

**APPLICATION FOR NOMINATION TO
JUDICIAL OFFICE**

**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 65)**

PERSONAL INFORMATION

1. Full Name: **Angela Kebric Paton**
2. Have you ever used or been known by any other name? **Yes**. If so, state name:
Angela Corinne Kebric
3. Office Address: **2005 N. Central Avenue, Phoenix, AZ 85004**
4. How long have you lived in Arizona? **I have lived in Arizona since 1985, with the exception of three summers spent interning in Washington, D.C. (2002, 2003, and 2007). What is your home zip code? 85258**
5. Identify the county you reside in and the years of your residency.
Maricopa County: 1985-2000, 2004-Present
I resided in Pima County while attending the University of Arizona from 2000-2004.
6. If nominated, will you be 30 years old before taking office? **yes** **no**

If nominated, will you be younger than age 65 at the time the nomination is sent to the Governor? **yes** **no**
7. List your present and any former political party registrations and approximate dates of each:

(The Arizona Constitution, Article VI, § 37, requires that not all nominees sent to the Governor be of the same political affiliation.)

I have been a registered Republican since 2000.

8. Gender: **Female**
Race/Ethnicity: **Caucasian**

EDUCATIONAL BACKGROUND

9. List names and locations of all post-secondary schools attended and any degrees received.

University of Arizona, Bachelor of Arts (Tucson, AZ)

Arizona State University Sandra Day O'Connor College of Law, Juris Doctor (Tempe, AZ)

10. List major and minor fields of study and extracurricular activities.

College

My major area of study was History, with minors in Spanish and Political Science. I was President of Chi Omega sorority, a 150-member organization, and also served other leadership roles within the chapter. I was selected for and participated in Bobcats Senior Honorary, Chain Gang Junior Honorary, and Sophos Sophomore Honorary, all of which had community service, university service, and academic requirements.

Additionally, I served as a Football Recruiting Hostess all four years of college. This position required me to spend many Saturday afternoons giving tours of the campus and football facilities to potential football team recruits and their families, and answering questions regarding the University of Arizona and its football program. I also served in leadership roles in the Blue Chip Leadership Program and LeaderShape UA, and volunteered with the Make-A-Wish Foundation.

Law School

- **Member of law review—the Arizona State Law Journal. In addition to Law Journal assignments, I wrote an article that was published in the Spring 2009 edition (cited in Question 50).**
- **Women Law Students Association: President, 3L Representative, 1L Representative**
- **Arizona Women Lawyers Association: ASU Law School's Representative on the Steering Committee (Board of Directors)**

- **Pro Bono Work:** assisted with constituent intake regarding elder abuse and consumer fraud claims with the Arizona Attorney General’s Satellite Office at the law school
 - **Legal Writing Teaching Assistant:** assisted Legal Method & Writing Professor Stacey Dowdell with her class of first year law students. Maintained weekly office hours and assisted students with legal research exercises, legal writing, and oral argument assignments. I also assisted Professor Dowdell with class operations.
 - **ASU Law School Career Services Advisory Board**
 - **ASU Law School Pro Bono Board**
 - **Student Bar Association: Vice President of External Affairs, 1L Representative**
11. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

College

In addition to participating in the extracurricular activities listed above, I graduated from college with a 4.0 GPA and was selected for Phi Beta Kappa and Phi Kappa Phi. During Commencement, I was one of six graduates formally recognized on stage for my academic achievements and contributions to the university and community. I received the Robert Logan Nugent award.

My additional college honors included:

- La Sociedad Nacional Honoraria Hispanica, Sigma Delta Pi
- Omicron Delta Kappa
- Chapter President of the Year
- Chi Omega Outstanding Junior and Senior
- Awarded University of Arizona Alumni Association, Tucson Panhellenic and Zeta Beta Chapter scholarships

During school breaks and weekends at home, I worked at the Val Vista Lakes Community Association which included substantial cleaning and trash duties, setting up for and cleaning up after weddings and other major events, and generally assisting residents using the clubhouse facilities.

Law School

- **Sandra Day O’Connor College of Law’s National Association of Women Lawyers Outstanding Graduate**, an award “[g]iven to the graduating student who best represents the following criteria: contributes to the advancement of women in society; promotes issues and concerns of women in the legal profession; exhibits motivation, tenacity and enthusiasm; demonstrates

academic achievement; and earns the respect of the law school.”

- **Pro Bono Distinction:** awarded to graduates who completed 50-99 hours of pro bono service during law school
- **Honors Intern, Federal Bureau of Investigation, U.S. Department of Justice (Summer 2007)**
- **Employment:**
 - **Westlaw Student Representative:** During my 2L and 3L years, I worked 10 hours/week in the ASU Law School Library’s Westlaw Research Lab, assisting students with legal research on Westlaw. As part of my employment, I attended legal research trainings and assisted students with legal research questions.

In addition to these activities and my two summer legal jobs, I completed four internships during law school. At the City of Tempe’s Attorney’s Office, I researched and drafted memoranda on issues such as procurement, § 1983 litigation, water rights, the Voter Protection Act, and attended city council meetings and court proceedings. As a judicial extern for the Honorable Stephen M. McNamee at the Arizona Federal District Court, I researched case law, drafted substantive orders, and formulated recommendations to the judge. I assisted Judge McNamee with court proceedings, including plea agreements, pretrial conferences, trials, and motion hearings. During an internship at the Snell & Wilmer law firm, I researched and wrote memoranda in the areas of labor and employment, constitutional law, and commercial litigation. I also interned in the City of Tempe Prosecutor’s Office, where I tried cases as a certified limited practice student including one jury trial, and also filed motions, interviewed witnesses, and participated in all aspects of trial preparation and process.

PROFESSIONAL BACKGROUND AND EXPERIENCE

12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that require special admission to practice.

Arizona Supreme Court, October 29, 2009

United States District Court for the District of Arizona, February 28, 2011

United States Ninth Circuit Court of Appeals, December 12, 2017

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening? **No.** If so, explain.
Not applicable.
- b. Have you ever had to retake a bar examination in order to be admitted to

the bar of any state? **No.** If so, explain any circumstances that may have hindered your performance. **Not applicable.**

14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

EMPLOYER	DATES	LOCATION
Arizona Attorney General's Office <i>Special Assistant Attorney General, Executive Office (01/2019-Present)</i> <i>Assistant Solicitor General, Solicitor General's Office (11/2017-01/2019)</i>	11/2017-Present	Phoenix, AZ
Arizona Corporation Commission <i>Policy Advisor to Commissioner Bob Burns</i>	01/2013-11/2017	Phoenix, AZ
Arizona Attorney General's Office <i>Assistant Attorney General,</i> <i>Criminal Appeals Section, Criminal Appeals/Capital Litigation Division</i>	04/2010-01/2013	Phoenix, AZ
Arizona Court of Appeals <i>Judicial Law Clerk to the Honorable Patrick Irvine</i>	08/2009-04/2010	Phoenix, AZ
Maricopa County Attorney's Office <i>Law Clerk, Sex Crimes Bureau/Major Crimes II</i>	05/2008-08/2008	Phoenix, AZ
Federal Bureau of Investigation <i>Honors Intern/Law Clerk</i> <i>Office of General Counsel, Legal Forfeiture Unit</i>	05/2007-08/2007	Phoenix, AZ
Chi Omega Fraternity <i>National Leadership Consultant</i>	07/2004-07/2006	Memphis, TN*
Norton & Associates <i>Legislative Intern</i>	2005-2006	Phoenix, AZ
Luxe Boutique <i>Sales Associate</i>	2005	Paradise Valley, AZ
Val Vista Lakes Community Association	2000-2007**	Gilbert, AZ

*Although the Company was based in Memphis, TN, I was based in Gilbert, AZ.

****I worked here periodically during college and law school in order to supplement my income.**

I studied for the bar exam between May-July 2009 and was unemployed during that time. As discussed in Question 30, in September 2014 I received my certification to become a fitness instructor and have taught exercise classes at several gyms and studios throughout the greater Phoenix area (Attachment A).

15. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

Attachment B is a list of Arizona Attorney General's Office attorneys as of 6/29/21. Not included in that list are attorneys I worked with either in the Solicitor General's Office or Executive Office between 2017-2019: Michael Bailey, Paula Bickett, Rusty Crandell, Dominic Draye, and Andrew Pappas.

16. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

Special Assistant Attorney General (January 2019-Present)

Over the past five years, the nature of my practice has been a wide-ranging and diverse government advice, ethics, and policy practice. I currently serve in a general counsel-type role as Special Assistant Attorney General in the Executive Office of the Arizona Attorney General's Office (AGO). The AGO is the largest law firm in the State, with over 400 attorneys and 1,000 staff members, consisting of six divisions: Solicitor General (appeals/constitutional litigation), State Government (counsel to state agencies), Civil (civil rights and consumer fraud), Child and Family Protection (juvenile severance and delinquency), Criminal, and Operations (personnel, procurement, etc.).

