

**NATIONAL ASSOCIATION OF SENTENCING COMMISSIONS  
2018 NASC CONFERENCE, COLUMBUS OHIO**

**Pre-Conference Sentencing Workshop**  
**Case Scenario**

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**SENTENCING MEMORANDUM**

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**TO:           The Honorable True Justice**  
**FROM:       Smar T. Pants, Law Clerk**  
**DATE:       August 2018**  
**RE:         *State v. Jones***

On Monday, August 13, 2018, defendant Jessica Jones will appear before the Court for sentencing. Earlier this year, on the day her jury trial was scheduled to begin, Jones pled guilty to two felonies: one count of burglary resulting in a loss of \$1,000,<sup>1</sup> and one count of delivery of oxycodone weighing 17.4 grams.<sup>2</sup> There is no agreement concerning sentencing.

In summary, the facts are as follows. In June 2017, the police were investigating a series of burglaries in and around Springfield. Based on witness interviews, the police started to identify a pattern. A female would approach the front door of the residence and ring the doorbell. Upon receiving no response, the female would return to a green hatchback in which one or two males were waiting. The police would later receive reports that that home or others in the neighborhood were burglarized when the occupants were not home. A witness identified Justin Gilbertson as being in a green hatchback in the neighborhood of a burglary around the time of a burglary despite living in a different part of town. While being interviewed by the police in July 2017, Gilbertson stated that he and his friend Paul Colbert and defendant Jessica Jones broke into several residences to get money and electronics to buy drugs. In total, the burglaries Gilbertson described resulted in a loss of approximately \$3,000.

On July 25, 2017, a confidential informant ("CI") told the police that the CI believed a woman, later identified to be the defendant, would sell the CI oxycodone next to the see-saw on the playground of the Springfield Elementary School. At approximately 11:40 p.m. on July 27, 2017, police officers observed the defendant meet with the CI next to the see-saw as described. The CI gave Jones \$240 in government "buy" money; the defendant gave the CI a folded PEOPLE magazine that contained a small white envelope. Inside the envelope, the police found 33 pills, which together weighed 17.4 grams. Of that, there were 330 milligrams of Oxycodone, a Schedule II narcotic drug controlled substance; the remaining weight was acetaminophen, binders and fillers.

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<sup>1</sup> The relevant statutory language is as follows:

A person commits the offense of burglary if, with the intent to commit a crime therein, the person ... enters a building or occupied structure, or separately secured or occupied portion thereof that is adapted for overnight accommodations in which at the time of the offense no person is present....

<sup>2</sup> The relevant statutory language is as follows:

The following acts and the causing thereof are hereby prohibited: ... The manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act....

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The police immediately arrested the defendant. She was released on \$10,000 (10% deposit) bail the next day and has been under the supervision of the county Pretrial Services Office without incident.

**Defendant's Background:**

The defendant is a 20 year-old white female. She is 5'8" tall and weighs 155 pounds. She is a citizen of the United States.

The defendant has two previous arrests. She has one prior adult conviction for driving under the influence. She has one prior juvenile adjudication for underage drinking.

The defendant is a lifelong resident of the county. According to the defendant, her years growing up were normal. In fact, she said she was even a little spoiled. There was no reported abuse that occurred in the home. When asked about any history of alcohol or drug abuse, the defendant said that both of her parents were alcoholics. Her father quit drinking due to medical reasons and her mother quit when the defendant received her underage drinking conviction. Her mother blamed herself for the defendant's drinking and quit.

The defendant dropped out of high school after one week in the 12<sup>th</sup> grade. She had previously received good grades and had no disciplinary problems. She has not completed her GED. She reported working intermittently since she was 17 years-old in a variety of jobs. At the time of her arrest, she was working part-time in a local convenience store. After her arrest, she was fired and is presently unemployed.

The defendant has not served in the military.

The defendant has no known gang association.

The defendant continues to live at home with her parents and has never had a residence of her own. She does not pay rent to her parents.

The defendant has never been married or had any children.

The defendant is in good physical health. The defendant reports never having participated in mental health treatment. A court-ordered psychiatric evaluation concluded as follows:

"Adjustment Disorder with Anxious Moods"; no psychiatric treatment required at this time.

The defendant reports that she started smoking marijuana and drinking alcohol recreationally at age 13. She started taking oxycodone approximately a year before she was arrested. It started off as an infrequent thing and then became multiple times per day.

