

1 THE COURT: THE COURT WILL CALL THE CASE OF PEOPLE
2 VERSUS MARK WILLIAM GARCIA, CASE NUMBER PA045481.

3 THE COURT NOTES THAT HE IS PRESENT. HE'S
4 REPRESENTED BY MICHAEL ZIMBERT. PEOPLE ARE REPRESENTED
5 BY BRAD LIEBERMAN.

6 IT'S HERE FOR SENTENCING; THE DEFENDANT
7 HAVING PREVIOUSLY ON THE DATE OF APRIL 8TH ENTERED A PLEA
8 TO COUNTS ONE, FIVE AND NINE, COUNT NINE BEING A
9 MISDEMEANOR.

10 THE AGREED UPON PLEA WAS FIVE YEARS OF FORMAL
11 PROBATION ON COUNTS ONE AND FIVE, SUMMARY PROBATION ON
12 COUNT NINE, AND THAT WOULD BE THREE YEARS OF SUMMARY
13 PROBATION ON COUNT NINE.

14 TECHNICALLY HE COULD AGREE TO EXTEND IT; BUT
15 I HAVE NO PROBLEM WITH A BLAKELY WAIVER, THAT IF HE
16 VIOLATES PROBATION THAT THE COURT CAN EXERCISE THE OPTION
17 OF EXTENDING HIM TO THE MAXIMUM UPPER TERM.

18 MR. LIEBERMAN: I BELIEVE I TOOK A BLAKELY WAIVER
19 ALREADY IN THE TRANSCRIPT.

20 IT'S FIVE YEARS FORMAL PROBATION AS HE'S
21 PLEADING NOW ON COUNTS ONE AND FIVE, AND THEN CONCURRENT
22 PROBATION ON COUNT NINE AS A MISDEMEANOR.

23 IF HE'S GOOD, THEN WITHIN A YEAR HE CAN COME
24 TO THE COURT AND PETITION FOR COUNTS ONE AND FIVE TO BE
25 MADE MISDEMEANORS. WE WON'T OPPOSE THAT.

26 THEN THE PROBATIONARY PERIOD WOULD BE FROM
27 FIVE YEARS TO THREE YEARS BECAUSE IT WOULD BE REVERTING
28 FROM FORMAL FELONY PROBATION TO MISDEMEANOR PROBATION.

1 SO SUMMARY PROBATION FOR A PERIOD OF A TOTAL
2 OF THREE YEARS, I GUESS, FROM THE DATE OF THE SENTENCING,
3 WHICH WILL BE TODAY.

4 SO AT THAT POINT IT WOULD BE ROUGHLY TWO
5 YEARS LEFT OF SUMMARY PROBATION.

6 THE COURT: I DON'T WANT TO PUT YOU ON THE SPOT OR
7 EMBARRASS YOU OR ANYTHING -- AND YOU DON'T HAVE TO, AND
8 IF YOU DON'T WANT TO BECAUSE I DON'T WANT TO QUEER THE
9 DEAL SO TO SPEAK -- BUT WHY SUCH A SWEET DEAL WITH THE
10 TEN COUNTS THAT ARE HEREIN?

11 IT LOOKS LIKE A VERY SERIOUS OFFENSE GOING
12 IN.

13 I KNOW THAT LEGISLATURE BECAUSE OF THE N.R.A.
14 DON'T CONSIDER THIS A VERY SERIOUS SUBJECT MATTER, BUT I
15 JUST WANT TO PROTECT MYSELF ON THIS RECORD.

16 MR. LIEBERMAN: YOUR HONOR, WE WOULD BE MORE THAN
17 HAPPY TO DISCUSS THAT, BUT WE WOULD NEED TO DO IT IN
18 CHAMBERS.

19 THE COURT: OKAY. I WOULD LIKE TO DO IT WITH THE
20 REPORTER IN CHAMBERS TO COVER MYSELF.

21 DO YOU HAVE ANY OBJECTION, MR. ZIMBERT? WE
22 COULD GO INTO CHAMBERS, BOTH COUNSEL, WITH THE REPORTER,
23 AND SEAL THE TRANSCRIPT.

