**Mississippi Band of Choctaw Indians )**

 **)**

 **vs. ) Tribal Docket No.:****2023-MBCI-001**

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**Winter D.** **Martinez )**

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**Prepared for:** The Honorable Tribal Court Judge Beverly Cotton

**Tribal Jurisdiction: Mississippi Band of Choctaw Indians**

**Tribal Court Address: Route 5**

 **Blackjack Road**

 **Choctaw, Mississippi** **39350**

**Prepared by:** Star Shields
 Probation Officer

 407 W. Congress St

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**Date Report Prepared:** 2/28/2023

**Attorney Defense Counsel**

Tim Martinez Tewa Martinez
999 S. Main 5551 s. Union St

Shawnee, Ok 74801 Ponca City, Ok 78956

405-994-8787 405-505-8954

**Sentence Date:** Wednesday, March 8, 2023

**Offense:** Assault Resulting in Serious Bodily Injury

MBCI Code 23 Section 45
36 months/$500 fine
(Class C Felony)

**Release Status: Arrested on January 21, 2023, and detained by Choctaw Police. At sentencing, the defendant will have 30 days presentence detention custody.**

**Cu**

**Detainers:** **None**

**Codefendants:** **None**

**Related Cases: None**

**Identifying Data:**

**Date of Birth:** 1/21/1980

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|  |

**Age:** 43

**Place of Birth:** Oakland, CA

**Sex:** Female

**Height:** 5’10

**Weight:** 110

**Color of Eyes:** Brown

**Color of Hair:** Brown

**Tribal Affiliation:** San Ildefonso Pueblo

**SSN:** 441657893

**FBI:** 254serx3857

**USM/BOP:** 20974-309

**State ID:** None

**Education:** High School Diploma

**Dependents:** None

**Address:** 405 W. Congress St

 Tucson, Az 85743

**Alias(es):** None

**Alternate IDs:** Tattoos: Left Neck “ride or die”

 Scars: None

PART A. THE OFFENSE

Charge(s) and Conviction(s)

On January 21, 2023, Winter D. Martinez was arrested by a Choctaw Police Department officer in the Pearl River community in Choctaw, Mississippi, on aggravated assault charges and detained. On January 23, 2023, pursuant to a plea agreement, a one-count indictment charging Martinez with Assault Resulting in Serious Bodily Injury in violation of MBCI Code 23 Section 45 was filed.

On January 30, 2023, the defendant pleaded guilty to the indictment. The elements of the offense outlined in the plea agreement note the defendant, within Indian County, Martinez, intentionally or knowingly forcibly assaulted an individual causing the victim serious bodily injury.

[Assault Resulting in Serious Bodily Injury in violation of MBCI Code 23 Section 45]

The Offense Conduct

Choctaw Police Department reports indicate that on January 21, 2023, an officer responded to several 911 calls from a male in Pearl River, in which the caller mentioned “Winter.” The officer responded to the John Roy household.

Upon arrival, the officer forced entry into the house after he peeked through a broken window and saw Roy sobbing and covered in blood. During the investigation, the officer determined Martinez assaulted Roy with an unknown object which caused a large head wound. Additionally, the right side of Roy’s head was bruised, and his right eye was closed due to swelling. The victim was transported to the hospital in Pearl River. During his evaluation, doctors determined Roy was in extreme physical pain (10 out of 10 in the pain scale), his right eye was bruised and swollen, he had a scalp laceration, a closed head injury, and a left elbow strain.

Martinez was arrested and detained. She refused to answer and questions.

Victim Impact

Roy forgives Martinez and does not hold a grudge against her. Roy indicated the two just met but are not romantically involved. He is not requesting any restitution, as he did not suffer any financial losses as a result of the defendant’s conduct.

Acceptance of Responsibility

During an interview, Martinez admitted to the factual basis of the plea agreement. She expressed remorse for her actions. Further, she admitted she didn’t know the victim for very long, as she was just “passing through town to get back to Arizona.”

**Institution Adjustment at Current Correction Facility**

Arrested on January 21, 2023, and detained. Martinez has had numerous rule infractions including possessing contraband and fighting.

January 21, 2021: Possession on Contraband to wit: a razor blade. Sanctions are pending

January 23, 2021: Fighting. Martinez fought her cellmate and was placed in segregation for 10 days.

PART B. THE DEFENDANT’S CRIMINAL HISTORY

Juvenile Adjudication(s)

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| --- | --- | --- |
| **Date of Arrest** | **Conviction/Court** | **Date Sentence Imposed/Disposition** |

|  |  |  |
| --- | --- | --- |
| 11/19/1995 (Age 17) | Ct. 1: AssaultShawnee Municipal CourtShawnee, OKDocket: 111-777 | 11/25/1995: 5 days detention, 1 year probation12/26/1996: Successfully completed probation  |
| According to court documents, Martinez was arrested for fighting with a store clerk.  |

Adult Criminal Conviction(s)

|  |  |  |
| --- | --- | --- |
| **Date of Arrest** | **Conviction/Court** | **Date Sentence Imposed/Disposition** |

|  |  |  |
| --- | --- | --- |
| 3/1/2004 (Age 24) | Domestic ViolencePhoenix Municipal CourtPhoenix, AZDocket: 111-659-7 | 03/25/2004: Charges dismissed |
| No available records. |

Other Criminal Conduct

|  |  |  |
| --- | --- | --- |
| **Date of Arrest** | **Conviction/Court** | **Date Sentence Imposed/Disposition** |

|  |  |  |
| --- | --- | --- |
| 12/13/2019 (Age 39) | Assault/Disorderly ConductedPinal County CourtCasa Grande, AZDocket: 111-77-999 | 12/25/2019Charges dismissed |
| According to a Pinal County Sheriff’s citation, on December 12, 2019, she assaulted a family member and damaged a wall. When deputies arrived, everyone refused to make any statement.  |

Pending Charges

None.

