

FILED IN COURT

12/8/09

PATRICIA A. NOLAND, Clerk

V. K. Herbold

Deputy

**TERRY GODDARD**

Attorney General

**KIMBERLY H. ORTIZ**

Assistant Attorney General

400 West Congress, Suite S-315

Tucson, Arizona 85701

Telephone No.: (520) 628-6504

Pima County Computer No.: 65361

State Bar No.: 15102

T002-2008-000027

CRMTucson@azag.gov

**DEPOSITION  
EXHIBIT**

Fulbright #8

6-16-17

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF PIMA**

**STATE OF ARIZONA,**

**Plaintiff,**

**vs.**

**KUMARI SEMONE FULBRIGHT,**

**Defendant.**

**CR-2007-4823**

**PLEA AGREEMENT**

**[Judge Nichols – Div. 14]**

The State of Arizona and the Defendant agree to the following disposition of this case on the following terms and conditions:

**I. SPECIFIC TERMS:**

**A. THE PLEA:** The Defendant, **KUMARI SEMONE FULBRIGHT**, agrees to plead guilty to the charges of:

**COUNT ONE: CONSPIRACY TO COMMIT KIDNAPPING, A Class 2 Felony (Amended)**

On or about the 8<sup>th</sup> day of December, 2007, **KUMARI SEMONE FULBRIGHT**, with the intent to promote or aid the commission of an offense, to wit: Kidnapping (knowingly restraining **JOSHUA CONWAY** with the intent to inflict death and/or physical injury on him or to otherwise aid in the commission of a felony and/or to place him in reasonable apprehension of imminent

physical injury to him), agreed with **ROBERT ARTHUR ERGONIS** and/or **DAVID WAYNE RADDE** that at least one of them would engage in conduct constituting the offense, in violation of A.R.S. §§ 13-1003, 13-1304 (A)(3) and/or (4), 13-301, 13-302, 13-303, 13-603, 13-701, 13-702, 13-702.01, 13-801, 13-804 and 13-811.

**COUNT FOUR: AGGRAVATED ASSAULT, NON-DANGEROUS, A Class 3 Felony (Amended)**

On or about the 8<sup>th</sup> day of December, 2007, **KUMARI SEMONE FULBRIGHT**, knowingly assaulted **JOSHUA CONWAY** at 1227 E. Knox with a deadly weapon or dangerous instrument, to wit: a knife, in violation of A.R.S. §§ 13-1204 (A)(2) and (B), 13-1203, 13-301, 13-302, 13-303, 13-603, 13-701, 13-702, 13-702.01, 13-801, 13-804 and 13-811.

**B. THE SENTENCING RANGE:**

The following statutory sentencing ranges apply:	<b>Class 2 (probation stip)</b>	<b>Class 3 (prison only)</b>
1. Substantial Mitigated Sentence:	3 years	2 years (stip)
2. Minimum Sentence:	4 years	2.5 years (n/a)
3. Presumptive Sentence:	5 years	3.5 years (n/a)
4. Maximum Sentence:	10 years	7 years (n/a)
5. Substantial Aggravated Sentence:	12.5 years	8.75 years (n/a)

**C. RELEASE/PAROLE:** If sentenced to prison, the Defendant must serve approximately 85% of her sentence, before she is eligible for release on any basis. Upon completion of the prison sentence, the Defendant shall be placed on community supervision. The amount of community supervision shall be one day for every 7 days of the prison sentence imposed. Violation of community supervision could result in serving additional time in prison.

**D. PROBATION:** Prison sentence of two years is stipulated as to Amended Count 2. Probation is available as to Amended Count 1.



1           **E.     RESTITUTION:** Restitution to Joshua Conway is capped at \$15,000 and the  
2 defendant waives any right to a restitution hearing. The court will enter the amount, rate and  
3 schedule of all court ordered payments at the time of sentencing. If the Defendant is sentenced to  
4 a term with the Department of Corrections, restitution shall be paid as provided in A.R.S. §31-230.  
5 Any remaining balance shall be reduced to a criminal restitution order to be filed with the Clerk of  
6 Court upon the Defendant's discharge. The defendant agrees that if he/she becomes more than 90  
7 days delinquent in his/her court ordered payments, he/she agrees that the Court or The Clerk of the  
8 Pima County Superior Court shall issue a wage garnishment/assignment for the monthly amount  
9 of those payments. The garnishee/assignee will deduct the monthly amount of those payments  
10 from the wages of the defendant and forward that amount to The Clerk of the Pima County  
11 Superior Court. The garnishment/assignment may be revoked or terminated only with the consent  
12 and order of this Court.

