

FILED
FIRST JUDICIAL
DISTRICT COURT

2017 MAR 15 PM 2:13

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

vs.

WILLIAM KALINOWSKI,
DOB: 10/1/1945
SSN: xxx-xx-0070

No. D-0101-CR-201300538
Judge T. Glenn Ellington

Defendant.

**JUDGMENT AND SENTENCE AND TRANSPORT ORDER TO NEW MEXICO
DEPARTMENT OF CORRECTIONS**

THIS MATTER came before the Court for sentencing on February 24, 2017. The State of New Mexico was represented by Ben Gubernick, Assistant District Attorney. The Defendant was present in custody and represented by counsel, Jeffrey Buckels.

The Defendant was convicted by jury on December 1, 2016, of the following offenses:

Count 1: **Embezzlement (over \$20,000) (0605)** in that on or about or between November 7, 2007, and November 14, 2007, in Santa Fe County, New Mexico, the above-named Defendant did embezzle or convert to his own use a thing of value, to wit: over \$20,000, with which he had been entrusted, with fraudulent intent to deprive Robert & Janice Sostrin, the owners of said item, said item having a value over \$20,000, contrary to NMSA 1978, Section 30-16-8(F).

Count 2: **Fraud (over \$20,000) (0556)** in that on or about March 5, 2008, in Santa Fe County, New Mexico, the above-named Defendant did intentionally misappropriate or take a thing of value or convert to his own use a thing of value, to wit: over \$20,000 in currency, belonging to Century Bank, by means of fraudulent practices, conduct or representations, said thing having a value over \$20,000, contrary to NMSA 1978, Section 30-16-6(F).

Count 3: **Embezzlement (over \$20,000) (0605)** in that on or about or between May 20, 2008, and May 22, 2008, in Santa Fe County, New Mexico, the above-named Defendant did embezzle or convert to his own use a thing of value, to wit: over \$20,000, with which he had been entrusted, with fraudulent intent to deprive Hawks Holdings, LLC, the owner

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of said item, said item having a value over \$20,000, contrary to NMSA 1978, Section 30-16-8(F).

Count 4: **Fraud (over \$20,000) (0556)** in that on or about or about October 3, 2008, in Santa Fe County, New Mexico, the above-named Defendant did intentionally misappropriate or take a thing of value or convert to his own use a thing of value, to wit: over \$20,000 in currency, belonging to Hawks Holdings, LLC, by means of fraudulent practices, conduct or representations, said thing having a value over \$20,000, contrary to NMSA 1978, Section 30-16-6(F).

Count 5: **Fraud (over \$20,000) (0556)** in that on or about or about October 14, 2008, in Santa Fe County, New Mexico, the above-named Defendant did intentionally misappropriate or take a thing of value or convert to his own use a thing of value, to wit: over \$20,000 in currency, belonging to Hawks Holdings, LLC, by means of fraudulent practices, conduct or representations, said thing having a value over \$20,000, contrary to NMSA 1978, Section 30-16-6(F).

Count 6: **Embezzlement (over \$20,000) (0605)** in that on or about or between October 3, 2008, in Santa Fe County, New Mexico, the above-named Defendant did embezzle or convert to his own use a thing of value, to wit: over \$20,000, with which he had been entrusted, with fraudulent intent to deprive Hawks Holdings, LLC, the owner of said item, said item having a value over \$20,000, contrary to NMSA 1978, Section 30-16-8(F).

Count 7: **Embezzlement (over \$20,000) (0605)** in that on or about September 15, 2008, in Santa Fe County, New Mexico, the above-named Defendant did embezzle or convert to his own use a thing of value, to wit: over \$20,000, with which he had been entrusted, with fraudulent intent to deprive Wells Fargo, the owner of said item, said item having a value over \$20,000, contrary to NMSA 1978, Section 30-16-8(F).

Count 8: **Embezzlement (over \$20,000) (0605)** in that on or about or between September 30, 2008, and October 1, 2008, in Santa Fe County, New Mexico, the above-named Defendant did embezzle or convert to his own use a thing of value, to wit: over \$20,000, with which he had been entrusted, with fraudulent intent to deprive Wells Fargo, the owner of said item, said item having a value over \$20,000, contrary to NMSA 1978, Section 30-16-8(F).

Count 9: **Embezzlement (over \$20,000) (0605)** in that on or about August 5, 2008, in Santa Fe County, New Mexico, the above-named Defendant did embezzle or convert to his own use a thing of value, to wit: over \$20,000, with which he had been entrusted, with fraudulent intent to deprive Wells Fargo, the owner of said item, said item having a value over \$20,000, contrary to NMSA 1978, Section 30-16-8(F).

The Defendant is hereby found and adjudged guilty of Counts 1, 2, 3, 5, 6, 7, 8, and 9 and convicted of these crimes.