24 MR. ZIMBERT: THAT WOULD BE FINE. I THINK ONE
25 WORD --

26 THE COURT: I HAVE A SENSE.

27 MR. ZIMBERT: I THINK YOUR SENSE IS 100% CORRECT.

28 THE COURT: THEN WE'LL LEAVE IT AT THAT.

1 MR. ZIMBERT: THANK YOU, YOUR HONOR. IT'S GONE
2 THROUGH A LOT OF CHANGES.

3 THE COURT: I UNDERSTAND. ENOUGH SAID.

4 NOW THERE WAS ALSO THE PROBATION OFFICER
5 NOTED ON THE PROBATION REPORT WHETHER OR NOT THIS IS EVEN
6 A LEGAL SENTENCE, WHETHER I CAN ACCEPT THE SENTENCE OF
7 STRAIGHT PROBATION.

8 THERE IS NO MANDATORY TIME.

9 MR. LIEBERMAN: I DIDN'T SEE THAT.

10 THE COURT: I DIDN'T EITHER.

11 MR. ZIMBERT: THERE IS NOT.

12 THE COURT: IT'S A VERY COMPLICATED, CONVOLUTED AND
13 LONG PENAL CODE SECTION. I READ IT.

14 THE ONLY EXCEPTION WOULD BE IF SOMEWHERE IN
15 THE CODE THERE IS A CATCH-ALL SECTION THAT SAYS IN
16 CONNECTION WITH THIS SECTION, AND THEN THEY NAME THEM
17 ALL, WHERE YOU HAVE PROBATION SHALL NOT BE GRANTED.

18 I DON'T KNOW. THERE I KNOW CROSS REFERENCE.

19 THAT'S WHAT SPARKED MY INTEREST WHEN THE
20 PROBATION OFFICER WROTE THAT.

21 IS THERE ANY LEGAL CAUSE WHY JUDGMENT SHOULD
22 NOT NOW BE PRONOUNCED?

23 MR. ZIMBERT: NO, YOUR HONOR.

24 THE COURT: DOES THE DEFENDANT WAIVE FORMAL
25 ARRAIGNMENT FOR PRONOUNCEMENT OF JUDGMENT?

26 MR. ZIMBERT: YES.

27 MR. LIEBERMAN: YOUR HONOR, ONE THING I NEEDED TO
28 ADD.

1 WHEN HE TOOK THE PLEA OR WHEN I TOOK THE PLEA
2 I THOUGHT I SAID HE'S SUBJECT TO SEARCH AND SEIZURE, BOTH
3 AT HOME AND AT WORK; AND I SAW THE TRANSCRIPT. IT DID
4 NOT SAY WORK.

5 SO I JUST WANT THE DEFENDANT TO BE MADE AWARE
6 THAT IS A TERM AND CONDITION OF PROBATION.

7 IT WOULD INCLUDE HIS PLACE OF WORK; AND ALSO
8 JUST IN CASE I DIDN'T STATE IT CLEARLY, HE IS NOT TO
9 POSSESS A WEAPON AND ALSO NOT TO POSSESS AMMUNITION.

10 THE COURT: THAT APPLIES EVEN IF HE GETS SOME SORT
11 OF A FEDERAL PERMIT WHILE HE'S ON PROBATION, HE'S NOT
12 ALLOWED; BUT THAT WILL APPLY TO THE FUTURE, TOO, BECAUSE
13 THEY ARE FELONY CONVICTIONS.

14 SO TECHNICALLY HE'S AN EX-CON FOR ALL
15 PURPOSES IN THE FUTURE.

16 MR. LIEBERMAN: WITH RESPECT TO THE AMMO AND THE
17 WEAPON, THAT'S DURING THE PERIOD OF PROBATION FOR SURE.

18 AFTER THAT, WHETHER OR NOT THIS A FELONY
19 FOREVER, THAT IS AN ISSUE THAT I CANNOT SAY; AND AND WITH
20 RESPECT TO ANY PERMANENT STATUTE AND LEGALITY BASED UPON
21 POSSESSION OF A PERMIT, BASED UPON THIS PARTICULAR
22 CONVICTION, THOSE ARE QUESTIONS I'M NOT GOING TO ANSWER
23 EITHER.

