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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez |
| Date | February 5, 2025 | County | Elko |
| Court | Wells Justice Court | Judge | Kenneth Calton |
| Defense Attorney | Thomas Gunter  Deputy Public Defender | Prosecutor(s) | Phillip Carwane  Deputy District Attorney |
| Attorney Present | In Person / Virtual / w/Client | Number of Clients | 6 |
| Defendants Present | In Person / Virtual / Off-Site | Custodial Status | IC / OOC / Blend |
| Number of Clients  In Custody | 0 | Number of Clients  Out-of-Custody | 6 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 3 |
| Hearing Types | Pretrial Conferences | | |
| **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. However, two of Thomas’ clients did not appear for court today. Thomas was not able to convey the settlement offers to these two clients. Thomas did not know why the clients were not present in court. One of Thomas’ clients planned to accept a settlement offer which involved a DUI charge. However, that client does not live locally, appeared by Zoom, and there wasn’t time to review and sign the DUI waiver of rights form by the client and Thomas. | | | |
| **How knowledgeable was the Attorney about their cases?**  Thomas appeared to be knowledgeable about all his cases today. | | | |
| **The Attorney's courtroom advocacy skills were:**  Thomas’s advocacy skills were good. | | | |
| **How was the Attorney/client communication?**  The attorney-client communication appeared to be good with the exception of one client whose phone has been shut off and Thomas has been unable to communicate with him. | | | |
| **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 represented 6 clients on today’s calendar:   1. Client 1: Pretrial conference. The client is out-of-custody and not present in court. Thomas explained that he received a settlement offer from the State yesterday. However, Thomas has been unable to reach his client to discuss the offer. The client’s phone has been shut off. Thomas sent an email to the client yesterday but has not heard back. Thomas requests a continuance. The State did not oppose the continuance. The case was continued to April 2, 2025, at 11:00 a.m. 2. Client 2: Pretrial conference. The client is out-of-custody and not present in court. Thomas explained that he recently received a settlement offer from the State. However, Thomas has not yet discussed it with his client. The client lives in Idaho ’s and has been in communication with Thomas. Thomas does not know why the client is not present today. Thomas requests a continuance. The State did not oppose the continuance. The case was continued to March 5, 2025, at 11:00 a.m. The client must personally appear at this hearing. 3. Client 3: Pretrial conference. The client is out-of-custody and appeared by Zoom. The parties were able to reach a resolution of the matter. In exchange for the client’s plea of guilty to one count of Disturbing the Peace the other count will be dismissed. The parties will jointly recommend that the client be sentenced to time served (which is 10 hours in jail). The client pled guilty to Disturbing the Peace. Following the court canvass, the court accepted the guilty plea. The court followed the joint sentencing recommendation and sentenced the client to 10 hours jail with credit for 10 hours time served. The case is closed. 4. Client 4: Pretrial conference. The client is out-of-custody and appearing by Zoom. The parties were able to reach a resolution which involves the client pleading to 3 of the 4 counts. The fourth count will be dismissed. One of the counts is a DUI charge which requires the client to review and sign the DUI Waiver of Rights form. Thomas did not have an opportunity to review and sign the waiver with the client. Thomas requested a continuance to enable him to review and sign the waiver of rights form with the client. The State did not oppose the continuance. The pretrial conference was continued to 3/5/2025 at 11:00 a.m. as a Change of Plea and Sentencing hearing. The court authorized the client to appear by Zoom at the next hearing. 5. Client 5: Pretrial conference. The client is out-of-custody and appeared in person. The parties were able to reach a resolution. In exchange for the client’s plea of No Contest to one count of Battery, the State will dismiss a separate case currently pending in the Elko Justice Court. Following the court canvass, the court accepted the No Contest plea.   State Sentencing Recommendation: 30 days active jail and a $300 fine plus assessments.  Defense Sentencing Mitigation Argument and Recommendation:   * Client was cooperative with law enforcement. * It was an unfortunate situation and the tempers of both sides got out of hand. * Client has done a lot of things to get his life back on track. * Client has moved with his family to Mesquite, Nevada. * Jail time is not necessary or even reasonable. * Recommends suspended jail and a $300 fine.   Defendant Statement in Allocation:  Victim Impact Statement: Recommends 30 days active jail (through the DDA).  Sentence:  $300 fine plus $95 AA, $10, $7, $3 = $415.  5 days jail suspended for 6 months with conditions: “Good Conduct” and pay fines, fees, and assessments.  No active jail time. Credit Time Served of 3 hours will be converted to $36 toward fine. Balance of $379 due by 4/20/2025.  Bail bond exonerated.   1. Client 6: Pretrial conference. The client is out-of-custody and appearing by Zoom. The parties were able to reach a resolution which involves the client pleading No Contest to a DUI charge. In exchange, the State will dismiss the remaining counts in this case and all charges in a separate case with prejudice. The Parties are free to argue, except the State will not ask for any active jail time.   The client pled No Contest to DUI. Following the court canvass, the court accepted the No Contest plea.  **Remarks/Recommendations/Notes (continued from previous page):**   * State sentencing argument and recommendation:   Minimum active penalties plus 30 days jail suspended for 1 year with conditions, including “Good Conduct” in the State of Nevada and all statutory requirements of the DUI conviction.   * Gunter sentencing argument:   Client’s husband passed away shortly before this event. She was struggling emotionally and financially and became dependent on substances. She is currently sober. She is doing everything possible to be a positive role model for her new grandchild. She is playing an active role in the grandchild’s life. Also, the client served approximately 30 days on these 2 cases combined.  This case is 2 years old. Suspended jail is not needed.  Recommendation: Statutory minimum penalties. Convert the balance of the credit time served (above the statutory minimum) toward the fines, fees, and assessments.   * Client Waived her right of allocation. * Sentence:   48 hours jail with credit for time served of 48 hours.  DUI school by 4/5/2025.  Victim Impact Panel by 4/5/2025.  Interlock Device requirement for 185 days.  Fine $400 and fees and assessments of $105, $10, $7, $3, $60 for a total due of $585. The court is converting 3 additional days jail already served to cover the financial obligation. So, no money remains owing.  15 days additional jail is suspended for 1 year on conditions that she complete all of the terms of this sentence, not violate any laws in Elko County, except minor traffic, and not consume any drugs/alcohol/marijuana, except prescription medications as prescribed by a medical doctor. | | | |