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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez by Zoom Video |
| Date | February 4, 2025 | County | Elko |
| Court | Elko Justice Court – Department A | Judge | Randall Soderquist |
| Defense Attorney | Thomas O’Gara  Deputy Public Defender | Prosecutor(s) | Justin Barainca / Ryan McCormick Deputy District Attorney |
| Attorney Present | In Person / Virtual / w/Client | Number of Clients | 2 (2 clients, 6 cases) |
| Defendants Present | In Person / Virtual / Off-Site | Custodial Status | IC / OOC / Blend |
| Number of Clients  In Custody | 0 | Number of Clients  Out-of-Custody | 2 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 0 |
| Hearing Types | Pretrial Conferences and an Order to Show Cause | | |
| **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?**  Thomas appeared to be prepared for his cases today. | | | |
| **How knowledgeable was the Attorney about their cases?**  Thomas appeared to be knowledgeable about his cases today. | | | |
| **The Attorney's courtroom advocacy skills were:**  Thomas’ 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 / Unknown |
| 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**:  Thomas had 2 clients on today’s calendar:   1. Client 1: This client had 5 active cases set for an Order to Show Cause and Pretrial Conferences. The client was out-of-custody and appeared in person. All 5 cases were included in a negotiated resolution:  * Case 1: The client agreed to plead No Contest to Driving Under the Influence first offense. * Case 2: Client agreed to plead No Contest to Driving While License Suspended due to DUI. * Case 3: The client was previously sentenced for Battery that Constitutes Domestic Violence first offense. The client had a suspended sentence of 30 days jail. The parties agreed to recommend that this sentence not be imposed and the case closed. * Case 4: The parties agreed to dismiss this case.   The parties agreed to jointly recommend that the client be sentenced to the minimum statutory penalties for the DUI first offense and the Driving While License Suspended due to DUI. Those sentences must run consecutively pursuant to statute. The parties agreed to recommend that the 30 day jail sentence in the Battery DV case not be imposed and that the case be closed (a 5 year old case). The State agreed to dismiss the remaining case.  The settlement agreement and dismissal of the 4th case were put on the record prior to the court recess. The court then took a recess to enable Thomas and the client to review and sign the DUI Waiver of Rights form. Deputy District Attorney Barainca appearance for the balance of the proceedings was waived.  During the court recess, Thomas reviewed the DUI Waiver of Rights form with the client in the courtroom. Judge Soderquist and DDA Barainca had left the courtroom. The court clerk and bailiff were still present. I was able to watch and listen through Zoom to the initial part of this attorney-client discussion. After a short time, while the client was reviewing the waiver form, Thomas asked the court clerk if the microphone was muted. The clerk informed Thomas that it was not muted. The court clerk then muted the microphone.  Following the court recess, there was no one from the DA’s office present (DDA Barainca having waived the presence of the DA’s office).   * Case 1: The client entered a No Contest plea to Driving Under the Influence first offense. Following the court canvass, the court accepted the client’s no contest plea. Sentence: 12 days jail (with credit for time served of 2 days) and the balance of 10 days suspended for 1 year with conditions. The court imposed fine, fees, and assessments totaling $585 (the client had additional credit for time served in this case totaling 27 hours which the court applied to the fine, fees, and assessments leaving $0 owed), DUI School, and Victim Impact Panel, and 185 day Interlock Device requirement. The client is to complete the DUI School and Victim Impact Panel by 9/5/2025. * Case 2: The client pled No Contest to Driving While License Suspended due to DUI. Following the court canvass, the court accepted the client’s No Contest plea. Sentence: 30 days jail and $640 fine, fees, and assessments. The client had credit for time served of 29 hours. The court offered to apply the 29 hours of jail time served to cover the $640. However, that means that the client still needs to serve 30 days jail. The client accepted the court offer. So, no fine remains owing, but the client still has 30 days jail to serve in this case. The court ordered that this sentence and the DUI sentence run consecutively pursuant to statute. Once the client has served out the jail time, this case will be closed. * Case 3: The court was not willing to close out the suspended sentence on the old Battery Domestic Violence case without imposing the 30-day suspended jail sentence. In that case, the client was sentenced on 8/13/2020. The client was given a 30-day jail sentence suspended for 2 years on conditions that included that client complete all of the Battery DV statutory requirements and obey all laws. The client never submitted proof completion of any of the Domestic Violence counseling or community service. Prior to the expiration of the suspended sentence, a Bench warrant was issued for failing to submit proofs of completion or appear in court at the review hearing. The client was arrested on the bench warrant in February 12, 2023 at same time he was arrested on the DUI referenced in Case 1 above. The suspended sentence was resuspended for an additional year to 2/13/2024. The client never submitted proof of   **Remarks/Recommendations/Notes (continued from the previous page)**:  completion and failed to appear for the review hearing again. Another Bench Warrant was issued for the defendant. The court now finds the client in violation of the suspended sentence. The court imposed the 30-day suspended sentence. Case will be closed following the completion of the jail sentence.   * Case 4: Dismissed.   The client requested that he be allowed to serve the jail time on weekends. The court denied this request.  The client then requested that he be able to turn himself in tomorrow after his medical appointment for placement of a hard cast on his wrist/hand to replace the soft cast placed on him yesterday. The court granted this request and ordered that the client turn himself into the jail tomorrow at 6:00 p.m.  A Review Hearing is scheduled for September 5, 2025, for proof of completion of the DUI School and Victim Impact Panel.   1. Client 2: This client had 1 active case set for a Pretrial Conference. The client was out-of-custody and appeared in person. The parties reached a settlement agreement which involved the client waiving his right to a preliminary hearing, being bound over to District Court, where the parties would joint recommend that the client receive a deferred sentence and participate in the Drug Court program.   Following the court canvass, the court accepted the client’s waiver of preliminary hearing and bound over the case to the District Court. The Arraignment date will be scheduled by the court calendaring system. | | | |