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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez |
| Date | April 8, 2025 | County | Humboldt |
| Court | Sixth Judicial District Court Dept I | Judge | Michael Montero |
| Defense Attorney | Massey Mayo | Prosecutor(s) | Aaron Russell  Deputy District Attorney |
| Attorney Present | In Person / Virtual / w/Client | Number of Clients | 9 |
| Defendants Present | In Person / Virtual / Off-Site | Custodial Status | IC / OOC / Blend |
| Number of Clients  In custody | 3 | Number of Clients Out-of-Custody | 6 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 3 |
| Hearing Types | Arraignment, Pretrial, Violation of Bail Conditions, Entry of Plea, Sentencing, and Probation  Violation hearings | | |
| **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?**  Massey appeared prepared for court. | | | |
| **How knowledgeable was the Attorney about their cases?**  Massey appeared to be knowledgeable about her cases. | | | |
| **The Attorney's courtroom advocacy skills were:**  Good. | | | |
| **How was the Attorney/client communication?**  The attorney-client communication appeared to be good, except for one client. That client expressed his dissatisfaction with Massey, asked for the appointment of a different attorney, and claimed that Massey had only 2 phone calls with Massey in the last 2 months. | | | |
| **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 / 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 / N/A |
| **Remarks/Recommendations/Notes:**  Massey had 9 clients on calendar today:   1. First Client: Sentencing hearing. The client is out of custody and not present in court.   Massey informed the court that she did not have a legal excuse for her client’s absence from court. [Note: this case was set for 1:30 p.m. It is now 4:30 p.m. The client has not been seen in court at any time this afternoon. The Pretrial Services representative said that she saw the client last Friday in the Pretrial Services Office. The client has been cooperative and checking in as directed. Massey requested a continuance so that she can contact the client and have her appear at the next hearing.  The State informed the court that it had notified all the victims in this case of today’s sentencing hearing. None of the victims are present in court. Consequently, the State does not oppose the requested continuance.  The court issued a bench warrant for the arrest of the client with a no bail hold.   1. Second Client: Pretrial hearing. The client is out of custody and present in court.   The case is currently scheduled for a Jury Trial to begin on 4/23/2025. Mary informed the court that there has been a “break down” in communication between herself and the client creating ethical issues for the attorney. The client has told her that he wants a new attorney. The client does not believe that Massey is properly pursuing the defense tactic that the client wants pursued.  The client told the Court that he has only had 2 phone calls from Massey in the last 3 months. The client says that he has witnesses and evidence for his attorney. The client told the court that Massey has not appeared to have time to properly prepare for trial. So, he wants an attorney that is not too busy to properly represent him.  Massey explained to the Court that she wants to continue the trial to enable her to file motions (including on spoilation). However, the client does not want to continue the trial. Massey explained to the client that if he had a new attorney take over the case, the new attorney would not be able to be ready for trial by the April trial date. Ultimately, Massey said that the client made statements to her accusing her of unethical behavior.  The court noted that Massey is the client’s third appointed attorney. The client was initially represented by Robert Dolan, then by Matt Stermitz, and now by Massey Mayo. The court said that Massey was assigned to the case on September 30, 2024. Massey has had this case 6 months in District Court. The Court stated that 6 months in District Court is nothing. The court stated that it is not inclined to order a new attorney for him. The court told the client that his current attorney is one of the better attorneys available for him. The client is out of custody. The client previously waived his right to a trial within 60 days. After additional discussion and canvass of the client, the court denied the request for new counsel. The court vacated the April 23, 2025, trial date. The trial was rescheduled for July 30-31, 2025 (as a second set). A Pretrial was scheduled for July 1, 2025. A Motion hearing will be set after motions are filed.  [Note: during the court proceeding the client’s cell phone audibly rang. The court warned the client to always make sure that his cell phone is turned off when he is in court. The court warned the client that if his phone rings again during a court proceeding, the court will take his phone.]   1. Third Client: Hearing on Custody Status and Trial Setting. The client is in custody and present in court.   Massey reminded the court of the history of the case. The client’s case proceeded to a preliminary hearing in justice court. At the conclusion of the preliminary hearing, the case was bound over to district court. Once in district court, the client’s competency became in question. Competency evaluations were ordered and found the client to be not competent. The restoration process was successful in bringing the client back to a state of competency.  Massey request that her client be released from custody on her own recognizance with conditions to insure her attendance at future court dates. Massey explained that if released, her client has a place to stay with her father in Elko. The client’s entire family and support network are in Elko.  The State stipulated to the client’s release on her own recognizance with conditions of release.  The court ordered the client be released on her own recognizance to her father or a representative named by her father (so the jail is not to release the client except to the client’s father or a representative named by her father). The client is not put under the supervision of Pretrial Services.  **Remarks/Recommendations/Notes (continued from previous page:**  While the client has previously waived her statutory right to a trial within 60 days, she has not waived her Constitutional right to a speedy trial.  