Count 4 is dismissed by the Court as mutually exclusive to Count 6.

IT IS THE JUDGMENT AND SENTENCE OF THE COURT that the Defendant be sentenced as followed:

As to Count 1, Embezzlement over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Four (4) years are suspended and will be served on supervised probation through Adult Probation and Parole.

As to Count 2, Fraud over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Six (6) years are suspended and will be served on supervised probation through Adult Probation and Parole.

As to Count 3, Embezzlement over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Four (4) years are suspended and will be served on supervised probation through Adult Probation and Parole.

Count 4 is dismissed as mutually exclusive to Count 6.

As to Count 5, Fraud over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Four (4) years are suspended and will be served on supervised probation through Adult Probation and Parole.

As to Count 6, Embezzlement over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Four (4) years are suspended and will be served on supervised probation through Adult Probation and Parole.

As to Count 7, Embezzlement over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Six (6) years are suspended and will be served on supervised probation through Adult Probation and Parole.

As to Count 8, Embezzlement over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Six (6)

years are suspended and will be served on supervised probation through Adult Probation and Parole.

As to Count 9, Embezzlement over \$20,000, the Defendant will serve nine (9) years in the New Mexico Department of Corrections, followed by two (2) years of parole. Six (6) years are suspended and will be served on supervised probation through Adult Probation and Parole.

Counts 1, 3, 5, and 6 will be served concurrent with each other. Counts 2, 7, 8, and 9 will be served concurrent with each other but consecutive to Counts 1, 3, 5 and 6, for a total sentence of eighteen (18) years in the New Mexico Department of Corrections followed by two (2) years of parole. Ten (10) years of Defendant's sentence are suspended, with Defendant to serve five (5) years on supervised probation through Adult Probation and Parole.

IT IS THEREFORE ORDERED that the Santa Fe County Sheriff's Department transport the Defendant, from the Santa Fe County Detention Center to the Reception and Diagnostic Center Central New Mexico Correction Facility at Los Lunas, New Mexico FORTHWITH and there remit the Defendant, to their custody.

IT IS FURTHER ORDERED that the Defendant shall receive pre-sentence confinement credit of one thousand two hundred thirty-six (1236) days of presentence confinement credit. In addition to the presentence confinement credit, the Defendant shall receive credit for post sentence confinement from February 24, 2017 until delivery to the place of incarceration.

IT IS FURTHER ORDERED that as to each Count the Defendant shall pay a \$5.00 Domestic Violence Treatment Fee.

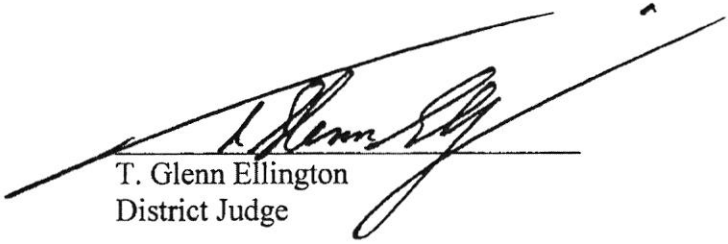
IT IS FURTHER ORDERED that the Defendant shall provide a sample of biological material sufficient for DNA testing and shall pay a fee of \$100.00 for the combined DNA Index System (CODIS) to the Probation and Parole Division of the New Mexico Corrections Department, pursuant to the DNA Identification Act, §29-16-1 et seq., NMSA 1978.

IT IS FURTHER ORDERED THAT pursuant to NMSA 31-12-13(A)(2) Defendant must pay a fee of seventy-five dollars (\$75.00).

IT IS FURTHER ORDERED THAT the Defendant will pay restitution as determined by Adult Probation & Parole.

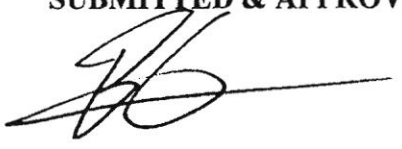
All warrants remaining outstanding from Grand Jury Indictment D-0101-CR-201300538 are hereby quashed (this is not intended to nor does it pertain to warrants previously served, whether a return on the warrants has or has not been filed in this matter), and any bond posted in the above-captioned cause number(s) is hereby released.

The Defendant may appeal this judgment and sentence to the Court of Appeals by filing a Notice of Appeal within thirty (30) days from the date of entry of this Judgment & Sentence. If the Defendant is unable to pay the costs of an appeal, the Defendant has the right to proceed with an appeal at the State's expense and at no cost to the Defendant.



T. Glenn Ellington
District Judge

SUBMITTED & APPROVED BY:



Ben Gubernick
Assistant District Attorney
327 Sandoval Street
Santa Fe, NM 87501
505-827-5000

APPROVED BY:

Approved by email 3/9/2017
Jeffrey Buckels
Defense Counsel