I provide legal counsel and/or policy advice to these divisions as well as to the Attorney General (AG), Chief Deputy Attorney General, and Senior Team. This advice covers wide-ranging legal issues, including those relating to: public records, open meeting, ethics, environmental, statutory interpretation, criminal, civil, constitutional, juvenile, and consumer law (45% of practice). In other words, the nature of my work requires me to be well-versed in many areas of the law in order to provide competent and timely advice, often within strict time restraints.

I also monitor all high-profile litigation in the AGO. I have reviewed hundreds of requests from other state AG offices to join multistate litigation efforts, amicus briefs, and letters, and provide analysis and recommendations regarding whether the State of Arizona should join on many of these legal matters, a number of which are in the United States Courts of Appeals and United States Supreme Court. Thus, a substantial part of my practice is familiarizing myself with appellate briefs, arguments, and decisions in the nation's highest courts. I have also drafted, assisted in drafting and/or edited multiple amicus briefs filed by our office. Additionally, I author, review, and provide analysis and comments on motions, briefs, legal memoranda, proposed rule changes, and letters to constituents and attorneys.

Additionally, as a former member of the AGO Outside Counsel Committee, I spent a significant amount of time working on procurement-related matters, including reviewing outside law firms' requests to be placed on the Outside Counsel Contract, and analyzing various attorneys' subject matter expertise for appointments on cases involving state entities. Other state entities who do not use the AGO for counsel often rely on this list when selecting outside counsel. My service on this committee required me to interview and communicate with attorneys in the private sector on a regular basis.

Assistant Solicitor General (November 2017-January 2019)

Prior to joining the AG's Senior Team, I served as the AGO's Ethics Counsel and Attorney General Opinions Counsel, as an Assistant Solicitor General in the Solicitor General's Office.

As AGO Ethics Counsel, I provided legal advice and analysis to our employees on ethics-related questions on a daily basis (20% of practice). This required me to learn the relevant area of law and court rules in the attorney's practice area in order to understand the context of a particular legal question. I analyzed nuanced and fact-specific questions ranging from conflicts of interest to the mandatory reporting rule and handling opposing counsel's unprofessionalism. These questions were usually time-sensitive, requiring an immediate response. I also drafted screening memoranda to ensure compliance with the ethical rules. Additionally, I served as Chair of the AGO Ethics Committee where I facilitated group discussions, integrating divergent viewpoints to reach a decision. I remain a member of the Ethics Committee and occasionally serve as Interim Ethics Counsel.

As AG Opinions Counsel, I drafted or assisted in drafting legal opinions on questions of statewide importance that had not yet been addressed by the courts and require the application of statutory interpretation principles (15% of practice). The subjects of these opinions ranged from the Voter Protection Act, to gaming, education and criminal law. I chaired the AG Opinions Committee which honed my

communication, management, and consensus-building skills. I also drafted criminal and civil appellate briefs, served as legal counsel to the Governor's Regulatory Review Council and the State Land Board of Appeals in formal proceedings, and represented the office in multistate litigation (10% of practice).

Advisor to Commissioner Bob Burns (January 2013-November 2017)

The Corporation Commission is Arizona's state constitutionally-created public utility commission and serves quasi-executive, quasi-legislative, and quasi-judicial functions. Since 1914, Arizona courts have referred to the ACC as "the fourth branch of government." Thus, in addition to daily analyzing and synthesizing complex issues arising from ratemaking and other aspects of utility law and policy, I analyzed unique questions related to state constitutional law and separation of powers (10% of practice). For example, the Commission's review of whether to move to a competitive electricity generation model required me to review decades-old statutes, rules, and case law from when the Commission previously considered and adopted a competitive generation model, which was challenged in court and ultimately put on hold due to the energy crisis.

I also provided legal and policy analysis to Commissioner Burns regarding the following topics: regulation of Arizona's private water utilities, civil enforcement of the Arizona Securities Act, incorporation of businesses, telecommunications regulation, safety inspection of all interstate and intrastate pipelines transporting gas and hazardous liquids, enforcement of federal safety standards for railroad track signals, equipment and crossings, and open meeting, administrative and public records laws. I participated in and filed substantive motions and letters in rate case hearings and dockets on behalf of Commissioner Burns and participated in high-profile legal proceedings instituted both by him and against him. I was required to communicate with attorneys, constituents and stakeholders on a daily basis.

17. List other areas of law in which you have practiced.

Appellate Law

Prior to the aforementioned positions, I worked as an appellate prosecutor, arguing four cases before the Arizona Court of Appeals or Arizona Supreme Court and personally authoring more than 60 appellate briefs. This work required me to read and review the entire trial court record, conduct legal research, write briefs, and prepare for oral argument. Additionally, I often reviewed and edited my colleagues' briefs, and assisted them in briefing and oral argument preparation. Oral argument preparation included reviewing all of the case briefs and determining likely questions the court would ask at oral argument. I also represented the State in federal habeas work in the United States District Court for the District of Arizona, where I reviewed the state, appellate and post-conviction records, researched and

responded to a petition for writ of habeas corpus filed by an incarcerated individual arguing his constitutional rights were violated. Although these cases are civil in nature, they involve substantive criminal law.

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

Not applicable.

19. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

Legal Documents

I have authored more than 60 appellate briefs in the Arizona Court of Appeals Divisions One and Two and the Arizona Supreme Court.

Additionally, I drafted, assisted in drafting, or edited all legal opinions published during my tenure as Attorney General Opinions Counsel.

I managed the 2018 revision of the Attorney General's Agency Handbook, a publication that provides guidance to state officers and employees and the lawyers who advise them concerning multiple areas of law including open meeting, public records, and conflicts of interest. I drafted, assisted in drafting, or edited updates made to each of the 16 chapters.

Legislation

I have been a registered lobbyist for both the Arizona Attorney General's Office and the Arizona Corporation Commission. In these roles, I drafted legislation, reviewed and analyzed the impact of potential legislation on the respective offices, negotiated statutory language changes, helped set legislative agendas, and participated in meetings with legislators, legislative staff, and stakeholders.

I have directly participated in the legislative process via internships for U.S. Senator John McCain in Washington, D.C. and Tucson, as well as lobbyists representing clients before the Arizona Legislature.

Rules

I have reviewed and analyzed proposed rule changes submitted to the Arizona Supreme Court for the AGO. I review, edit, or assist in drafting comments to proposed rule change petitions the AGO submits to the Court.

20. Have you practiced in adversary proceedings before administrative boards or

commissions? **Yes**. If so, state:

- a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency.

Arizona Supreme Court Committee on Character and Fitness: Member, November 2016-Present

In November 2016, I was appointed by Chief Justice Bales to fill the one-year term of a member who had resigned, and then reappointed in December 2017 for a full four-year term.

This administrative body assesses applicants' character and fitness to practice law in the State of Arizona. Every person who wants to become a lawyer in the State must complete a Character and Fitness application to show that they possess the requisite moral character to be admitted to the bar. These applications often require additional review and analysis by the Committee, and may result in informal or formal hearings pursuant to Rule 36 of the Rules of the Arizona Supreme Court. The Committee then recommends the applicant be admitted or denied admission to the Supreme Court.

As part of my service on this committee, I have reviewed approximately 100 Character and Fitness applications pursuant to Arizona Supreme Court Rule 36. I have served as both an advocate and a judge in more than 60 informal and formal hearings. When I serve in an advocate role as the Investigating Member, I lead the hearing, question the applicant and introduce evidence relating to his fitness to practice law. When I serve as part of a judicial panel, I listen to the testimony presented at the hearing, review the evidence introduced, question the applicant and witnesses, deliberate with the panel, and vote on whether to recommend the applicant to the Supreme Court for admission based on whether he met his burden of proving requisite character and fitness to practice law. I also draft or assist in drafting Findings of Fact and Conclusions of Law outlining the pertinent facts and legal reasoning for why the Committee is recommending admission or denial of admission for an applicant.

- b. The approximate number of these matters in which you appeared as:

Sole Counsel: **20**

Chief Counsel: _____

Associate Counsel: _____

21. Have you handled any matters that have been arbitrated or mediated? **No**.

If so, state the approximate number of these matters in which you were involved as:

Sole Counsel: _____

Chief Counsel: _____

Associate Counsel: _____

22. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case; and (4) a statement of any particular significance of the case. **Not applicable.**

23. Have you represented clients in litigation in Federal or state trial courts? **Yes.** If so, state:

The approximate number of cases in which you appeared before:

Federal Courts: **1**

State Courts of Record: **0**

Municipal/Justice Courts: **20**

The approximate percentage of those cases which have been:

Civil: **5%**

Criminal: **95%**

The approximate number of those cases in which you were:

Sole Counsel: **5%**

Chief Counsel: **95%**

Associate Counsel: **0%**

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a

motion for new trial) or wrote a response to such a motion:	0%
You argued a motion described above	0%
You made a contested court appearance (other than as set forth in the above response)	0%
You negotiated a settlement:	0%
The court rendered judgment after trial:	95%
A jury rendered a verdict:	5%

The number of cases you have taken to trial:

Limited jurisdiction court	20
Superior court	_____
Federal district court	_____
Jury	1

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible.

