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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez by Zoom video |
| Date | April 18, 2025 | County | Elko |
| Court | Eastline Justice Court | Judge | Kenneth Quirk |
| Defense Attorney | Nestor Marcial Martinez  Deputy Public Defender | Prosecutor(s) | Daniel Roche  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 | 1 | Number of Clients  Out-of-Custody | 8 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 2 |
| Hearing Types | Pretrial 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?**  Nestor appeared to be prepared for his cases today, with the exception of one client who has not been in contact with the Public Defender’s Office and the Public Defender’s Office has been unable to reach. | | | |
| **How knowledgeable was the Attorney about their cases?**  Nestor appeared to be knowledgeable about his cases today. | | | |
| **The Attorney's courtroom advocacy skills were:**  Nestor’s advocacy skills were good. | | | |
| **How was the Attorney/client communication?**  The attorney-client communication appeared to be good. However, there was one client who did not contact the Public Defender’s Office and Nestor was unable to reach the client to discuss his case 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 / 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 / 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:**  Nestor represented 9 clients during today’s court session:   1. Client 1: Pretrial hearing. The client is out-of-custody and present in person.   Nestor informed the court that the parties had reached a settlement. The client will plead Guilty to Destruction of Property, a misdemeanor. The parties will jointly recommend to defer sentencing for 1 year on conditions that: (1) the client pay restitution in the amount of $2,935.93 within the 1 year; and, (2) the client will maintain “good conduct.”  The client pled Guilty to Injury or Destruction of Property. Following court canvass, the court accepted the guilty plea.  The court followed the joint recommendation and deferred sentencing for 1 year on the conditions that:   1. The client shall pay restitution in the amount of $2,935.93 by 4/17/2026; and, 2. The client shall maintain “good conduct.”   The client told the court that he plans to make monthly payments.  The court set a Review hearing for 5/15/2026 at 1:00 p.m.   1. Client 2: Pretrial hearing. The client is out-of-custody and present in person.   Nestor informed the court that the parties had reached a settlement. The client will plead No Contest to Injury or Destruction of Property. The parties will jointly recommend that sentencing be deferred for 6 months on conditions: (1) that the client pay restitution in the amount of $195; (2) complete an anger management online class; and, (3) that the client will maintain “good conduct.”  The client pled No Contest to Injury or Destruction of Property. Following court canvass, the court accepted the No Contest plea.  The court followed the joint recommendation and deferred sentencing for 6 months on the conditions that:   1. The client shall pay restitution in the amount of $195 by 4/17/2026; 2. The client shall complete an online anger management class; and, 3. The client shall maintain “good conduct.”   The court set a Review hearing for 11/21/2026 at 1:00 p.m.     1. Client 3: Pretrial hearing. The client is out-of-custody and present in person.   During the hearing the client, initially unrepresented, requested the appointment of the public defender. The court reviewed the client’s Financial Application and found that client qualifies for the appointment of an attorney. The court appointed the Public Defender’s Office to represent the client in this matter.  The court took a recess to allow Nestor to meet with his client and discuss the case with the prosecutor.  The prosecutor provided Nestor with the District Attorney’s Office file to review the police report. The prosecutor made two different settlement offers: (1) Plead Guilty or No Contest as charged and the State will recommend a fine only; or (2) Plead Guilty or No Contest as charged and the State will recommend a suspended 5-day jail sentence.  Nestor spoke with his client during court recess.  Following the court recess: Nestor requested a continuance to review all of the discovery more thoroughly, discuss the facts from client’s perspective, obtain any additional information from the client, discuss the two separate settlement offers with the client, etc.  The State did not object to the continuance.  The court continued the Pretrial Conference to 5/16/2025 at 10:00 a.m.   1. Client 4: Pretrial hearing. The client is out-of-custody and not present.   Nestor represented to the court that the client is transient and the Public Defender’s Office has been unable to contact the client and unable to notify him of today’s hearing.  The State requested a bench warrant.  The court issued a Bench Warrant for the client’s Failure to Appear in the amount of $1,280.00 cash only and Elko County only.  **Remarks/Recommendations/Notes (continued from previous page):**   1. Client 5: Pretrial hearing. The client is out-of-custody and present in person.   Nestor informed the court that the parties had reached a settlement. The client will plead Guilty to one count of Battery That Constitutes Domestic Violence. The State will recommend no additional active jail time, and the minimum fine and other statutory penalties. The State will dismiss and/or not pursue the felony charge of Battery That Constitutes Domestic Violence Causing Substantial Bodily Harm. There is a potential for restitution. The parties are free to argue regarding the amount of jail time suspended and the length of the suspended sentence.  While the parties have reached this agreement, Nestor requested a continuance to review the Battery DV Waiver of Rights Form with the client.  