24 THE COURT: WOULD YOU MAKE A NOTE FOR YOUR FILE IN
25 CASE YOU GET A SUCCESSOR PROSECUTOR THAT HAS TO TRY TO
26 FIGURE IT OUT AS TO WHAT YOUR MIND SET IS REGARDING THAT
27 IN THE FUTURE BECAUSE HE MAY WANT TO GO BACK BECAUSE
28 APPARENTLY ACCORDING TO THE PROBATION DEPARTMENT HE HAD A

1 FEDERAL FIREARM LICENSE TO BUY AND SELL WEAPONS.

2 I MAY NOT EVEN BE THE JUDGE HERE; BUT
3 SOMEBODY SHOULD BE AWARE OF THAT ISSUE.

4 MR. LIEBERMAN: OKAY.

5 THE COURT: THAT WOULD PLAY INTO THE ISSUE OF
6 WHETHER OR NOT ANY REDUCTION THAT MAY TAKE PLACE WILL
7 PRECLUDE THAT OR NOT.

8 MR. LIEBERMAN: YOU'RE NOT ORDERING ME TO DO A
9 BRIEF, ARE YOU?

10 THE COURT: NO.

11 MR. LIEBERMAN: MAY I NOW BRIEFLY INQUIRE OF THE
12 DEFENDANT?

13 MR. GARCIA, DO YOU UNDERSTAND THE CONDITIONS
14 OF PROBATION I JUST STATED?

15 DEFENDANT GARCIA: CORRECT.

16 MR. LIEBERMAN: AND YOU'RE STILL AFFIRMING YOUR
17 PLEA BASED UPON WHAT I JUST SAID?

18 DEFENDANT GARCIA: YES, I AM.

19 MR. LIEBERMAN: OKAY. THEN I BELIEVE WE'RE READY
20 TO GO, YOUR HONOR.

21 THE COURT: THEN THE COURT HAS INQUIRED AS TO
22 WHETHER OR NOT THE DEFENDANT HAS WAIVED FORMAL
23 ARRAIGNMENT FOR PRONOUNCEMENT OF JUDGMENT.

24 AT THIS TIME THEN THE SENTENCE WILL BE AS
25 FOLLOWS:

26 IMPOSITION OF SENTENCE IS SUSPENDED.

27 DEFENDANT IS PLACED ON FIVE YEAR FORMAL
28 PROBATION ON COUNTS ONE AND FIVE; THREE YEAR PROBATION ON

1 COUNT NINE, WHICH IS THE MISDEMEANOR.

2 THE COURT HAS ALREADY HEARD WHAT THE DISTRICT
3 ATTORNEY HAD TO SAY AS TO WHAT COULD HAPPEN AFTER ONE
4 YEAR. I'M NOT GOING TO REPEAT THAT.

5 THE FOLLOWING TERMS AND CONDITIONS WILL APPLY
6 TO THE DEFENDANT:

7 THAT THE DEFENDANT -- YOU ARE NOT SEEKING ANY
8 TIME IN CUSTODY?

9 MR. LIEBERMAN: NO ADDITIONAL TIME.

10 THE COURT: WHAT TYPE OF CREDIT IS HE ENTITLED TO?

11 MR. ZIMBERT: ONE DAY.

12 THE COURT: DEFENDANT GETS CUSTODY CREDIT FOR ONE
13 ACTUAL DAY.

14 ADDITIONALLY, HE IS TO PAY A RESTITUTION FINE
15 OF \$400; \$200 ON COUNT ONE, \$200 ON COUNT TWO; PLUS A
16 PENALTY FEE OF \$20; A COURT FEE OF \$20.

17 ADDITIONALLY, HE IS TO PAY A PROBATION
18 RESTITUTION REVOCATION FINE, WHICH IS SOMETHING NEW, IN
19 THE AMOUNT OF \$400.

20 THAT'S PENDING SUCCESSFUL COMPLETION OF
21 PROBATION; AND IF HE SHOULD VIOLATE THE TERMS AND
22 CONDITIONS OF PROBATION AND BE SENT TO STATE PRISON, HE
23 WOULD BE ORDERED TO PAY A PAROLE REVOCATION FINE OF \$400;
24 BUT THAT'S CONTINGENT UPON HIM VIOLATING PROBATION.