During my last semester of law school, I worked as a certified limited practice student in the City of Tempe Prosecutor's Office as part of the ASU Criminal Prosecution Clinic, where I tried cases under the supervision of an attorney. One of my cases was a jury trial but I did not keep complete records of my numerous bench trials. This number is my best recollection.

24. Have you practiced in the Federal or state appellate courts? **Yes.** If so, state:

The approximate number of your appeals which have been:

Civil:	0
Criminal:	63
Other (Amicus Briefs):	1

The approximate number of matters in which you appeared:

As counsel of record on the brief: **63**

Personally in oral argument: **4**

25. Have you served as a judicial law clerk or staff attorney to a court? **Yes**. If so, identify the court, judge, and the dates of service and describe your role.

Between August 2009-April 2010, I served as a judicial law clerk to the Honorable Patrick Irvine in Division One of the Arizona Court of Appeals.

As a judicial law clerk, I reviewed briefs, researched legal questions, and drafted numerous memorandum decisions and opinions. I also often served as the bailiff during oral argument, recording arguments and assisting the judges.

26. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

I. State v. Bonfiglio, CR-12-0018-PR, in the Arizona Supreme Court

(1) 2012

**(2) The Arizona Supreme Court heard the case:
Chief Justice Rebecca White Berch
Vice Chief Scott Bales
Justice A. John Pelander
Justice Robert Brutinel (author)
Judge Peter J. Cahill**

**(3) I represented the State of Arizona. Appellant was represented by:
Mikel P. Steinfeld
(602) 506-7711, ext. 3-2575
Mikel.Steinfeld@Maricopa.Gov**

(4) Appellant appealed his aggravated assault conviction. Prior to trial, the State alleged he was subject to an enhanced sentence

because he had two prior felony convictions within 10 years immediately preceding the present offense, a statutorily enumerated aggravator. The jury found one non-statutorily enumerated aggravating factor present: that he could have walked away after first stabbing the victim, but chose to stab the victim an additional three times, a “catch-all” aggravator. At sentencing, the trial court stated it considered all of the information presented, including the State’s presentencing report, which included Appellant’s two prior felony convictions. The trial court specifically noted the jury’s “above and beyond” or “catch-all” aggravator finding in its imposition of an aggravated sentence. On appeal, Appellant argued that the trial court erred because it did not explicitly indicate it was using his prior felony convictions as the basis for the enhanced sentence and only mentioned the non-statutorily-enumerated “catch-all” aggravator. The Court of Appeals affirmed his conviction and sentence. Appellant appealed to the Arizona Supreme Court.

- (5) I represented the State in supplemental briefing and oral argument in the Arizona Supreme Court. This case was significant because it involved conflicting decisions between Division One (*State v. Bonfiglio*, 1 CA-CR10-0075) and Division Two of the Arizona Court of Appeals (*State v. Zinsmeyer*, 2 CA-CR08-0369). The *Zinsmeyer* Court vacated that Appellant’s aggravated sentence and remanded for resentencing because the trial court only cited the non-statutorily enumerated “catch-all” factor in sentencing. The Supreme Court ultimately overruled *Zinsmeyer* and affirmed *Bonfiglio*, holding that the trial court’s findings of prior convictions made him eligible for an enhanced sentence and once that occurred, its mention of the “catch-all” aggravator was valid. The Court noted, however, that although it determined no fundamental error occurred in *Bonfiglio*, in order to avoid potential future confusion, a best practice for trial courts is to state on the record that the prior conviction is required for an aggravated sentence, even if the trial court opts not to rely on those priors as the basis for imposing an aggravated sentence.

II. *State v. Estell*, CA-CR 11-0846, in Division One of the Arizona Court of Appeals

- (1) 2012
- (2) The Arizona Court of Appeals heard the case:

The Honorable Patricia A. Orozco (author)
The Honorable Maurice Portley
The Honorable Randall M. Howe

(3) I represented the State of Arizona. Appellant was represented by:

Mikel P. Steinfeld
(602) 506-7711, ext. 3-2575
Mikel.Steinfeld@Maricopa.Gov

(4) Appellant was convicted of misconduct involving weapons. The State alleged prior felony convictions, that he was on probation at the time of the offense, and other aggravating factors. At trial, the evidence showed that police received a tip that Appellant, who had outstanding arrest warrants, was staying at a particular apartment. When the officers arrived at the apartment and knocked, the person inside closed the blinds and turned off his video games. The officers continued to knock and Appellant slightly opened the door, at which time the officers smelled marijuana. Appellant refused to let them inside but the apartment tenant, his girlfriend, for whom he was babysitting, arrived home and let them search it, at which time they found a gun. Appellant raised numerous issues on appeal, including that the officers' initial smell of marijuana when he opened the door was an illegal search. The Court of Appeals held that Appellant voluntarily opened the door, granting "olfactory access" to police, and therefore, there was no Fourth Amendment violation. The Court affirmed his conviction and sentence.

(5) I argued this case before the Arizona Court of Appeals.

III. State v. Connelly, CA-CR 10-0786, in Division One of the Arizona Court of Appeals

(1) 2012

(2) This case was heard before the Arizona Court of Appeals. The panel included:

The Honorable Diane Johnsen (author)
The Honorable Donn Kessler
The Honorable Andrew W. Gould

(3) I represented the State of Arizona. Appellant was represented by:

The Honorable Tracey Westerhausen (formerly in private practice)
(602) 506-6251
Tracey.Westerhausen@jbazmc.maricopa.gov

- (4) Appellant appealed his aggravated assault and disorderly conduct convictions. After receiving information that a missing child had last been seen at Appellant's house, a police officer arrived at Appellant's house at the same time Appellant's wife and child drove up and parked in the driveway. As the officer questioned Appellant's wife, Appellant angrily emerged from the house holding a gun in his hand and screaming obscenities at the officer. The officer immediately feared for his safety and the safety of the child, pulled out his service weapon and ordered Appellant to drop his weapon, which Appellant refused to do multiple times. On appeal, Appellant argued insufficiency of evidence on both counts, improper sentencing enhancement, that his convictions violated his constitutional rights, and that the aggravated assault and disorderly conduct statutes were overbroad and vague. The Court affirmed his convictions and sentences.
- (5) I argued this case before the Arizona Court of Appeals.

IV. State v. Burrell, 1CA-CR 11-0746, in Division One of the Arizona Court of Appeals

- (1) 2012-2013
- (2) The Arizona Court of Appeals heard the case:
The Honorable Philip Hall (author)
The Honorable Peter B. Swann
The Honorable Samuel A. Thumma
- (3) I represented the State of Arizona. Appellant was represented by:
Eric S. Rothblum (formerly in private practice)
(602) 542-8473
Eric.Rothblum@azag.gov
- (4) Appellant was convicted of theft. In 2006, the victim gave Appellant a \$20,000 check for part of a down payment on a real estate venture in Florida. They executed a promissory note stating that the victim would receive a 20% return on his \$20,000

investment. Appellant cashed the check, did not use the proceeds for the agreed upon down payment, and refused to return the money to the victim. The victim received a civil judgment against Appellant, which Appellant never paid. On appeal, Appellant argued the trial court erred in denying his motion for mistrial based on alleged prosecutorial misconduct, pointing to the prosecutor's description of Appellant during opening statements. He also argued the trial court erred in designating juror one as an alternate juror after the trial lasted longer than the parties anticipated and that juror's previously scheduled personal matter precluded him from continued participation. The Court affirmed Appellant's conviction and sentences.

(5) I argued this case before the Arizona Court of Appeals.

V. *Burns v. Arizona Public Service Co. et. al*, Maricopa County Superior Court Case No. CV2017-001831; *Arizona Public Service Company et. al v. Commissioner Robert Burns*, Arizona Corporation Commission Docket No. E-01345A-16-0036

(1) 2016-2017

(2) Bill Richards was counsel of record for Commissioner Burns. I provided advice and counsel in both the ACC and Superior Court proceedings during my tenure as Commissioner Burns's advisor.

Bill Richards
(602) 595-7800
BRichards@rmazlaw.com

(3) Pinnacle West/Arizona Public Service Company was represented by:

Thomas Loquvam
(480) 540-9472
tloquvam@epcor.com

(4) Commissioner Bob Burns issued subpoenas to an ACC-regulated utility, Arizona Public Service Company, and its parent company, Pinnacle West, seeking information regarding political and lobbying expenditures and charitable spending. The companies filed a lawsuit in Maricopa County Superior Court against Commissioner Burns, seeking an injunction prohibiting him from enforcing his subpoenas, and motions to quash and

sever in the ACC proceedings. Commissioner Burns subsequently filed a related lawsuit against APS, Pinnacle West, the Arizona Corporation Commission, and the other Commissioners in their official capacities in the Maricopa County Superior Court.

- (5) These were very public, high-profile matters involving novel and complex questions relating to the scope of an individual commissioner's authority, utility ratemaking, and constitutional law.

27. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.).