Other Arrests/Escape History

Nothing noted

PART C. OFFENDER CHARACTERISTICS

Personal and Family Data

Winter D. Martinez was born on January 21, 1980, in Oakland, California, to the union of Johnny and Mae Martinez. The defendant's father resides in Toll, Arizona, but the defendant has never had a close relationship with him. The defendant's mother is a dental assistant in Marana, Arizona. The defendant's parents divorced when she was young, which was difficult for her. The defendant advised her mother provided a good home, and her family is very supportive.

The defendant has two siblings, Silas, 17, and Marina, 22, both of whom are students. She has a close relationship with her siblings

Martinez has resided in Marana, for the past two years. Prior to that, she resided in Mississippi, New Mexico, and Oklahoma intermittently. Martinez has never married and has no children. Her mother corroborated her personal history. The defendant's residence is a four-bedroom, two-bathroom residence. The defendant resides in the home with her mother and siblings. The defendant expressed interest in moving in with her childhood friend, Eric Grant. She reported he owns a Pitbull but has no weapons in the home. Grant does not have criminal record.

Martinez has no affiliation with any gangs.

Physical Condition

The defendant is in good physical health and is not taking prescribed medication. Martinez reported she was diagnosed with asthma as a child but no longer uses an inhaler.

Mental and Emotional Health

The defendant has never been under the care of mental health professionals and does not display symptoms suggesting serious emotional problems.

During the interview, Martinez reported she was physically and mentally abused by a family member when she was approximately 10 years old. She reported the abuse went on until she was 15 years old. She never disclosed the abuse and never sought any counseling services for her abuse. In addition, Martinez reported she witnessed the murder of her best friend when she was 16. Martinez reported she attempted suicide twice at age 17. Martinez reported that she does not have any current suicidal ideations.

Martinez denied being prescribed any prescription medication. Martinez expressed an interest in receiving counseling services.

Substance Abuse

Martinez first consumed alcohol at 18 and drinks socially. She last consumed alcohol in November 2018. The defendant first used marijuana at 17 and continued to use it every other day until November 2018. The defendant used cocaine once in November 2018. She reported no other drug use; however, she tested positive for methamphetamine on March 20 and April 22, 2019. She completed a 30-day inpatient treatment program with Great Treatment Services in May 2019.

Educational, Vocational and Special Skills

The defendant attended Beautiful Elementary and Middle Schools and graduated from Choctaw High School in 2017. Martinez reported she was in special education cases for reading.

The defendant would like to enroll in college courses and has expressed an interest in the medical field.

Employment Record

Martinez is currently incarcerated. She reported no formal employment history, as she has always been supported by family members or by money she obtained illegally.

Financial Condition: Ability to Pay

The defendant reported she has no significant assets. She has no employment history and has no assets. Based on her financial condition, it does not appear she has the ability to pay a fine.

**SENTENCING RECOMMENDATION**

**Mississippi Band of Choctaw Indians TRIBAL COURT
Winter D. Martinez
TRIBAL COURT DOCKET: 2023-MBCI-001**

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| --- | --- | --- | --- |
|  | **Tribal Code Provisions** | **Plea AgreementProvisions** | **RecommendedSentence** |
| **CUSTODY:** | 36 months | 12 months, 1 day | 12 months, 1 day |
| **PROBATION:** | 24 months | 12 months | 12 months |
| **FINE:** | Up to $500 | No fine | No fine |
| **RESTITUTION:** | None | None | None |

Justification:

**Winter D. Martinez** was convicted of Assault Resulting in Serious Bodily Injury in violation of MBCI Code 23 Section 45. She is before the Court for the first time for a very serious violent offense.

Martinez has a history of assaultive behavior, which has escalated significantly. In this case, the victim was someone she was not too familiar with, yet she violently assaulted him, resulting in his right eye being bruised and swollen, a scalp laceration, a closed head injury, and a left elbow strain.

Given Martinez’s escalating violence, it seems nearly inevitable that she will eventually commit similar conduct if she does not get the treatment necessary. Considering all sentencing factors, a sentence of 12 months and one day of imprisonment, is believed to be appropriate. The recommended sentence is believed sufficient to promote respect for the law, provide adequate punishment and deterrence, and be consistent with the goals of sentencing set forth in this Court. A one-year term of probation is also recommended to assist Martinez with rehabilitative services upon release. The defendant has no financial resources and does not appear to have the ability to pay a fine.

Voluntary Surrender:

The defendant has been detained without bail since arrest

Recommendation:

It is respectfully recommended the sentence in this case be imposed as follows:

Pursuant to the Tribal Court Code MBCI Code 23 Section 45, it is the judgment of the Court that Winter D. Martinez is hereby sentenced to a period of 12 months, 1 day in custody to be followed by one-year of probation.

In addition, it is the order of this court for Martinez to carry out her sentence in the Bureau of Prisons custody and to participate in a 100-hour domestic violence program.

Respectfully,

Submitted By:

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Star Shields

Probation Officer

Approved By:

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Mike Ben

Supervisory Probation Officer