25 SO THAT WILL BE STAYED UNTIL THE APPROPRIATE
26 TIME, IF APPLICABLE.

27 ADITIONALLY, HE IS TO SEEK AND MAINTAIN
28 TRAINING, SCHOOLING OR EMPLOYMENT AS APPROVED BY THE

1 PROBATION OFFICER.

2 HE IS TO KEEP THE PROBATION OFFICER ADVISED
3 OF HIS RESIDENCY AT ALL TIMES.

4 HE IS NOT TO OWN, USE OR POSSESS ANY
5 DANGEROUS OR DEADLY WEAPON.

6 IF YOU HAVE ANY DOUBT AS TO WHAT CONSTITUTES
7 AN ITEM, I WOULD CONTACT COUNSEL IF THERE IS SOMETHING
8 YOU WANT TO KEEP AT HOME.

9 DEFENDANT GARCIA: EVERYTHING IS GONE.

10 THE COURT: YOU ARE TO SUBMIT YOUR PERSON AND
11 PROPERTY AT YOUR PLACE OF WORK AND YOUR PLACE OF
12 RESIDENCE UNDER YOUR CONTROL TO SEARCH OR SEIZURE AT ANY
13 TIME OF THE DAY OR NIGHT BY ANY PROBATION OFFICER OR
14 OTHER PEACE OFFICER, WITH OR WITHOUT A WARRANT OR
15 PROBABLE CAUSE.

16 YOU ARE TO OBEY ALL LAWS; OBEY ALL LAWS,
17 RULES AND REGULATIONS OF THE PROBATION DEPARTMENT AND OF
18 THE COURT; AND WHEN YOU'RE RELEASED TODAY YOU ARE TO
19 REPORT WITHIN 48 HOURS.

20 TODAY IS WEDNESDAY. BY FRIDAY AT FOUR P.M.
21 TO PROBATION AT THE EAST SAN FERNANDO OFFICE AT
22 14414 DELANO STREET, VAN NUYS, CALIFORNIA, 91401.

23 I GUESS THAT'S IT.

24 MR. ZIMBERT: HE CAN REPORT THERE TODAY?

25 THE COURT: ANY TIME HE WANTS UP UNTIL FOUR P.M. ON
26 FRIDAY.

27 MR. LIEBERMAN: YOUR HONOR, THERE IS A RETURN OF
28 PROPERTY FORM THAT DEFENSE DIDN'T PROVIDE TO THE COURT

1 YET.

2 THE COURT: HAVE YOU REVIEWED THE FORM AND
3 SATISFIED YOURSELF WHAT THE COURT IS SIGNING IS FRAMED IN
4 SUCH A MANNER THAT I'M NOT RELEASING ANYTHING THAT YOU
5 DID NOT WANT RELEASED?

6 MR. LIEBERMAN: MAY I APPROACH, YOUR HONOR?

7 I LOOKED AT IT ONE TIME BEFORE. I WANT TO
8 MAKE SURE THIS IS THE SAME THING I SAW BEFORE.

9 (PAUSE IN THE PROCEEDINGS.)

10 MR. LIEBERMAN: I BELIEVE THE ONE EXCEPTION WAS
11 \$2400. ACTUALLY \$1500 IS NOT GOING TO BE RETURNED TO
12 HIM.

13 THE COURT: 2400 WILL BE KEPT?

14 MR. ZIMBERT: 2400 GOES TO HIM AND 1500 WON'T.

15 MR. LIEBERMAN: \$2,440 WILL BE RETURNED TO HIM
16 ALONG WITH SOME LEGAL DOCUMENTS.

17 I BELIEVE THIS IS APPROPRIATE, YOUR HONOR.
18 I'M PROVIDING IT BACK TO THE COURT.

19 THE COURT: YOU HAVE RESEARCHED THE SUBJECT MATTER
20 AND YOU'RE SATISFIED THIS IS AN APPROPRIATE ORDER FOR THE
21 COURT TO SIGN?

22 MR. LIEBERMAN: I BELIEVE SO, YOUR HONOR.

23 THE COURT: YOU'VE CLEARED IT WITH YOUR SUPERIOR
24 AND WITH THE LOS ANGELES POLICE DEPARTMENT OR THE PEACE
25 OFFICER INVOLVED IN THIS CASE?

26 MR. LIEBERMAN: I'VE NOT CLEARED THE ORDERS WITH MY
27 SUPERIOR. HOWEVER, I HAVE SPOKEN WITH DETECTIVE YADEN,
28 Y-A-D-E-N, AD NAUSEUM ABOUT THIS CASE.