13           **F.     FINES/ASSESSMENTS:** The Court may require the Defendant to pay a fine of  
14 One Hundred Fifty-Thousand Dollars (\$150,000) plus an 84% surcharge per felony. Any fine is  
15 payable to the Arizona Attorney General's Anti-Racketeering Fund, A.R.S. § 13-811(B). If the  
16 Defendant is unable to pay any fine or assessment in full on the day of sentencing, she shall pay a  
17 one time Twenty Dollar (\$20) time payment charge. While Defendant is in the Department of  
18 Corrections, restitution shall be paid as provided in A.R.S. §31-230. Any remaining balance shall  
19 be reduced to a criminal restitution order to be filed with the Clerk of Court upon the Defendant's  
20 discharge.

21           **G.     OTHER FORFEITURES:** Nothing in this agreement shall be construed to  
22 prevent the filing or affect the outcome of any forfeiture action connected with the facts of this  
23 case instituted by the State or Federal government or any State or Federal agency unless a statute  
24 expressly provides to the contrary. There has been no agreement concerning such a proceeding  
25 now pending, or which could be filed in the future.  
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1 **II. SPECIAL TERMS:** (1) The parties stipulate to a two-year prison sentence on Amended  
2 Count Two; (2) the parties stipulate to a sentence of probation on Amended Count One that shall  
3 run consecutive to the prison sentence imposed by the court on Amended Count Two; (3) the plea  
4 is contingent on Defendant having no prior felony convictions; and (4) the Defendant shall  
5 provide truthful information in any and all interviews given to representatives of the State of  
6 Arizona and shall testify completely and truthfully at any time and at any place requested by the  
7 State of Arizona, including at any grand jury or preliminary hearing proceeding, forfeiture  
8 proceeding, bond hearing, pretrial hearing, civil and criminal trial, retrial or post-hearing. The  
9 Defendant further agrees to answer all questions on direct examination, cross-examination and  
10 redirect examination truthfully and completely.

11 **III. STANDARD TERMS:**

12 **A. DISMISSAL OF OTHER CHARGES:** All other charges and allegations in this  
13 case are dismissed. Unless rejected or withdrawn, this agreement amends the charges filed in this  
14 case, to the offense set forth above. The Defendant hereby waives any probable cause  
15 determination regarding the charge to which she is pleading guilty.

16 **B. REJECTION OR WITHDRAWAL OF THE PLEA:** This Plea Agreement is  
17 binding on both parties after the Defendant enters his/her plea and the plea is accepted by the  
18 Court. At all times prior to sentencing on this Plea Agreement, the Defendant agrees to conduct  
19 herself in a law-abiding manner. If the Defendant is charged with any felony prior to sentencing,  
20 or fails to appear for sentencing, the State may withdraw from this Plea Agreement.

21 The Defendant represents that **KUMARI SEMONE FULBRIGHT** is her true name.  
22 Defendant also represents that she has no prior felony convictions. Should the Defendant  
23 misrepresent her true name or any prior convictions, the Court may reject or the State may  
24 withdraw from this Plea Agreement.

25 If this Plea Agreement is not accepted by the Court, or either party withdraws from the  
26 Plea Agreement for any reason, the parties agree that the State may void this Plea Agreement by  
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1 filing a notice of withdrawal with the Superior Court. Upon filing such notice, the Plea Agreement  
2 is voided and the original charges in the indictment are automatically reinstated and any other  
3 appropriate charges may be filed, and the Defendant waives all claims of double jeopardy. The  
4 Defendant may raise any and all motions, defenses, or objections previously given up pursuant to  
5 this agreement.

6 **C. APPEALS, MOTIONS, DEFENSES:** The Defendant agrees that she may not  
7 appeal from the judgment entered or sentence imposed as a result of this plea agreement. See  
8 A.R.S. § 13-4033. Unless this agreement is rejected or withdrawn, the Defendant gives up any  
9 motions, defenses or other matters which she has asserted or could assert in this case. If the  
10 Defendant obtains a new trial, any pending charges dismissed as a result of this agreement shall be  
11 reinstated at the request of the State, and the State shall be free to file any additional charges not  
12 previously filed.

