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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez |
| Date | December 16, 2024 | County | Elko |
| Court | Fourth Judicial District Court Dept 2 | Judge | Al Kacin |
| Defense Attorney | Nestor Marcial  Deputy Public Defender | Prosecutor(s) | Justin Barainca  Deputy District Attorney |
| Attorney Present | In Person / Virtual / w/Client | Number of Clients | 3 (3 clients with 4 cases) |
| Defendants Present | In Person / Virtual / Off-Site | Custodial Status | IC / OOC / Blend |
| Number of Clients  In custody | 2 | Number of Clients Out-of-Custody | 1 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 0 |
| Hearing Types | Arraignments, Order to Show Cause, and Sentencing Hearing | | |
| **Attorney's Preparedness** | | | |
| Did the Attorney appear for court? | | | Yes / No / N/A |
| Did the Attorney have the file? | | | Yes / No / N/A |
| Did the Attorney appear to have had a substantive, confidential meeting with  each client before court? | | | Yes / No / N/A |
| Did the Attorney appear prepared to handle their clients' cases? | | | Yes / No / N/A |
| **How prepared did the Attorney appear?**  Nestor appeared to be prepared for court. | | | |
| **How knowledgeable was the Attorney about their cases?**  Nestor appeared to be knowledgeable about his case. | | | |
| **The Attorney's courtroom advocacy skills were:**  Good. | | | |
| **How was the Attorney/client communication?**  The attorney-client communication appeared to be good. | | | |
| **Case Stage-Specific Issues** | | | |
| Did the Attorney argue for pretrial release/OR, or for reasonable bail? | | | Yes / No / N/A |
| Did the Attorney counsel each client to refrain from waiving trial rights until the  attorney completed investigation of the case? | | | Yes / No / N/A |
| Did the Attorney appear to have counseled clients to refrain from waiving any  rights at arraignment? | | | Yes / No / N/A |
| Did the Attorney appear to adequately advise clients of the Consequences of  accepting a plea or going to trial, including any collateral consequences? | | | Yes / No / Unknown |
| Did the Attorney present mitigating evidence and provide argument at  sentencing? | | | Yes / No / N/A |
| Did the Attorney address the Presentence Investigation Report (PSI) and/or  Psychosexual Evaluation/Risk Assessment appropriately? | | | Yes / No / N/A |
| Did the court require defendant(s) to reimburse the entity for representation? | | | Yes / No / N/A |
| **Overall Assessments** | | | |
| Does the Attorney appear to have a sustainable workload? | | | Yes / No / N/A |
| Overall, does the Attorney appear to be providing effective representation to  their clients? | | | Yes / No / N/A |
| **Remarks/Recommendations/Notes:**   * One of Nestor’s client was in custody and scheduled for and Order to Show Cause and Sentencing today. The client failed to appear for sentencing on July 15, 2024, and was arrested on the bench warrant. The State and Nestor each made corrections to the Presentence Investigation Report. Thomas argued in mitigation for the Court to follow the joint sentencing recommendation in the Guilty Plea Agreement (12-30 months prison, suspended for 24 months.) Thomas also explained that the client had been accepted into a one year residential treatment program in Louisianna and wanted to move there. The client has family living in Louisiana. The State, even though free to argue based on the client’s violation of the GPA by failing to appear for the original sentencing date, went along with the joint recommendation contained In the GPA. The client made a statement in allocation. In sentencing the client for Possession of a Controlled Substance Third or Subsequent Offense the court followed the joint sentencing recommendation. The court also found the client in contempt for failing to appear at the July 15, 2024, sentencing hearing and sentenced him to 16 days in jail for the contempt with credit for time served of 16 days and concurrent to the sentence for Possession of a Controlled Substance Third or Subsequent Offense. * One of Nestor’s clients was arraigned today for 2 separate Criminal Informations. The client pled No Contest in one case to one count of Possession of a Controlled Substance for Sale, a category D felony. The client pled No Contest in the other case to one count of Attempted Possession of a Controlled Substance, a category E felony or a gross misdemeanor. The parties agreed to recommend concurrent sentences. The State agreed to not oppose diversion, if the defendant qualifies. If the client does not qualify for diversion, then the parties are free to argue for any lawful sentence for each count but to run concurrently. Sentencing was scheduled for 2/10/2025. There was no argument regarding bail. The client will remain in custody pending sentencing. * One of Nestor’s clients was out-of-custody and scheduled for an Arraignment. There was a Spanish interpreter present through Zoom to assist the client. The client pled guilty, pursuant to a Guilty Plea Agreement, to one count of Attempted Fraudulent Use of a Credit Card, a category E felony or gross misdemeanor. The State has agreed to dismiss all other charges, not to file or pursue any other charges arising out of facts now known to the State, and to not seek the habitual criminal status. The State further agreed to recommend the client be sentenced for a gross misdemeanor rather than a felony if the client paid the restitution in full prior to the sentencing date. [Note: the client has already paid the restitution in full and has no prior criminal history]. The court waived the Presentence Investigation Report. The sentencing date will be set by the court’s “calendaring” process. The State will notify the victim of the sentencing date. | | | |