The State had no objection to the continuance.  The court verbally advised the client of the potential penalties if he pleads guilty or is found guilty of Battery That Constitutes Domestic Violence – first offense (including firearm consequences); then advised defendant of potential penalties for a second and third offense within 7 years.  The court continued the hearing to May 16, 2025, at 3:00 p.m. for change of plea and sentencing.  A restitution hearing may also be needed.   1. Client 6: Pretrial hearing. The client is out-of-custody and appeared by Zoom video.   Nestor informed the court that the parties had reached a settlement. The client will plead Guilty to all 3 misdemeanors charged (Possession of Drug Paraphernalia, Expired Registration, and Possession of a Drug Not Lawfully Introduced Into Interstate Commerce). In exchange, the State will dismiss the felony case pending in the Elko Justice Court, EL-JCF-21-4769. The State will not seek active jail. The parties are free to argue regarding the remaining terms of the sentence.  The client pled Guilty to Possession of Drug Paraphernalia, Expired Registration, and Possession of a Drug Not Lawfully Introduced Into Interstate Commerce, all misdemeanors.  Following the court canvass, the court accepted the Guilty pleas.  The State Sentencing Recommendation: 30 days jail suspended for 1 year on conditions of “good conduct” and not possess or consume drugs/alcohol on each count to run consecutively (i.e., 90 days jail total suspended for 1 year).  Defense Sentencing Recommendation: Joined the State’s sentencing recommendation.  The client waived his right to make a statement in allocation. He did, however, tell the court that he would like to thank Nestor for his time and effort.  The court imposed the following sentence: 60 days jail suspended for 1 year on conditions: (1) “good conduct” and (2) not possess or consume drugs or alcohol, including marijuana, excluding properly prescribed medication.  [**Note**: the court only imposed 1 sentence. Presumably it is the same sentence for all 3 counts to run concurrently.]  The court set a Review hearing for 5/15/2026 at 1:00 p.m.   1. Client 7: Pretrial hearing. The client is in custody and appeared by Zoom video from the Elko jail.   Nestor informed the court that the parties had reached a settlement. The client will plead Guilty to Resisting a Public Officer. The parties will jointly recommend a sentence of 30 days active jail to run consecutively to the jail sentence he is currently serving on a separate case. The State further agrees to dismiss the felony case JCF 25-2210.  The client pled Guilty to one count of Resisting a Public Officer, a misdemeanor. Following the court canvass, the court accepted the Guilty plea.  The Felony case in JCF 25-2210 is to be dismissed.  Nestor made a sentencing argument in support of the joint recommendation.  The client made a statement in allocation: he is in poor health. He would prefer to die in his own bed in his own home. So, he asks the court not to impose any additional time beyond the 30 days agreed to in this agreement.  Sentence: 30 days jail consecutive to the sentence he is currently serving. Upon completion of the 30 day jail sentence, the case will be closed.  **Remarks/Recommendations/Notes (continued from previous page):**   1. Client 8: Pretrial hearing. The client is out-of-custody and appeared by Zoom video.   Nestor informed the court that the parties had reached a settlement. In exchange for the client’s Guilty plea to one count of Resisting a Public Officer, the State will dismiss the remaining 2 counts. The State futher agrees that it will not request any **active** jail time as part of the sentence. The parties are otherwise free to argue.  The client pled Guilty to Count 1 Resisting a Public Officer, a misdemeanor. Following the court canvass, the court accepted the Guilty plea.  The State dismissed Counts 2 and 3 with prejudice.  Defense Sentencing Recommendation: 10 days suspended for 6 months on good conduct condition. CTS 34 hours jail.  State Sentencing Recommendation: Joined the defense recommendation of 10 days jail suspended for 6 months on the sole condition of “good conduct.”  The client waived his right of allocation.  Sentence: 10 days jail suspended for 6 months on condition that the client maintain “good conduct.”  The court set a Review hearing for 11/21/2025 at 1:00 p.m.   1. Client 9: Pretrial hearing. The client is out-of-custody and appeared by Zoom video.   Nestor informed the court that the parties had reached a settlement. In exchange for the client’s Guilty plea to count 4, Battery, a misdemeanor, the State will dismiss the felony case JCF 24-6847. Both sides will be free to argue regarding the sentence.  The client pled Guilty to count 4, Battery, a misdemeanor. Following the court canvass, the court accepted the Guilty plea.  The State dismissed Elko JC case 24-6847.  The prosecutor informed the court that victim notification efforts were made in December and January and no response was received.  State Sentence Recommendation: 60 days jail suspended for 1 year on conditions: (1) “good conduct” and (2) not possess or consume alcohol or controlled substance.  Defense Sentence Recommendation: 30 days jail suspended for 6 months on condition of “good conduct.” Nestor made an argument in mitigation, comparing this case to that of the client’s husband who was just sentenced earlier.  The client made a statement in allocation: This was out of character for her. She plans to never return to Wendover, NV.  Sentence: (The court followed the State recommendation) 60 days jail suspended for 1 year on conditions: (1) “good conduct” and (2) not possess or consume alcohol or controlled substance, including marijuana, and excluding properly prescribed medications.  [**Note**: “Good conduct” in the Elko courts means no criminal convictions anywhere in the U.S. , excluding minor traffic offenses.] | | | |