The defendant reports that these crimes were a result of her addiction to drugs. She was dating Gilbertson at the time and she said his constant use of oxycodone became a temptation for her and finally she caved in. At first, she just joined Gilbertson by taking the occasional pill. She loved the euphoric, opiate effects and started taking more and more.

At the direction of her defense attorney, the defendant declined to discuss her current conduct relating to drug use.

When asked about the burglaries themselves, she said that she only ever entered one house and that the rest of the time "she was only along for the ride." When asked about the delivery

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of the pills, she said that she preferred to sell the pills to support her habit than to be involved with the burglaries, which she tried to dissuade Gilbertson from doing.

She apologized for what she did and realized that what she did was wrong: She felt bad for the burglary victims in these cases and expressed remorse for her actions. She said that she keeps thinking about what she would feel like if it happened to her.

**Additional Information.**

**Pro-Social Activities.** On a typical day, the defendant wakes up at 7:30 a.m. She helps out around the house and spends the rest of the day with her family.

**Peer Associations.** The defendant reports much of her time is spent with her family. She reports that some of her friends have been in trouble with the law. She did report interacting with her friends, socially on a daily basis. She reports she knows people from the neighborhood and when its nice outside will hang out with them.

**Criminal Attitudes and Behavioral Patterns.**

Q: As a general rule do you worry about other people's problems?

The defendant reports she only cares about her immediate family and friends only. "I can't worry about everyone else and their problems."

Q: Do you feel sometimes that you have lost control over the events in your life?

The defendant feels she is in control.

Q: Do you think of yourself as someone who takes chances or risks?

The defendant described herself as a risk taker. She reports she likes to take risks. She reports she likes the "rush" when driving dirt bikes and four wheelers.

Q: Would you describe yourself as someone who walks away from a fight, tries to avoid it but it seems to find you, or the first one in?

The defendant reports she tries to avoid fights, but if someone disrespects her she will defend her name.

Q: Do you think it is sometimes okay to tell a lie?

The defendant feels lying is wrong except for small white lies. It is important to note she has been caught in a lie during this interview.

Q: Have you ever heard the saying, "Do unto others before they do unto you"? Do you agree?

"No. There is no reason for violence."

The Probation Department has conducted a 4th generation risk-needs-responsivity (RNR) Assessment. It has concluded as follows:

Recidivism Risk Level (if community supervision is considered): Results of this assessment place the defendant in the high risk level. If placed on community supervision, according to research and Probation Department Policy, the defendant would be best to be sentenced to 2 years of supervision with a reporting frequency of weekly for 3 months and every 2 weeks thereafter, submit to random drug screens, and complete any recommended treatment.

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**State Sentencing Summary**

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**Burglary Offense**

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<b>Jurisdiction</b>	<b>Statutory Maximum</b>	<b>Presumptive Range</b>	<b>Typical Sentence</b>
AK --Alaska	120 months	0-24 months	--
AL -- Alabama	--	24-97 months*	36 months probation*
AR -- Arkansas	--	60-120 months	Probation/SIS
MA -- Massachusetts	Life	--	--
MD -- Maryland	240 months	9-60 months	18 months
MN -- Minnesota	--	23 months stayed	85 months probation
NC -- North Carolina	19 months active	17 months	25 months probation
OH -- Ohio	96 months	--	--
OR -- Oregon	--	Probation	Probation
PA -- Pennsylvania	240 months	6-14 months	11.5-23 months jail
VA -- Virginia	240 months	8-18 months*	(15 mo.) 72 months*
WA -- Washington	--	12+-20 months	12 months prison or 24 months Resid. DOSA*

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**Drug Offense**

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<b>Jurisdiction</b>	<b>Statutory Maximum</b>	<b>Presumptive Range</b>	<b>Typical Sentence</b>
AK --Alaska	60 months	0-24 months	--
AL -- Alabama	--	24-97 months*	36 months probation*
AR -- Arkansas	--	CCC	Probation/SIS
MA -- Massachusetts	120 months	0-24 months	--
MD -- Maryland	240 months	18-48 months	18 months
MN -- Minnesota	--	68 months prison	58 months
NC -- North Carolina	29 months active	25 months active	25 months probation
OH -- Ohio	36 months	--	--
OR -- Oregon	--	21-22 months prison	2-4 months jail
PA -- Pennsylvania	180 months	21-40 months	12/36 months CIP
VA -- Virginia	480 months	8-18 months*	(15 mo.) 72 months*
WA -- Washington	--	6-12 months	12 months prison or 24 months Resid. DOSA*

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\* Presumptive ranges and/or typical sentences reflect combination of both offenses.