13 **D. WAIVER OF RIGHTS:**

14 (1) The Defendant understands the following rights and that she gives up such rights by  
15 pleading guilty: her right to a jury trial; her right to confront the witnesses against her and  
16 cross-examine them; her right to present evidence and call witnesses in her defense, knowing that  
17 the State will compel witnesses to appear and testify; her right at trial to be represented by counsel  
18 appointed free of charge, if she cannot afford to hire her own; her right to remain silent, to refuse  
19 to be a witness against herself, and to be presumed innocent until proven guilty beyond a  
20 reasonable doubt.

21 (2) She also waives any right to a jury trial on any aggravating factors for purposes of  
22 sentencing under this plea agreement, including any disposition following any subsequent  
23 probation revocation proceeding. She further waives any requirement that such aggravating  
24 factors be proven beyond a reasonable doubt. She also agrees that the Court, using a standard of  
25 proof of preponderance of the evidence, may find the existence of aggravating or mitigating  
26 factors which may impact her sentence or disposition. She further agrees that the rules of  
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1 evidence do not apply in the determination of aggravating and mitigating factors.

2 **E. AGREEMENT CONTAINS ALL TERMS:** This written agreement contains all  
3 the terms and conditions of this plea agreement. The Defendant understands that any promises  
4 made by anyone, including her lawyer, that are not contained within this written agreement, are  
5 null and void. Any prediction or promise as to what the possible sentence will be, except as  
6 agreed to by the parties above, is understood to be voided by this agreement.

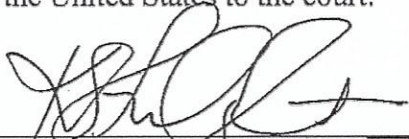
7 **ACKNOWLEDGMENT AND SIGNATURES:**

8 I agree to be bound by the terms and conditions of this plea agreement and acknowledge  
9 the following: I am not on or under the influence of any drug, medication, liquor, or other  
10 intoxicant. My plea is not the result of force, threats, assurances, or promises other than those  
11 which are contained in writing in this agreement. I have read this agreement with the assistance of  
12 counsel. I understand its terms and understand the rights I give up by pleading guilty. If I am  
13 granted probation by the Court, the terms and conditions of probation are subject to modification  
14 at any time during the period of probation in the event that I violate any written condition of my  
15 probation.

16 I understand that if I am not a citizen of the United States that my decision to go to trial or  
17 enter into a plea agreement may have immigration consequences. Specifically, I understand that  
18 pleading guilty or no contest to a crime may affect my immigration status. Admitting guilt may  
19 result in deportation even if the charge is later dismissed. My plea or admission of guilt could  
20 result in my deportation or removal, could prevent me from ever being able to get legal status in  
21 the United States, or could prevent me from becoming a United States citizen. I understand that I  
22 am not required to disclose my legal status in the United States to the court.

23  
24 Date

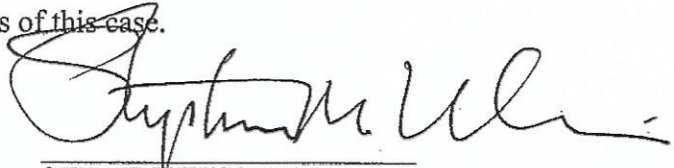
12/15/09

  
KUMARI SEMONE FULBRIGHT



1 I have discussed this case with my client in detail and advised her of her constitutional  
2 rights and all possible defenses. I believe my client understands this plea agreement, including the  
3 range of sentence she faces and the constitutional rights she gives up. I believe that the plea terms  
4 and conditions are justified under the facts of this case.

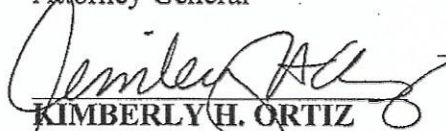
5  
6 Date 12/8/09

  
**STEVE WEISS, ESQ.**  
Attorney for Defendant

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8  
9 I have reviewed this agreement. I concur that the terms and conditions of the plea are  
10 appropriate and in the interests of justice. I affirm that reasonable efforts have been made to  
11 confer with the victims, where required. Reasonable efforts have been made to give the victims  
12 notice of this plea, the right to be present and an opportunity to be heard.

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14 Date 12-07-2009

15 **TERRY GODDARD**  
Attorney General

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**KIMBERLY H. ORTIZ**  
Assistant Attorney General