As discussed in my response to Question 20, as an appointed member of the Arizona Supreme Court Committee on Character and Fitness, I have served in a quasi-judicial role in more than 40 informal and formal hearings, listening to evidence and argument, deliberating with the other panel members, and drafting or assisting in drafting Findings of Fact and Conclusions of Law supporting the panel's recommendation to the Supreme Court.

28. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

All matters the Character and Fitness Committee considers are confidential so I am unable to disclose specific case information. To the extent the Commission would like additional information regarding my work on the Committee, please contact Character and Fitness Committee Chair Ed Novak (his contact information is included in the confidential portion of this Application).

29. Describe any additional professional experience you would like to bring to the Commission's attention.

During college, I was selected as a White House Intern and worked in the Office of

Cabinet Affairs in Washington, D.C. In this role, I prepared cabinet secretary schedules and other reports for the President and assisted in the preparation for two cabinet meetings that summer. It was an experience of a lifetime and provided me opportunities to interact with senior officials in the White House, including Condoleezza Rice, Colin Powell, and the Vice President and President.

I was also a Legislative Intern for U.S. Senator John McCain in both his Washington, D.C. and Tucson, Arizona offices. My duties included researching and writing reports for the Senator on a variety of issues relating to immigration, the environment, tribal matters, and appropriations. I prepared remarks on proposed legislation, including the debate on the 9/11 Emergency Funding Bill in 2003, as well as regularly assisting constituents. Working in the Senator's Tucson office during the attacks of September 11, 2001, was challenging and rewarding, and instilled in me a deep appreciation and respect for public service.

BUSINESS AND FINANCIAL INFORMATION

30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14? **Yes.** If so, give details, including dates.

I obtained my real estate license in September 2019 and affiliated with a broker in December 2019. I have not participated in any real estate transactions to date but am currently an active licensed agent. Additionally, as discussed in Question 14, I have worked as a fitness instructor at multiple gyms and fitness centers throughout Phoenix and Scottsdale (See Attachment A).

31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise? **No.** If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are nominated and appointed? **Not applicable.** If not, explain your decision.

32. Have you filed your state and federal income tax returns for all years you were legally required to file them? **Yes.** If not, explain. **Not applicable.**
33. Have you paid all state, federal and local taxes when due? **Yes.** If not, explain. **Not applicable.**

34. Are there currently any judgments or tax liens outstanding against you? **No.** If so, explain. **Not applicable.**
35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support? **No.** If so, explain. **Not applicable.**
36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce? **No.** If so, identify the nature of the case, your role, the court, and the ultimate disposition. **Not applicable.**
37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest? **No.** If so, explain. **Not applicable.**
38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties? **No.** If so, explain. **Not applicable.**

CONDUCT AND ETHICS

39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity? **No.** If so, provide details. **Not applicable.**
40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation? **No.**
- If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition. **Not applicable.**
41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain. **Not applicable.**
42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice. **Not applicable.**
43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42. **Not applicable.**

44. List and describe any sanctions imposed upon you by any court. **Not applicable.**
45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction? **No.** If so, in each case, state in detail the circumstances and the outcome. **Not applicable.**
46. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law? **No.** If your answer is "Yes," explain in detail. **Not applicable.**
47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency? **No.** If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) and contact information of any persons who took such action, and the background and resolution of such action. **Not applicable.**
48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? **No.** If so, state the date you were requested to submit to such a test, type of test requested, the name and contact information of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test. **Not applicable.**
49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings? **No.** If so, explain the circumstances of the litigation, including the background and resolution of the case, and provide the dates litigation was commenced and concluded, and the name(s) and contact information of the parties. **Not applicable.**

PROFESSIONAL AND PUBLIC SERVICE

50. Have you published or posted any legal or non-legal books or articles? **Yes.** If so, list with the citations and dates.

Polygraph Testing in Sex Offender Treatment: A Constitutional and Essential Tool for Effective Treatment, 41 ARIZ. ST. L.J. 429 (2009)

51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? **Yes.** If not, explain.

52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars? **Yes.** If so, describe.
- **CLE Presentation at the *National Attorneys General Research and Training Institute (NAGTRI) Academy: Civility, Effective Leadership, and Ethical Lawyering* in Washington, D.C., March 1-3, 2020**
 - Discussed challenges and other considerations for Attorney General staff when hiring outside counsel
 - **CLE Presentation for the *National Attorneys General Research and Training Institute (NAGTRI) Center for Ethics and Public Integrity (CEPI) Ethics Summit* at ASU's Sandra Day O'Connor College of Law, December 11-13, 2018**
 - Discussed ethical obligations relating to Ethical Rule 1.6–Confidentiality
 - I served on the planning committee for this conference and helped determine the agenda.
 - I also facilitated a discussion concerning legal and government ethics best practices.
 - **CLE Presentation for the Arizona Prosecuting Attorneys' Advisory Council (APAAC) *Appellate Advocacy for Prosecutors: Tips and Considerations for Writing Briefs* in Phoenix, AZ, November 16, 2018**
 - Discussed ethical considerations and best practices when drafting briefs
53. List memberships and activities in professional organizations, including offices held and dates.
- **Arizona Women Lawyers Association (2007-2018)**
 - Steering Committee (Board of Directors): 2007-2008 (*ex officio*–ASU Liaison), 2010-2012, 2015-2016
 - Mentoring Committee Co-Chair: 2010-2011
 - **The Federalist Society (2016-Present)**
 - **National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittees on Electricity (2015-2017) and International Relations (2016-2017)**
 - **Appellate Practice Section, State Bar of Arizona (2011-2013)**
 - **Thurgood Marshall Inn of Court (2008-2010)**

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar?

Yes. Since my appointment to the Arizona Supreme Court Committee on Character and Fitness in 2016, I have spent countless hours reviewing applications, conducting informal and formal hearings as both advocate and judge, deliberating, and rendering decisions in service to the State Bar of Arizona through this committee work (discussed further in Questions 20 and 27). Additionally, in 2018, I volunteered as an attorney member of a Judicial Performance Review Team. The review process involved interviewing three Pima County Superior Court judges and reviewing their judicial performance reports, data and self-evaluations.

List offices held in bar associations or on bar committees. Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like.

- **Arizona Women Lawyers Association Steering Committee (Board of Directors): 2007-2008, 2010-2012, 2015-2016; Mentoring Committee Co-Chair, 2010-2011**
- **Arizona Town Hall: Recorder, April 2012**

54. Describe the nature and dates of any relevant community or public service you have performed.

- **Chi Omega Fraternity:**
 - **Mock Trial/Risk Management Committees (2014-Present)**
 - **ASU Chapter Advisor (2015-2018)**
 - **National House Corporation Team (2011-2014)**
 - **National Convention Chair (Firesides 2011)**
 - **National Convention Team (2008, 2010, 2012)**
- **Audrey's Angels Board of Directors (2017-2020)**
- **Tempe Community Council (2011-2012)**
- **Sandra Day O'Connor House: Co-Chair, O'Connor House Mudsling Fundraiser and Fundraising Committee Member (2011)**
- **University of Arizona Bobcats Advisory Committee Member (2009-2012)**
- **Arizona Centennial Gala Planning Committee Member (2011-2012)**

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received.

- **Arizona Attorney General's Office Emerging Star Award (2011)**

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates.

- **Elected as a Maricopa County Precinct Committeeman (2016-2017)**

- **Appointed by Governor Ducey to serve on the Arizona Substance Abuse Partnership (2019-Present)**

Have you ever been removed or resigned from office before your term expired? **Yes.** If so, explain. **I resigned my Precinct Committeeman position in 2017 of my own volition based on the nature of the new position I had accepted at the AGO.**

Have you voted in all general elections held during the last 10 years? **Yes.** If not, explain.

57. Describe any interests outside the practice of law that you would like to bring to the Commission's attention.

Since 2006, I have volunteered hundreds of hours mentoring college-age women through service to Chi Omega. I have served in a wide variety of volunteer roles, including as a chapter advisor to the local ASU Chi Omega chapter. My favorite volunteer role has been serving on the Mock Trial Committee, where I conduct mock trials and risk management training for hundreds of women at colleges and universities nationwide.

Additionally, exercise and physical fitness are an important part of my life. In 2014, I completed over 300 hours of training to become a certified barre fitness instructor and on average, have taught at least one class a week. Not only do I physically benefit from the exercise, but also it is challenging to develop and lead a different class each week and rewarding to help others achieve their personal fitness goals. In 2011, I ran in the P.F. Chang's Rock & Roll half marathon as part of the State Bar of Arizona's team, which was the beginning and end of my illustrious running career. I now prefer (or my joints do) cycling, hiking, and walking with my young son in tow.

I have also served as a volunteer expert for the National Association of Regulatory Utility Commissioners (NARUC), USAID, and the U.S. Department of State, creating and facilitating more than 20 presentations on utility law and policy. The presentations were provided to regulators in developing nations in Africa and Asia, with the ultimate goal of bringing reliable electricity to their citizens. Additionally, in 2019, I obtained my Arizona real estate license after years of watching real estate and home improvement shows.