1 THE COURT: WOULD YOU STAND? I JUST WANT TO PUT
2 YOU UNDER OATH FOR A SECOND.

3 WOULD YOU RAISE YOUR RIGHT HAND?

4 DO YOU SWEAR THAT THE STATEMENT YOU'RE ABOUT
5 TO GIVE IS THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
6 THE TRUTH, SO HELP YOU GOD?

7 OFFICER YADON: YES, I DO.

8 THE COURT: WHAT IS YOUR NAME?

9 OFFICER YADON: STEVE YADON, Y-A-D-O-N.

10 THE COURT: YOUR PRESENT ASSIGNMENT?

11 OFFICER YADON: DETECTIVE SUPERVISOR FOR THE
12 LOS ANGELES POLICE DEPARTMENT.

13 THE COURT: HOW LONG?

14 OFFICER YADON: 25 YEARS.

15 THE COURT: HOW LONG HAVE YOU BEEN IN THE VERY
16 SPECIALIZED POSITION YOU'RE IN NOW?

17 OFFICER YADON: OVER EIGHT YEARS.

18 THE COURT: WHAT DOES THAT PARTICULAR JOB CONSIST
19 OF BY WAY OF DUTY?

20 OFFICER YADON: FIREARM TRAFFICKING AND
21 ENFORCEMENT.

22 THE COURT: ARE YOU SATISFIED IF I SIGN THIS ORDER
23 TO RELEASE THESE ITEMS IN THIS CASE; THAT IT IS NOT
24 CONTRARY TO THE SAFETY OF THE PUBLIC; AND IT IS NOT
25 CONTRARY TO ANY LAW THAT YOU'RE AWARE OF AS AN EXPERT IN
26 THE FIELD?

27 OFFICER YADON: YES, I AM, YOUR HONOR.

28 THE COURT: THANK YOU.

1 DOES ANYONE WISH TO QUESTION THIS INDIVIDUAL?
2 MR. ZIMBERT: NO, YOUR HONOR.
3 THE COURT: THANK YOU.
4 THEN THE COURT WILL SIGN THE ORDER.
5 ADDITIONALLY, THE COURT ORDERS THAT PROBATION
6 ASCERTAIN WHAT THE COST OF PROBATION SUPERVISION BE AND
7 MAKE AN APPROPRIATE ORDER AS TO THE COST OF SUPERVISION
8 THAT WILL BE APPLICABLE TO THE DEFENDANT.
9 AND BEFORE THE DEFENDANT IS OFF PROBATION, HE
10 TO FILE WITHIN 120 DAYS A FINANCIAL STATEMENT TO INDICATE
11 WHAT HIS FINANCIAL STATUS IS AND WHETHER OR NOT ACCORDING
12 TO THE BOX ON THE FORM HE'S PAID ALL THE FEES AND THE
13 COSTS INVOLVED WITH PROBATION.
14 ANYTHING ELSE?
15 MR. LIEBERMAN: I BELIEVE THAT'S IT, YOUR HONOR.
16 MR. ZIMBERT: THANK YOU.
17 THE COURT: THANK YOU.
18 DEFENDANT GARCIA: THANK YOU, YOUR HONOR.
19 THE COURT: REMAINING COUNTS -- WHICH WOULD BE
20 COUNTS TWO, THREE, FOUR, SIX, SEVEN, EIGHT AND TEN --
21 WILL BE DISMISSED IN THE INTEREST OF JUSTICE.
22 MR. LIEBERMAN: ON CONDITION THAT THE PLEA AND
23 SENTENCE REMAIN IN EFFECT.
24 THE COURT: RIGHT.
25 MR. LIEBERMAN: YES, YOUR HONOR.
26 (PROCEEDINGS CONCLUDED.)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPT. NV "I" HON. HARVEY GISS, JUDGE
THE PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF,)
VS.) NO. PAO45481
MARK GARCIA,)
DEFENDANT(S).) REPORTER'S
CERTIFICATE

I, ELAINE SMITH, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
PAGES 1 THROUGH 12, INCLUSIVE, COMPRISE A FULL, TRUE, AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON APRIL 20, 2005.

DATED THIS 27TH DAY OF MAY, 2005.

Elaine B Smith

ELAINE B. SMITH
C.S.R. NO. 3366
OFFICIAL REPORTER