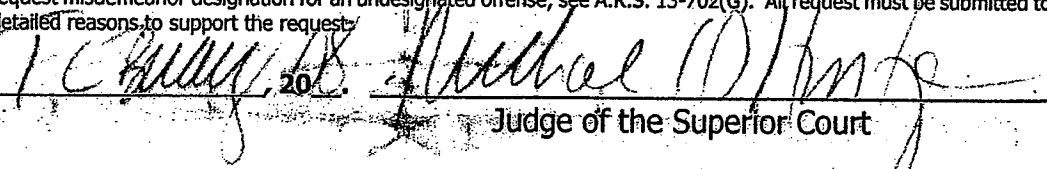
**IT IS ORDERED** pursuant to Rule 27.4(A) that the defendant is hereby discharged from probation in this case effective 04/13/2008.

THE COURT NOTES the defendant failed to comply with conditions:

IT IS ORDERED the undesignated offense:  REMAIN UNDESIGNATED\*;  Be Designated a MISDEMEANOR

\*Notice: The defendant may request misdemeanor designation for an undesignated offense; see A.R.S. 13-702(G). All request must be submitted to the Court in writing and provide detailed reasons to support the request.

Dated this 29 day of February, 2008

  
Judge of the Superior Court

**ORDER OF DISCHARGE FROM PROBATION**

cc: Court (Original)

APD File

Defendant

Pros Atty.

**SUPERIOR COURT OF THE STATE OF ARIZONA  
MARICOPA COUNTY**

Division           CRC 03  
Pros Atty         DCA  
APO               Brian Bednar, PSC

THE STATE OF ARIZONA  
vs.  
**SEAN WAYNE BOTKIN**  
DOB: 07/14/1986

Case Number: **CR2000-016781**

**ORDER OF DISCHARGE FROM PROBATION**


The defendant was formally judged guilty of the crime of **COUNT XXIV: KIDNAPPING, A CLASS 2 FELONY**

|                 |                  |                             |                  |           |
|-----------------|------------------|-----------------------------|------------------|-----------|
| Probation Start | Date: 04/13/2001 | Prob. Length: Seven year(s) |                  | Standard  |
| Reinstated      | Date: 06/29/2004 | Prob. Length: Seven year(s) | from: 04/13/2001 | Intensive |
| Reinstated      | Date: 01/14/2005 | Prob. Length: Seven year(s) | from: 04/14/2001 | Standard  |
| Reinstated      | Date: 02/15/2007 | Prob. Length: Seven year(s) | from: 04/13/2001 | Standard  |

**EXPIRATION SUMMARY:**

The defendant is nearing completion of the probation grant in the aforementioned case. While on probation, the defendant successfully completed the following special conditions: mental health counseling. In addition, the defendant reported as directed, maintained employment or schooling, maintained a stable residence and paid Court monies in full.

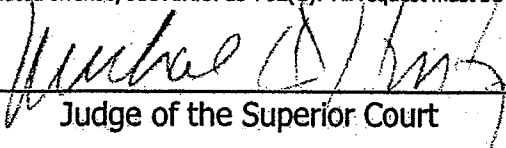
Victim Status: The victim has opted-in but does not wish to be heard in this matter.

Dated this 19<sup>th</sup> day of February, 2008   
BB:tl/02/14/2008 Probation Officer Brian Bednar Phone 602-619-3198

**IT IS ORDERED** pursuant to Rule 27.4(A) that the defendant is hereby discharged from probation in this case effective 04/13/2008.

**THE COURT NOTES** the defendant failed to comply with conditions \_\_\_\_\_

**IT IS ORDERED** the undesignated offense:  **REMAIN UNDESIGNATED\***;  **Be Designated a MISDEMEANOR**  
\*Notice: The defendant may request misdemeanor designation for an undesignated offense; see A.R.S. 13-702(G). All request must be submitted to the Court in writing and provide detailed reasons to support the request.

Dated this 29 day of February, 2008   
Judge of the Superior Court

**ORDER OF DISCHARGE FROM PROBATION**

cc: Court (Original)

APD File

Defendant

Pros Atty.