Trial is set for 2 days on 9/10-11/2025.  A Pretrial hearing is set for 7/29/2025 at 9:00 a.m.   1. Fourth Client: Arraignment hearing. The client is out of custody and present in court.   Pursuant to a Guilty Plea Agreement, the client pled guilty to one count of Possession of a Controlled Substance, a category D felony (based on prior conviction). During the court canvass, when the court asked the client if he had discussed the maximum possible penalty with his attorney, the client initially said “no.” After further discussion, the client acknowledged that he had discussed it with his attorney and, in fact, they had most recently discussed it when they reviewed and signed the Guilty Plea Agreement. Following the canvass, the court accepted the client’s guilty plea. The court ordered the preparation of a Presentence Investigation Report. Sentencing is scheduled for 6/3/2025 at 9:00 a.m. The client will remain under the supervision of Pretrial Services (even though he is living out-of-state).   1. Fifth Client: Sentencing hearing. The client is in custody and present in person.   There were no corrections to the Presentence Investigation Report. Neither side presented any evidence at the sentencing hearing. The client was being sentenced for one count of Battery on a Protected Person (a law enforcement officer), a gross misdemeanor. Judge Montero disclosed that the victim is the spouse of a former employee of the Judge. Judge Montero did not believe that this former employee situation created a conflict of interest for him or prevented him from being fair and impartial, or required him to recuse himself. The court offered the parties an opportunity to request judicial recusal. Both parties were satisfied that the judge could be fair and impartial and waived any potential conflict.  Massey made an argument in mitigation. Massey reminded the court that her client had been stopped by officers following a suspicious vehicle report. While at the traffic stop the client told the officers that he was on his way to Washington DC to remove lasers that Kamala Harris had placed there. He was arrested for “terrorist threats.” Massey argued that there was no probable cause basis for her client’s arrest. Regarding his competency, Massey said that her client understands what he is doing. He is intelligent. But he has a different perspective on what is happening than most of us have. The original charge (based on the terrorist threats arrest) is being dismissed. The offense for which the client is being sentenced, Battery on a Protected Person (a jail officer) occurred while the client was in the jail on the Terrorist Threat charge. Massey pointed out that the client’s only criminal history involved misdemeanor convictions (no gross misdemeanor or felony convictions). Massey recommended that her client be sentenced to time served.  The state made no argument and submitted the sentencing decision to the court’s discretion.  The court asked the prosecutor if the victim has been contacted.  DDA Russell could not confirm from the DA file whether the victim was ever notifed of today’s hearing or the proposed resolution.  Massey represented that this case was negotiated with former DDA Evans (no longer with the Humboldt County DA’s Office) and that Evans represented to Massey that the officer was aware of the proposed resolution and in agreement with it.  The representative from the Nevada Department of Parole and Probation said that the office sent emails to the officer and a letter to his last known address. The officer is currently attending Police Officer Standards Training.  The court accepted the representations and found that sufficient notice to the victim had been provided.  The client spoke in allocation.  The court imposed the following sentence:   * $25 administrative assessment fee; * $3 DNA assessment fee; * 197 days jail (plus whatever time it takes a family member of the client to come from California to pick him up from the jail) with credit for time served of 197 days.   **Remarks/Recommendations/Notes (continued from previous page:**   1. Sixth Client: Sentencing hearing. The client is out of custody and present in person. The court corrected the sentencing date listed in the Presentence Investigation Report. There were no other corrections made to the report. Massey submitted a Sentencing Memorandum with attachments yesterday. The defense exhibits included an ASAM evaluation, the client’s treatment records, a copy of an order from the court in Oregon reinstating defendant on probation in Oregon, and a travel permit enabling the client to travel from Oregon to Nevada for today’s hearing.   Massey made an argument in mitigation and in support of her sentencing recommendation. She described the client’s recognition from the outset that he needs help. She explained that the client turned himself in on the warrants in Oregon, that he obtained a Substance Use Evaluation and began treatment, that he resolved all outstanding cases in Oregon. Massey further emphasized that her client was honest about his relapse in January of this year and that he immediately got back on track. The client has been sober since the January relapse. Massey pointed out that several of the client has family members and friends are present in court today in support of the client (mother, brother, and girlfriend).  Massey recommended that her client receive a sentence of 12-36 months in the Nevada Department of Corrections, that the sentence be suspended, and that her client be placed on probation with supervision in Oregon. Massey recommended that the sentence on count II be identical and concurrent with count I.  Pursuant to the negotiations contained in the Guilty Plea Agreement, the State recommended that the court place the client on probation. The State submitted the issue of the length of the underlying sentence to the discretion of the court. The State confirmed that it will dismiss the misdemeanor charges still pending in Justice Court.  