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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez |
| Date | November 14, 2024 | County | Elko |
| Court | Elko Justice Court – Dept A | Judge Pro Tem | David Locke |
| Defense Attorney | Brian Green | Prosecutor(s) | Walter Fick  Deputy District Attorney |
| Attorney Present | In Person / Virtual - w/Client | Number of Clients | 1 |
| Defendants Present | In Person / Virtual / Off-Site | Custodial Status | IC / OOC / Blend |
| Hearing Types | Preliminary 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?**  Brian appeared to be prepared for the hearing. | | | |
| **How knowledgeable was the Attorney about their cases?**  Brian appeared to be knowledgeable about his case. | | | |
| **The Attorney's courtroom advocacy skills were:**  Good. Although Brian did not ask a lot of questions or make objections during the hearing, this may have been strategic decisions on his part (not wanting to give the witnesses a practice run at the questions that will be asked at trial). The questions that Brian did ask were good questions. | | | |
| **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 / Unknown |
| Did the Attorney appear to have counseled clients to refrain from waiving any  rights at arraignment? | | | Yes / No / Unknown |
| 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 / N/A |
| 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 / Unknown |
| **Remarks/Recommendations/Notes (continue on reverse):**  Prior to the presentation of any witnesses or evidence, the State filed a Second Amended Criminal Complaint. This second amended complaint removed 2 counts from the first Amended Criminal Complaint. Those 2 counts were Grand Larceny of a Firearm and Receiving Stolen Property. The State informed the court, client, and defense attorney that it planned to refile those 2 charges at a later date in a separate criminal case as soon as all of the discovery was received by the State.  **Remarks/Recommendations/Notes (continued from previous page)**  The Second Amended Criminal Complaint contained 7 counts:   1. Assault with a Deadly Weapon 2. Possession of a Firearm by a Prohibited Person 3. Eluding a Police Officer 4. Mid-Level Possession of a Controlled Substance 5. Attempt to Dissuade a Witness 6. Attempt to Dissuade a Witness 7. Attempt to Dissuade a Witness   The Rule of Exclusion was invoked. The State presented testimony from 4 witnesses: two victims and two law enforcement officers. All 4 witnesses appeared by Zoom. There was a Spanish interpreter for one of the victim witnesses. The interpreter was present in the courtroom.  The State presented 4 exhibits:   1. Photo of a firearm. 2. Photo of suspected controlled substance on a digital scale with the weight visible (over 28 grams). 3. Certified Copy of clients prior Judgment of Conviction for a felony offense. 4. Photo of a baggie of alleged controlled substance.   **Note**: the third witness (a law enforcement officer) refreshed his memory from his report. The report was not marked for identification and no foundation was laid for the use of the report to refresh memory. The refreshed memory was to confirm that the officer activated his siren, and not just his emergency lights, during the vehicle pursuit.  **Note**: during the fourth witness the Judge stopped the direct-examination and called for a recess. The judge ordered the courtroom cleared except for Brian Green, his client, myself, and court staff. The Judge then asked defense attorney Brian Green if he was feeling ok. Brian said that he did not feel well but was well enough to complete the preliminary hearing. The Judge told Brian that it appeared to the Judge that Brian was falling asleep during the testimony of the 4th witness and that is why he immediately called for the recess. Brian said that he was not falling asleep but that he closed his eyes because he has difficulty hearing (he has hearing aids) and he can listen better when his eyes are closed. The Judge asked Brian if he would like some coffee or to continue the hearing. Brian declined both offers and said that he was able to proceed. It may be useful to review the JAVS recording of the proceeding between the hours of 10:00 a.m. and 10:30 a.m.  **Note**: I spoke with Judge Pro Tem David Locke after the hearing regarding the recess. Judge Locke said that he could not be certain whether Brian had fallen asleep, but he was concerned enough to stop the proceeding and inquire.  The hearing resumed. After the fourth witness and confirmation that all 4 exhibits had been admitted, the prosecutor moved to dismiss count 7 without prejudice.  The court then bound over the client to District Court on counts 1 through 6 of the Second Amended Criminal Complaint.  Brian then moved for the court to lower the client’s bail. The State opposed the request. The Court declined to hear the oral motion. The Court directed Brian to file a written motion on bail to be filed in the District Court.  The arraignment would be set by the court calendaring system and the parties would be notified of the date and time of the hearing in district court. | | | |