

HEARING IN ABSENTIA Information

You have entered a plea of not responsible, which requires you to appear in court for a Civil Traffic Hearing to determine whether you are responsible for the alleged violation(s). However, you have indicated that you will not be able to appear in person.

The Tempe Municipal Court permits a hearing in absentia on civil traffic cases in which a defendant cannot appear in person. A defendant who has a hearing in absentia submits a notarized written statement in lieu of appearing in person. However before you decide to proceed with a hearing in absentia you should consider the following:

1. The Arizona Rules of procedure guarantees the right to hear and more importantly, cross-examine, testimony presented by the state. This usually takes the form of testimony from the citing officer. A defendant who is not present will waive this right and not have an opportunity to do so. Also, any evidence presented must be relevant, material, and have some probative value to a fact in issue. An absent defendant waives their right and will not have an opportunity to voice any objections to any evidence the state attempts to introduce. All hearings are tape-recorded and thereby, a record is created on which the defendant may place everything he or she feels is important. An absent defendant will give up their rights to do that.
2. A defendant giving testimony under oath has the advantage of having this testimony weighed equally with other sworn testimony and, any part thereof, clarified through question and answer. These benefits will also be lost by the defendant who absents themselves from the proceedings.

For all of these reasons a hearing in absentia is discouraged. However, if it becomes impossible for you to appear, you must submit a notarized written statement accompanied with a bond in the amount of the fine for the charge(s) set for hearing prior to the hearing date. This is necessary to avoid having a default judgment entered against you at the time of the hearing. If you are found not responsible, the bond shall be refunded back to you.

If you have any questions or need additional information, please contact the Tempe Municipal Court at (480) 350-8271.