Because my parents instilled a love of travel in me at young age, I have visited 47 of the 50 U.S. states, along with 30 countries. Photography is a favorite hobby of mine, and my favorite souvenirs to bring back from trips are my photographs, many of which are displayed in our home (at my husband's request). My latest point of pride is having photographs I took in Israel and Jordan published in the Fifth Edition of *Roman People*, part of the Cognella Antiquity Series, a textbook collection exploring

ancient civilizations, by Robert B. Kebric. These photos include the Garden of Gethsemane in Jerusalem, the Jordan River near the site of John's baptism of Jesus, and the Treasury in Petra, Jordan, one of the seven new wonders of the world.

In addition to these activities, I am both a proud wife and mother to our young son, who is my greatest blessing and joy.

HEALTH

58. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying? **Yes.**

ADDITIONAL INFORMATION

59. The Arizona Constitution requires the Commission to consider the diversity of the state's population in making its nominations. Provide any information about yourself (your heritage, background, life experiences, etc.) that may be relevant to this consideration.

I am a proud Arizonan and have lived in this state from the age of two. I have resided in two counties, traveled to all 15 counties, and helped to advance the State's interests as an intern on Capitol Hill. I have spent a substantial amount of time mentoring female college and law school students, and working to advance women in the legal profession. I am the mother of a young son, a wife, daughter, sister, and niece.

I also possess the values of hard work, frugality, and a zest for intellectual and physical challenges, derived from the family members who came before me. My maternal grandmother came to the United States from Hungary at age 14. Because she did not speak English, she was placed in a first-grade class as a teenager where she was ridiculed and eventually dropped out of school. Despite this, she and my maternal grandfather, who also did not complete his high school education, were successful farmers and parents to nine children. My mother and her eight siblings were expected to work the farm before and after school which taught them the value of hard work and gratitude for what you are given—two important values she instilled in me. My mother was the second member of her family to graduate from college and went on to a successful teaching career.

Despite being placed in an orphanage at a young age, my paternal grandfather earned his doctorate from Stanford University. My paternal grandmother graduated

from both Washington State University and Columbia University in the 1930s. In their later years, my grandparents led travel groups to nations all over the world, which instilled in my father a great passion for experiencing different cultures, which he passed onto me.

I also have diversity of experience. My nearly five years of experience working in complex area of utility ratemaking at the Arizona Corporation Commission is unique in and of itself. I have tried criminal cases and assisted attorneys in all aspects of trial practice and process. I have personally authored more than 60 appellate briefs and argued cases before the appellate courts. Additionally, I have experience in nearly every area of the law in which the AG's office practices, from consumer fraud to juvenile law. This diverse and wide-ranging experience law would help me bring value to the Court of Appeals, which considers appeals involving nearly every area of the law.

60. Provide any additional information relative to your qualifications you would like to bring to the Commission's attention.

I have worked in all three branches of government and have a profound respect for the separation of powers. I have also worked with officials in the highest levels of state and federal government, as well as in developing nations in Africa and Asia. I have a proven record of being a team player, managing employees and committees, and facilitating robust debates on legal issues as part of the AGO Ethics, Opinions, and Outside Counsel Committees, with the ultimate goal of reaching consensus.

I also, however, personally know the courage it takes to stand alone when consensus cannot be reached, when a client is displeased with my legal advice, and when duty to a client means being isolated in a work environment. I know what it is like to have a client take an unpopular position and receive pressure from powerful forces to change his mind. During these difficult times, however, I chose to follow my ethical duties and responsibilities because it was the right thing to do. Thus, my record shows I am not afraid to dissent where appropriate and where I believe the rules, laws, or constitution require it—be it for a client, as the lone dissenter in a Character and Fitness Committee case, or, if selected, as a judge.

On a personal note, my father was employed for National Football League teams for over 40 years. I grew up studying the game of football, attending games, meeting countless college and NFL players, and hearing their unique personal stories. My dad used to describe how rare it is to find a player who has both the intangibles, the special skill that sets him apart, and the work ethic to train and maximize those skills. The intangibles are the gifts we are blessed with but typically cannot change. Other factors, such as strength, physical fitness, and mental aptitude are things we can improve by putting in the work. I was most inspired by the players

who may not have had the most natural talent but worked as hard as physically possible to train, study the game, and ultimately maximize the areas they could control. This strong work ethic that my father taught me about, and exemplified himself, is an asset I would bring to the Court.

61. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location? **Yes**. If not, explain.

62. Attach a brief statement explaining why you are seeking this position.

See Attachment C.

63. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website.

Attachment D is an excerpt from Arizona Supreme Court Supplemental Brief filed in *State v. Bonfiglio*.

Attachment E is an excerpt from Arizona Court of Appeals Division One Answering Brief filed in *State v. Almaleki*.

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than three written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than ten pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website. **Not applicable.**

65. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews. **Not applicable.**

**-- INSERT PAGE BREAK HERE TO START SECTION II
(CONFIDENTIAL INFORMATION) ON NEW PAGE --**

ATTACHMENT A

ANGELA PATON FITNESS CLASS EMPLOYMENT HISTORY

- **MOUNTAINSIDE FITNESS** Phoenix/Scottsdale, AZ 09/19-present
- **FITBARRE** (formerly known as Cardio Barre) Phoenix, AZ 11/17-03/20
- **CENTRAL PARK ATHLETIC CLUB** Phoenix, AZ 05/18-03/20
- **AXOSOFT** (private company) Scottsdale, AZ 02/18-03/20
- **ALTER EGO FITNESS** Scottsdale, AZ 11/17-03/19
- **TENPOINTS** Phoenix, AZ 03/18-10/18
- **KARVE STUDIO** Scottsdale, AZ 09/14-09/17

ATTACHMENT B



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
OPERATIONS DIVISION

HUMAN RESOURCES
SECTION

TO: Whom This May Concern

FROM: Human Resources – Attorney General Office

DATE: 06/29/2021

RE: Current list of AGO Attorneys as of 06/29/2021

Below is a list of current attorneys at the Attorney General's Office:

AGCFP	ABBEY, DEBORAH K.
AGSGD	ACOSTA, JOE
AGSGD	ACOSTA-COLLINGS, CLAUDIA R.
AGCFP	ADAMS, AMANDA L.
AGSGD	ADAMS, CATHERINE S.
AGCRM	ADAMS, KRISTI M.
AGSGO	AHL, DAVID E.
AGCRM	AHLER, PAUL W.
AGCLD	ALLEE, MITCHELL W.
AGCRM	AMOO, MUKAI
AGCFP	ANDERSON, ANDREA R.
AGCFP	ANDERSON, CALLEY R.
AGSGD	ANDERSON, KIM S.
AGCFP	ANZINI, LAUREN M.
AGSGD	ASCHENBACH, RON J.
AGSGD	ASTA, SARAH A.
AGSGD	BABIONE, BYRON J.
AGCFP	BACAL, JOSEPH E.
AGSGD	BACON, JAMES N.
AGSGO	BAEK, RICHARD L.
AGCFP	BAIER, DONALD J.
AGCRM	BALDNER, VICTORIA A.
AGSGO	BALL, CASEY D.

AGSGD	BANES, REBECCA A.
AGCRM	BARRICK, JENNIFER E.
AGCFP	BARRY, WILBUR F.
AGSGD	BASKIN, MONA E.
AGCFP	BAUMANN, AARON A.
AGSGD	BECKLUND, MARJORIE S.
AGSGD	BEHNKE, KALYN D.
AGSGD	BELJAN, JOTHI
AGSGD	BENJAMIN, DENA R.
AGSGO	BENNETT, ERIN D.
AGSGD	BENNETT, THOMAS D.
AGCFP	BERENDSEN, ELIZABETH A.
AGSGD	BERGIN, DANIEL H.
AGSGD	BERGIN, VICTORIA J.
AGCLD	BERNHEIM, ROBERT A.
AGCFP	BEVINS, ERIN S.
AGCFP	BEVINS, WILLIAM F.
AGCLD	BISHOP, RYAN G.
AGCFP	BLUM, JENNIFER R.
AGCFP	BODDINGTON, LISA C.
AGSGO	BOND, MICHELLE L.
AGCLD	BONHAM, JENNIFER L.
AGSGD	BONNELL, NANCY M.