The client made a statement in allocation. He explained to the court that after his arrest he was able to detox while in the jail. Upon his release from jail, he immediately entered a substance use residential treatment program. While he relapsed in January, he immediately got back into the treatment program. After the detox and beginning of IOP, he turned himself in to Oregon authorities. He lives in La Pine, Oregon. He attends many sessions by Zoom. When he attends in person, he attends in Bend, Oregon, which is about 30 miles away from La Pine, Oregon. He attends three 3-hour group counseling sessions and once per month an individual counseling session.  The court imposed the following sentence for 2 counts of Possession of Controlled Substances, category D felonies (based on prior convictions):   * $25 administrative assessment fee; * $3 DNA assessment fee; * $150 fine; * $60 chemical analysis fee.   [Note: the client said he could pay these fines and assessment fees today]   * Count I: 14-36 months in the Nevada Department of Corrections, suspended for a period not to exceed 24 months, and placed on probation. * Count 2: 14-36 months in the Nevada Department of Corrections, suspended for a period not to exceed 24 months, and placed on probation. * Counts 1 and 2 shall run concurrently. Credit for time served is 44 days.   Special conditions of probation include:   * Follow through with counseling, including medical supervision, * Not possess or consume marijuana, controlled substances, or alcohol, no over-the-counter medications that have alcohol, unless prescribed by medical doctor, * Not enter any smoke/vape shops, no bars/liquor stores, no casinos, * Shall not receive an early release from probation unless all fees are paid and there have been no violations.  1. Seventh Client: Plea hearing. The client is out of custody and present in person. The Guilty Plea Agreement has not yet been prepared by the District Attorney’s Office. The court continued today’s hearing based on the oral stipulation of the parties to tomorrow at 10:00 a.m.   **Remarks/Recommendations/Notes (continued from previous page:**   1. Eighth Client: Plea hearing. The client is out of custody and not present in court. Massey reminded the court that her client was released from custody in Winnemucca at his last hearing in March. He was then transported to Elko jail on a Failure to Appear warrant. The client has since been released from jail in Elko and is out of custody. Massey told the court that the client called her office today stating that he is having transportation difficulties. The attorneys agreed that they believe they will be able to resolve this case through negotiations. Both attorneys stipulated to continue today’s hearing. The court continued the Plea hearing to 4/22/2025 at 9:00 a.m. 2. Ninth Client: **Probation Violation** hearing. The client is in custody and present in person. A Non-Technical Violation Report was filed on 1/24/2025 and a Supplemental Report was filed on 3/13/2025. Note: this is client’s second violation of probation. He was reinstated after the first violation.   Massey informed the court that her client intends to admit the allegations contained in the report filed on 1/24/2025 but intends to deny the allegations contained in the Supplemental Report filed on 3/13/2025.  The prosecutor said that if the client admits the violations in the January report, the State will dismiss the violations contained in the Supplemental Report.  The client admitted all the allegations contained in the 1/24/2025 Non-Technical Violation Report:   * Reporting * Residence * Directives and Conduct * Employment * Financial Obligations   Following the court canvass, the court accepted the admissions.  The State dismissed the Supplemental Report filed on 3/13/2025.  [Note: The client’s underlying sentence is 364 days jail. The client currently has credit for 140 (138 per P&P, 140 per defense, P&P corrects their calculation to 140) days time served.]  Massey made an argument in mitigation and then recommended that her client be sentenced to 30 days jail, that he be Dishonorable Discharged from probation, and that the unpaid fines, fees, assessments be converted to a civil judgment.  The State submitted the issue of probation violation consequences to the discretion of the court.  The client made a statement in allocation. The client said that he has a very bad substance abuse disorder and that he is not able to comply with the sobriety conditions. So, he asked to just serve out his sentence so that he can be off probation (leaving the impression that he will continue to use drugs as soon as he completes his sentence).  The court reminded the parties that he previously ordered, as part of the sentence, that the client obtain a substance use evaluation and follow through with treatment recommendations, including potentially being placed in the Drug Court program. However, the client’s first violation occurred shortly after sentencing and before the client obtained an evaluation. Since the first violation, the client has not submitted an evaluation to the court. The court also mentioned that the client is only 18 years old.  The court then told the client that he is willing to give him an opportunity to think about being reinstated with drug court to help him become sober and have tools to stay sober.  Alternatively, the court told the client that if the client does not want the help that the drug court can offer, the court will revoke his probation and the client will serve out his sentence (i.e., the client will serve out his 364-day jail sentence – approximately 6 more months in jail – not merely 30 days). The judge asked the client if he wanted to discuss these options with his attorney. The client said “yes.”  The court took a recess for client to think about his options and discuss them with his attorney.  When the case was recalled, Mayo informed the court that the client did obtain a Substance Use Evaluation in November 2024. Massey also told the court that her client would now like to participate in the Drug Court program. The client confirmed that he wants to get the help that the drug court program can provide.  The State does not oppose the drug court option.  Order: the client is reinstated on probation, the probation period is extended for 24 months on the conditions that the client submit the Substance Use Evaluation to the Drug Court, and successfully complete the drug court program. The court stated that If the client is not accepted by the Drug Court for any reason, then the case will be put back on calendar for another disposition hearing. | | | |