

The Superior Court of Arizona in Maricopa County – Adult Probation Department
Chief Probation Officer Barbara A. Broderick

PRESENTENCE INVESTIGATION

FILED
10.22.09 9:01 a.m.
MICHAEL K. JEANES, Clerk

State of Arizona v. Gail F Rosier, CR2009-140581-001-SB

J. Ostrander
J. Ostrander, Deputy

Superior Court Criminal Division T

Sentencing Date: **October 23, 2009**

Sentencing Judge: **Connie Contes**

Prosecutor: **Joseph William Waters,
DCA**

PSI Officer: **Jerry Pieczynski**

Defense Counsel: **Dianne N Sullivan, Ct
Appt.**

Present Offense:

The following information is summarized from Scottsdale Police Departmental Report #09-16475 and #09-16484:

Beginning in February 2009, the Scottsdale Police Department began investigating the defendant and John Caruso because they had leased or purchased eight Mercedes Benz's in a short amount of time. On or about February 24, 2009, the defendant presented a letter from an attorney by the name of John Dipitris to a salesman at Arrowhead Mercedes. The letter, later determined to be fraudulent, was provided to Arrowhead Mercedes as a form of income verification which enabled the defendant to lease or purchase a vehicle (dismissed count I).

On March 6, 2009, the defendant moved into a residence leased through West USA Realty Agent Diane Henry. Ms. Henry advised officers the defendant indicated she earned \$300,000.00 per year from R. Peter Rosier Trust when she filled out the residential rental application (dismissed counts II and III). As part of the rental agreement, the defendant agreed to pay \$2,236.30 per month in rent and was to have the utilities placed in her name. However, this did not occur, and West USA Realty lost \$1,546.58 in utility expenses and an additional \$4,472.60 in unpaid rent for May and June (count IV).

Victim Statement:

Diane Henry, Real Estate Agent at West USA Realty, recommends the defendant be sentenced to the Arizona Department of Corrections for at least the presumptive term. In addition, she is requesting restitution in the total amount of \$6,019.18. This represents utility expenses of \$1,546.58 and unpaid rent of \$4,472.60.

Statement of Interested Parties:

James Balsler, Sales Manager at Arrowhead Mercedes, has not responded to telephone messages left by this officer. As a result, his comments cannot be included in this report nor can restitution be requested on behalf of Arrowhead Mercedes.

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Defendant's Statement:

Due to her incarceration, the defendant did not have access to documents that may verify her identity. The following information is obtained from the defendant's presentence screening interview as a second interview could not be conducted because the video conferencing equipment is broken at Estrella Jail.

The defendant states she was going through probate after her husband's death when she met John Caruso. John convinced her to give him all of her assets and stated he would take care of her. John had the defendant purchase vehicles for him in her name and rent a condominium so they could move in together. Later, the defendant discovered John had sold all of her assets and stopped paying her bills. She never intended to steal from anyone and believes she was taken advantage of by John Caruso. As to sentencing, the defendant asks the Court to grant her probation because this is her first conviction, she never intended to engage in fraudulent activities and she would like to be reunited with her two children.

The defendant graduated from high school and obtained a Bachelor's Degree from Washington University. She is unemployed; however, she has skills as a yoga instructor and paralegal. She reports monthly income of \$1,100.00 in Social Security benefits, monthly expenses of \$4,400.00 and is unsure how much she can afford on a monthly basis in Court-ordered fees.

The defendant began drinking alcohol at the age of twelve and drinks occasionally, but not to the point of intoxication. She began smoking marijuana at the age of sixteen and used this drug sporadically with her last use occurring ten years ago. The defendant does not believe she has issues related to substance abuse; however, she is willing to attend treatment if directed by the Court.

Commentary:

The defendant is forty-four years old and the present offense represents her first known felony conviction. This offense involved her failing to pay rent and utilities on a residential rental through West USA Realty. Despite the nature of this offense, a prison term appears premature at this juncture and probation will be recommended. An immediate period of incarceration will not be recommended because her four months of presentence incarceration appears sufficient as a punitive sanction. Mental health counseling will be recommended in order to ensure the defendant maintains compliance with her healthcare professional.

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Recommendation:

It is respectfully recommended that the defendant be granted two year(s) supervised probation to begin on October 23, 2009. Abide by the following additional conditions:

- Condition #16 Abide by the following judgment and order of restitution, fines and fees:
- 16a. Restitution per the attached ledger sheet.
 - 16b. Probation Service Fee of \$65.00 per month beginning on December 1, 2009.
 - 16f. Reimbursement in the total amount of \$100.00, at \$10.00 per month beginning on December 1, 2009.
 - 16i. Probation Surcharge in the total amount of \$20.00 beginning on December 1, 2009.
 - 16o. Time Payment Fee of \$20.00.
- Condition #18 Not have any contact with the victim(s) whatsoever, unless approved in writing by the APD.
- Condition #24 Participate in counseling as directed by APD pertaining to:
Mental Health

Reviewed by:

Judge:

Connie Contes

Date:

10-22-09

Respectfully submitted by:

Jerry Pieczynski
Jerry Pieczynski, Adult Probation Officer

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October 09, 2009

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Trish Doktor, Supervisor

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