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AGCFP.	BORES, JACQUELINE S.
AGCFP	BOTTA, ALISON M.
AGCFP	BOYD, MICHAEL E.
AGSGD	BOYLE, PATRICK J.
AGSGO	BRACCIO, MYLES A.
AGSGD	BRACHTL, MARK C.
AGCFP	BRADLEY, BETHANY E.
AGSGD	BRENNAN, CARRIE J.
AGEXO	BRNOVICH, MARK
AGCFP	BROWN, LINDA M.
AGCFP	BROWN, LISA B.
AGSGD	BURTON, MICHELLE
AGCFP	BURZ, REBEKAH J.
AGSGD	CAMPBELL, ELIZABETH A.
AGCFP	CAMPBELL, SEAN M.
AGCFP	CANNON, MATHEW B.
AGSGD	CANTRELL, JEFFREY D.
AGCRM	CAPLINGER, SAMANTHA L.
AGSGD	CAPUTO, LOUIS F.
AGCLD	CARLSEN, CHRISTIAN B.
AGSGD	CARTER, PAUL E.
AGSGD	CASE, NANCY K.
AGSGO	CATLETT, MICHAEL S.
AGSGD	CHAMBERLAIN, KIMBERLY D.
AGCFP	CHAMPAGNE, DEANA M.
AGCFP	CHAPMAN, AMY S.
AGCFP	CHAVEZ, JULIE A.
AGSGD	CHENAL, THOMAS K.
AGSGO	CHIASSON, LAURA P.
AGCFP	CHRISTENSEN, SCOTT A.
AGCFP	CHRISTOPHER, JANET V.
AGCFP	CIAFULLO, MARK A.
AGCLD	CIAFULLO, MARK J.
AGCRM	CLARK, DOUGLAS L.

AGSGO	CLAW, GRACYNTHIA D.
AGSGD	COADY, MONIQUE K.
AGSGO	COFFMAN, BRIAN R.
AGSGD	COHEN, ERIN D.
AGSGO	COLE, DAVID R.
AGCRM	COLL, SEAN P.
AGCFP	CONLEY, JACQUELINE
AGCLD	COOPER, LESLIE K.
AGCFP	COORDES, GREGORY D.
AGSGD	CORCORAN, AUBREY JOY
AGSGD	CORLEY, JASON D.
AGCFP	CORTINA, DARLENE M.
AGCFP	COUNTS, SHALLON L.
AGSGD	COX, CURTIS A.
AGCFP	CRANE, ALISON P.
AGSGD	CRESTIN, KEVIN P.
AGCFP	CRITZ, ANNA G.
AGCFP	CULBERTSON, WEI-TING
AGSGD	CUMMINGS, KYLE R.
AGCFP	CURIGLIANO, ROBERT J.
AGSGO	CURTISI, NATHAN
AGSGD	CUTTS, SHELLEY D.
AGSGD	CYGAN, KIMBERLY J.
AGCRM	DAILEY JR, JAMES M.
AGSGO	DAMSTRA, KATHRYN A.
AGCFP	DAULT, RICHARD D.
AGSGD	DAVIS, CHRISTOPHER B.
AGSGD	DAVIS, SUSAN E.
AGSGD	DELAAT WILLIAMS, MARY H.
AGCFP	DEVANY, ERIC
AGCFP	DHAS, ASHWINI P.
AGCLD	DILWEG, LAURA E.
AGSGO	DIVIS, KATLYN J.
AGCFP	DOLL, HOLLY A.



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AGSGD	DONALD, SCOTT B.
AGCLD	DU MEE, MATTHEW B.
AGCRM	DUPLISSIS, STEVEN J.
AGSGD	DURAN, GINO A.
AGCLD	DYLLA, CHRISTOPHER J.
AGSGD	DYLO, JOSEPH E.
AGCFP	DYSART, ANDREW B.
AGSGO	EASTERDAY, JASON B.
AGCFP	EHREDT, AMANDA R.
AGCRM	EKLUND, MATTHEW P.
AGSGD	ELLIOTT, STEPHANIE
AGCRM	EMERSON, JORDAN E.
AGCFP	ENRIQUEZ, LAURA I.
AGSGO	ENSIGN, DREW C.
AGCFP	ESPINOSA, GIOCONDA A.
AGCFP	ESPIRITU, EDGARD FRANCIS B.
AGSGD	EVANS, LYNETTE J.
AGCFP	FALGOUT, JOANN
AGCLD	FALLON, JANE S.
AGSGD	FEASEL, CHRISTOPHER J.
AGSGD	FERRIS JR, CHARLES W.
AGCFP	FITZGERALD, LISA J.
AGCFP	FORSCH, ERICA B.
AGCFP	FOSTER, ALYSON M.
AGCLD	FOX, SAMUEL P.
AGSGO	FRANCIS, JILLIAN B.
AGSGO	FREEMAN, WILSON C.
AGCLD	FREESTONE, SHYLA R.
AGSGD	FRIES, JERRY A.
AGSGD	FRY, JOHN M.
AGCRM	FULLER, SHELBY N.
AGCRM	GADOW, BLAINE D.
AGCRM	GALUSHA-TROICKE, NICHOLE J.
AGCFP	GALVAN, JOSE P.

AGSGD	GALVIN, JEANNE M.
AGCFP	GARBUTT, BART T.
AGCFP	GARDNER, AMELIA A.
AGSGD	GARNER, DEBORAH L.
AGSGD	GENTRY, GWYNDOLYNN D.
AGCFP	GEVERS, ALICIA
AGCFP	GILBERT, ISAAC A.
AGSGD	GILLILAN-GIBSON, KELLY E.
AGCLD	GILLOTT, WENDY M.
AGSGD	GILMAN, LINDSEY E.
AGCRM	GODDARD, KYRA
AGSGD	GOLOB, ELCHONON D.
AGSGD	GOODWIN, MICHAEL K.
AGSGD	GOTTFRIED, MICHAEL E.
AGCFP	GOUDREAU, CONSTANCE G.
AGSGD	GOULD, CONNIE T.
AGCFP	GOURLAY, VIRGINIA W.
AGCLD	GREY, CHRISTINA M.
AGSGD	GRUBE, CHARLES A.
AGSGD	GUILLE, MISTY D.
AGSGD	HACHTEL, LAURIE A.
AGCFP	HALL, DANIEL P.
AGSGD	HALL, ROGER W.
AGSGD	HANDY, JO-ANN A.
AGCRM	HARAMES, BRETT J.
AGSGD	HARGRAVES, SETH T.
AGCFP	HARPER, SHAWN L.
AGSGD	HARRINGTON, KATHLEEN
AGSGD	HARRIS, MARC H.
AGCFP	HARRIS, VERNON L.
AGCFP	HARRISON, CARI A.
AGCFP	HARRISON, WENDY J.
AGCRM	HARRISS, MARY L.
AGCFP	HAWKINSON, ERIN B.



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AGSGO	HAZARD, GREGORY M.
AGSGO	HECKATHORNE, SARAH E.
AGCFP	HEINRICK, TRACEY L.
AGCRM	HEINTZ, RACHEL
AGSGD	HENDERSON, CHRISTINA A.
AGSGD	HERLIHY, MATTHEW T.
AGCFP	HERRERA-GONZALES, VIRGINIA
AGCFP	HESSINGER, MARK E.
AGCFP	HICKS, SARAH K.
AGSGD	HOBART, ANN
AGCFP	HODGSON, MARK A.
AGCFP	HOLDEN, MICHELE B.
AGSGO	HOLDER, JENNIFER L.
AGCRM	HOLGUIN, HOLLIE C.
AGSGO	HOLLYWOOD, KAITLIN
AGCFP	HOLYA, ROBERT B.
AGSGD	HORN, JEREMY D.
AGSGD	HORN, SOPHIA N.
AGCFP	HORNE, WILLIAM M.
AGSGD	HOWARD, ZACHARY S.
AGCFP	HUCKABY, LINDSAY B.
AGCRM	HUDSON, JOHN E.
AGSGD	HUGHES, KENNETH R.
AGSGD	HUGHES, LINDSAY M.
AGCFP	HUMPHRIES, JOHN L.
AGSGO	HUNT, DIANE L.
AGCFP	HUNTER, JENNIFER R.
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Thank you,

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ATTACHMENT C

“[T]he first duty of society is justice.” -Alexander Hamilton

This quote is posted on the wall of the seventh floor of the Arizona Attorney General’s Office. It reminds me daily why I became an attorney, and why I want to be a judge.

During law school, I worked in the Sex Crimes Bureau at the Maricopa County Attorney’s Office. There, I met a teenage girl who had been molested by her father for many years. Her father was on trial for his crimes and insisted on representing himself, which was his right, but in doing so forced the victim to recount the acts he committed against her not only in open court, but directly to him when he cross-examined her. After many long days of trial, a jury convicted him of multiple sex crimes.

When the internship ended, the office attorneys gave me a plaque that reads: “A hundred years from now it will not matter what my bank account was, the sort of house I lived in, or the kind of car I drove, but the world may be different because I was important in the life of a child.” They also gave me a purpose, to pursue justice for victims like the teenage girl involved in the trial. I have carried both this plaque and purpose with me to each of my legal jobs.

After graduating from law school, I clerked for Judge Patrick Irvine at the Arizona Court of Appeals. As a judicial law clerk, I read briefs, researched the law, attended oral arguments, and helped write memorandum decisions and opinions. It was a completely different experience than trial work. Although I did not interact directly with victims, witnesses, and other parties as I did at the trial level, I enjoyed the novel issues presented, the intellectual debate between my judge and his colleagues, and observing different advocacy styles at oral argument. During this time, I realized the monumental impact appellate court decisions have not only for the victims in a specific case, but also for countless others.

That experience led me to work in the Criminal Appeals Section of the Arizona Attorney General’s Office. While there, I drafted more than 60 appellate briefs and defended convictions through oral argument at the Arizona Court of Appeals and Arizona Supreme Court. As a result of reviewing the trial transcripts and court records, I relived the trials of some of the most heinous crimes. I worked on an “honor killing” case, where a father intentionally ran over his daughter with his vehicle, as well as cases where parents had child-accessible methamphetamine labs in their homes. I constantly felt the victims’ presence which prompted me to work harder to ensure justice was upheld for them. And during this time, I never forgot that young girl answering her father’s questions in court.

In 2012 I went to work for Commissioner Bob Burns after his election to the Arizona Corporation Commission (ACC). Although this job was quite different from the criminal law issues I dealt with at the Attorney General’s Office, it provided me an unparalleled opportunity to expand my legal knowledge and experience. The one thing the two jobs shared in common, however, was the amount of required reading and legal analysis I did on a daily basis. I reviewed the hearing record and transcripts as I did as an Assistant Attorney General in Criminal Appeals, but these cases involved very complex civil litigation matters in utility ratemaking cases. Commissioner Burns’s position required him to serve in quasi-legislative, quasi-executive, and quasi-judicial roles. In the quasi-judicial role, he weighed all of the evidence

presented at the rate case hearing and balanced the interests of keeping rates low for Arizona's ratepayers while also fulfilling his legal obligation to give the utilities fair compensation for providing services to Arizona's citizens. This was a different yet critical type of justice involving the price of electricity and water, impacting millions of Arizonans on a daily basis.

When I returned to the Attorney General's Office to serve as Ethics Counsel and Attorney General Opinions Counsel, the latter job required me to confront questions of law that had not yet been addressed by the courts. When the question involved ambiguous statutory text, I looked to the statutory scheme and other relevant statutes for clarity, following the same canons of construction employed by appellate court judges. Although clear, unambiguous statutory language is always the goal, and one I always aimed for when drafting proposed legislation, it was exciting to review novel questions and write clear, concise opinions. In one recent case, the office received an AG opinion request which involved conflicting statutory provisions—one part of the statute had been updated but another part had not. Ultimately, the Arizona Legislature modified the older statute to conform with the new one, which mooted the need for an opinion. This was an ideal outcome, having the Legislature speak for itself instead of the judiciary (or AG) opining on the meaning of its text.

I was appointed to the Supreme Court Character and Fitness Committee in 2016. The Committee is responsible for assessing the moral character of attorney applicants seeking to practice in the State of Arizona. My service on this committee has at times been rewarding, and at other times, incredibly difficult. It has instilled in me the values of listening, redemption, and teachable moments. In one particular case, an applicant had an incredible history of military service to our country but made poor choices upon his return home from active duty due to post-traumatic stress disorder. He turned his life around and convinced the panel that he had indeed learned from his past mistakes and deserved a second chance. This and other experiences on the Committee have taught me that sometimes the rules require a harsh outcome, but where there are opportunities to apply grace or mercy within the parameters of the rules or law, one should do so.

Now that I am a mother, I often think about my son. What would I want for him if he were a victim? Naturally, I would want justice. What would I want for him if he appeared in court? I would want fairness. I would want him to appear before a judge who is fair and impartial, applies the law as written, and takes the opportunity to show compassion if the situation warrants it. This is the kind of judge I want to be.

I became a lawyer because I wanted to pursue justice. Since that time, I clerked for an appellate court judge and argued cases before the Arizona Court of Appeals and Arizona Supreme Court. I advised a quasi-judicial officer and drafted legal opinions published by the Arizona Attorney General. While I have truly enjoyed these roles, I am now prepared to be the decision-maker rather than an advocate or advisor. My diversity of public service, love for the state in which I was raised, and respect for the rule of law would permit me to bring substantial value to the Court. I began my legal career at the Arizona Court of Appeals and would be most honored to return there as a judge because I still believe that the first duty of society is justice. Thank you for your consideration.

ATTACHMENT D

ARIZONA SUPREME COURT

STATE OF ARIZONA,

Appellee,

v.

AUSTIN JAMES BONFIGLIO,

Appellant.

No. CR12-0018-PR

Court of Appeals No.
1 CA-CR10-0075

Maricopa County Superior Court
No. CR2009-122982-001 SE

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Under a fundamental error of review standard, a defendant bears the burden of establishing: (1) there was error; (2) the error was fundamental, *i.e.*, the error went “to the foundation of the case,” took away a right essential to a defendant’s defense, and was “error of such magnitude that the defendant could not possibly have received a fair trial;” and (3) prejudice. *Henderson*, 210 Ariz. at 567, ¶ 19, 115 P.3d at 607.

Appellant has failed to meet his initial burden of establishing error under a fundamental error review standard. *See Henderson*, 210 Ariz. at 568, ¶ 23, 115 P.3d at 608 (stating that to prevail under fundamental error standard, a defendant “must first prove error”). Arizona Revised Statutes § 13–701(D)(11) provides that the trial court “*shall* determine” the aggravating circumstance of “whether a defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense.” A.R.S. § 13–701(D)(11). This Court has previously held that “shall” is a “mandatory term.” *See, e.g., State v. Morris*, 215 Ariz. 324, 340, ¶ 76, 160 P.3d 203, 219 (2007); *Brewer v. Burns*, 222 Ariz. 234, 240, ¶ 27, 213 P.3d 671 (2009) (“The use of ‘shall’ further underscores the mandatory nature of the Presentment Clause.”).

In fact, because Appellant’s convictions occurred within 10 years preceding the date of the current offense, the trial court “was *required* to consider [Appellant’s criminal history] in determining whether to aggravate

appellant's sentence." *See State v. Bonfiglio*, 228 Ariz. 349, 355, ¶ 22, 266 P.3d 375, 381 (App. 2011); *see also State v. Estrada*, 210 Ariz. 111, 114, ¶ 11, 108 P.3d 261, 264 (App. 2005) (the trial court was "required to consider [Appellant's historical prior felony convictions] as aggravating factors"). Indeed, had there been no mitigating factors, the trial court would have been required to impose an aggravated sentence pursuant to A.R.S. § 13-702(D)(6) (2009) ("If the trier of facts finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.").

Consequently, there was no error because the mere existence of Appellant's prior felony convictions exposed him to an aggravated sentence, regardless whether the trial court expressly relied upon them for aggravation during sentencing. *See Schmidt*, 220 Ariz. 563, ¶ 11, 208 P.3d at 217 ("When one or more clearly enumerated aggravators are found . . . [s]ubsequent reliance on other factors embraced by a catch-all provision to justify a sentence up to the statutory maximum comports with the traditional discretionary role afforded judges in sentencing."); *see also State v. Carreon*, 211 Ariz. 32, ¶¶ 4, 6, 116 P.3d 1192, 1193 (2005) (trial court's statement that Appellant had prior felony convictions and was on release when he committed present offenses exposed him to the aggravated sentencing range despite the court's failure to

make specific aggravation findings); *State v. Martinez*, 210 Ariz. 578, 585–86, ¶¶ 26–27, 115 P.3d 618, 625–26 (2005) (finding that aggravator implicit in the jury’s verdicts raised sentencing range and thus, it was not fundamental error for the court to use additional aggravator not determined by jury in imposition of sentence).

Moreover, any theoretical error in the trial court not explicitly indicating that Appellant’s prior convictions exposed him to an aggravated sentence was clearly not “fundamental” error in light of the fact that the court was *required* to consider the prior convictions in imposing sentence. *Trantor v. Fredrikson*, 179 Ariz. 299, 300–01, 878 P.2d 657, 658–59 (1994) (holding that the lack of specific findings does not amount to fundamental error); *State v. Williams*, 144 Ariz. 433, 439, 698 P.2d 678, 684 (1985) (“Failure to enumerate the specific facts and circumstances upon which the [evidentiary] ruling is based is not reversible error if such information appears in the record.”). Thus, the lack of a specific, explicit finding by the trial court that it was the using prior felony convictions to aggravate the sentence imposed does not amount to fundamental error.

Finally, Appellant cannot show prejudice under a fundamental error review standard. Prejudice under “[f]undamental error review involves a fact-intensive inquiry, and the showing required to establish prejudice therefore

differs from case to case.” *Henderson*, 210 Ariz. at 568, ¶ 26, 115 P.3d at 608. Here, the State alleged the prior convictions as aggravating circumstances, Appellant admitted the prior convictions, and the trial court was required to consider the prior convictions in imposing its sentence. Appellant, therefore, cannot establish prejudice because the record affirmatively establishes the existence of the prior convictions, which constituted a statutorily-enumerated circumstance that exposed Appellant to the aggravated range of sentence. *See Henderson*, 210 Ariz. at 569, ¶¶ 27–28, 115 P.3d at 609 (defendant not prejudiced where no reasonable trier of fact could fail to find existence of the aggravator).

Indeed, had Appellant’s counsel thought the sentence was improper, he likely would have asked the trial court to explain whether it was using his prior felony convictions to aggravate his sentence. *See State v. Munninger*, 213 Ariz. 393, 397, ¶ 14, 142 P.3d 701, 705 (App. 2006) (no prejudice where defendant provided no evidence to support his claim that the trial court would have given him a different sentence; speculation is insufficient to establish prejudice under a fundamental error review standard).

In *State v. Zinsmeyer*, 222 Ariz. 612, 218 P.3d 1069 (App. 2009), Division Two of the Arizona Court of Appeals held that remand for resentencing was required because, although the defendant’s prior felony

conviction had been established, the sentencing court did not expressly mention the prior convictions when discussing aggravating circumstances, and consequently may have solely relied upon a non-statutorily enumerated aggravating circumstance to impose an aggravated sentence. *Id.* at 623, ¶ 26, 218 P.3d at 1080. For the reasons discussed in *Bonfiglio*, and above, however, once Appellant's prior historical felony convictions were properly found, their existence permitted the trial court to impose a sentence within the aggravated range—regardless of whether it relied upon the prior convictions in aggravating the sentence imposed. *See Bonfiglio*, 228 Ariz. at 355, ¶ 24, 266 P.3d at 381. Thus, *Zinsmeyer* was wrongly decided.

CONCLUSION

For all of the above reasons, Appellee respectfully requests that this Court affirm Division One of the Court of Appeals' decision in this matter.

ATTACHMENT E

Thus, a driver who causes an accident resulting in death or serious injury and who fails to stop or stops but fails to comply with A.R.S. § 28–663 is guilty of a class 3 felony. *See id.* The purpose of the statute is to “prohibit drivers from seeking to evade civil or criminal liability by escaping before their identity can be established.” *Powers II*, 200 Ariz. 363, ¶ 9, 26 P.3d 1134, 1135 (quoting *State v. Rodgers*, 184 Ariz. 378, 380, 909 P.2d 445, 447 (App. 1995)).

Here, Appellant acknowledges that he violated A.R.S. § 28–661(A), but claims the trial court abused its discretion when it denied his motion to dismiss Count 5 as multiplicitous. “Multiplicity occurs when an indictment charges a single offense in multiple counts [and] raises the potential for multiple punishments, which implicates double jeopardy.” *State v. Powers*, 200 Ariz. 123, 125, ¶ 5, 23 P.3d 668, 670 (App. 2001) (“*Powers I*”), *aff’d* 200 Ariz. 363, 26 P.3d 1134 (2001).

Specifically, Appellant contends that Count 5 is multiplicitous pursuant to *Powers II*, which held that “[t]he number of accident scenes under § 28–661 is not defined by the number of victims affected by the accident.” *Powers*, 200 Ariz. at 364, ¶ 9, 26 P.3d at 1135. In *Powers*, the defendant struck two victims—a jogging mother and her infant child in a stroller—with his truck. *Id.* at 363, ¶ 2, 26 P.3d at 1134. As a result of the *single* simultaneous incident, the mother died and the child suffered serious injuries. *Id.* The defendant was convicted of two counts of

leaving the scene of an accident. *Id.* at 364, ¶ 3, 26 P.3d at 1135. He appealed, arguing that the second count of leaving the scene was multiplicitous because there was only one accident scene. *Id.* at ¶¶ 3–4, 26 P.3d at 1135. The supreme court agreed and held that the primary purpose of A.R.S. § 28–661 is “scene-related, not victim-related,” and thus, the number of accident scenes is not defined by the number of victims. *Id.* at 364, ¶¶ 9–10, 26 P.3d at 1135.

In contrast, the trial evidence in this case does not show that one collision simultaneously injured the two victims, [REDACTED] and [REDACTED], but that Appellant struck the victims at two different scenes. Because the Legislature did not provide a statutory definition for “scene,” this Court may properly consult a respected dictionary for its commonly understood meaning. *State v. Jensen*, 217 Ariz. 345, 349, ¶ 7, 173 P.3d 1046, 1050 (App. 2008) (when a term is not statutorily defined, this Court refers to dictionary definitions for common usage). “Scene” is defined as: “the place where some action or event occurs[.]” WEBSTER’S ENCYCLOPEDIA UNABRIDGED DICTIONARY OF THE ENGLISH LANGUAGE, at 1712 (1996).

The present case involves two separate scenes. Appellant first struck and injured [REDACTED] as she walked in the parking lot. Having injured her, he did not “immediately stop” pursuant to A.R.S. § 28–661. Instead, he accelerated again, “abrupt[ly]” turned the steering wheel to the left, and left the first scene. (R.T. 1/26/11, at 52.) Appellant then directed his car towards [REDACTED], who

was walking some distance behind [REDACTED], jumped the curb onto the landscape island, and struck [REDACTED] with his car—creating the second scene. (R.T. 2/3/11, at 44–45, 48; R.T. 1/27/11, at 131.) After hitting [REDACTED], he stopped for a moment but did not remain at the scene as required by A.R.S. § 28–661. Instead, he backed up off the curb, and sped away towards Peoria Avenue. (R.T. 1/25/11, at 21, 77.)

Other evidence presented at trial supports the conclusion that there were two separate collisions, two separate accident scenes, and two acts of leaving the two scenes. [REDACTED] heard the SUV accelerate and subsequently saw [REDACTED] on the ground in the landscape island. (*Id.* at 18, 23, 25.) He did not see a second person get hit, and it was not until later that he learned that [REDACTED] had also been hit. (*Id.* at 23, 25.) [REDACTED] testimony supports the conclusion that the two victims were some distance away from each other, and were struck at different times.

Moreover, [REDACTED] testified that she heard a “very loud bang” and when she turned to face where the sound was coming from, she noticed that Appellant’s car had stopped. (*Id.* at 49.) [REDACTED] then heard it accelerate again, jump the curb onto the landscape island, at which time she heard the second loud “bang.” (*Id.* at 50–51, 67.) [REDACTED] was located in the landscaping area and [REDACTED] was located “to the west of the median.” (*Id.* at 98.) [REDACTED] was not on the landscape median when Appellant hit her. (R.T. 2/3/11, at 48.)

The tire marks caused by Appellant’s vehicle also support the conclusion

that there were two scenes. Officer ██████ identified a “critical speed scuff mark” that was caused by the vehicle’s “apparent abrupt change in direction” after it hit ██████. (R.T. 1/26/11, at 52.) Officer ██████ noticed a tire mark “in a curved manner as though [the vehicle] had turned.” (*Id.* at 126.) ██████ testified that after Appellant hit her with his vehicle, he turned the wheel and accelerated towards ██████. (R.T. 2/3/11, at 45.) The tire and scuff marks were consistent with the vehicle changing directions to drive towards ██████ after it hit ██████, including two tire marks on the “unmountable curbing” of the landscape island, indicating the car traveled onto the landscape island. (*Id.* at 126–27.)

Moreover, the damage to Appellant’s SUV supports the conclusion that there were two scenes. (R.T. 1/27/11, at 130.) Appellant first struck ██████ with the passenger front side of the vehicle. (*Id.* at 76.) The damage to the front center of the vehicle was consistent with having hit ██████ head-on. (*Id.* at 130.) Appellant struck ██████ closer to the driver’s side of the vehicle and her impact caused the windshield cracks. (*Id.* at 76, 130.) Furthermore, hair belonging to ██████ was found in the undercarriage of the driver’s side of the vehicle, indicating that the SUV ran over her before backing up to exit. (*Id.* at 76, 147.)

Finally, Appellant’s interview statements support the conclusion that there were two accident scenes. During his interview with the detectives, Appellant said that he intended to hurt ██████ but that hitting ██████ was an accident. (R.T. 2/7/11,

at 42; R.T. 2/2/11, at 77; R.T. 2/10/11, at 42, 52.) During his interview with the forensic psychiatrist, he stated that intended to hit and hurt [REDACTED] but that hitting [REDACTED] was an accident. (R.T. 2/7/11, at 77–78; R.T. 2/10/11, at 39.) Whether hitting [REDACTED] was an accident or not, he specifically hit her and left the scene when he “abrupt[ly]” turned his steering wheel to the left to hit [REDACTED].

As the State analogized below, “had [REDACTED] and [REDACTED] been 1 block or 1 mile apart from one another, there would be no doubt that two different crime scenes would exist.” (R.O.A., Item 120.) Here, Appellant, “[t]he driver of a vehicle involved in an accident resulting in injury to or death of a person,” failed to immediately stop and render assistance after two distinct collisions, and thus was properly convicted of failing to immediately stop or immediately return to both of the two scenes.² See A.R.S. § 28-661 (emphasis added). Thus, Appellant was properly convicted of two counts of leaving the scene of an accident. See *State v. Brown*, 547 S.W.2d 217, 220 (Mo. App. 1977) (“[M]ultiple impacts give rise to multiple accidents.”).

In fact, in *Powers I*, this Court specifically noted that where the trier of fact properly finds that a defendant has left multiple accident scenes, that defendant can be found guilty of multiple violations of the leaving the scene statute. *Powers I*,

² Appellant contends that the State made an “impact-based” argument that was rejected in *Powers*. (O.B. at 5, n.1.) The State’s argument here, however, focused on the number of scenes. (R.O.A., Item 120.)