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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez |
| Date | March 26, 2025 | County | Elko |
| Court | Elko Justice Court – Department B | Judge | Bryan Drake |
| 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 |
| Number of Clients  In Custody | 0 | Number of Clients  Out-of-Custody | 1 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 0 |
| Hearing Types | Evidentiary hearing on alleged violations of conditions of release and 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 his case today. | | | |
| **How knowledgeable was the Attorney about their cases?**  Brian appeared to be knowledgeable about his case today. | | | |
| **The Attorney's courtroom advocacy skills were:**  Brian’s 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:**  Brian had 1 client scheduled for today’s court session:  Evidentiary hearing on alleged violations of conditions of release and Preliminary Hearing. The client was out of custody and present in court.  Brian and the client signed and filed a waiver of preliminary hearing 10 days ago. While today was originally scheduled for a preliminary hearing, no witnesses for the preliminary hearing were present due to the State’s reliance on the signed waiver of preliminary hearing form.  The State did have a witness present for the evidentiary hearing scheduled for today on the Pretrial Services Report alleging that the client had violated the terms and conditions of his release on his Own Recognizance.  Brian objected to the Court’s ability to hear the evidence on the allegations of violation of the conditions of release because the justice court should have bound the case over to district court immediately upon receiving the filed Waiver of Preliminary Hearing (10 days ago). Consequently, the justice court should have lost jurisdiction to hear the matter. The case should now be in district court.  The court overruled the objection finding that it still had jurisdiction because it had not bound over the case to district court.  Evidentiary Hearing:  The State presented the testimony of one witness from Elko Pretrial Services regarding the 11 positive drug tests submitted by the client while on his own recognizance (positive for ecstasy, L.S.D., Fentanyl, and methamphetamine).  In cross-examination of the State’s witness, Brian established that the witness did not obtain the client’s test sample, did not process the sample, and did not test the sample. The clerk’s sole role regarding the samples was to receive the test results and report them to the court.  The client testified that he did not use any of the controlled substances for which he tested positive. The client testified that he was taking prescription medication that would test positive for amphetamine. The client presented his pharmacy records which showed that his prescription medication. The client testified that he stopped taking his prescription medication a few days ago. The client went to the hospital yesterday to obtain a drug test which was negative for controlled substances.  On cross-examination, the client acknowledged that he did not know if the hospital drug test yesterday tested for Fentanyl, Ecstasy, or L.S.D.  The state argued that it had established that the client had violated the conditions of his release by using controlled substances, and that the client should be remanded into jail custody.  Brian argued that the only evidence was presumptive. Brian also argued that he requested that the drug tests be sent to a lab for confirmation testing one month ago and the state failed to do so. Brian argued that it would not be appropriate for the court to revoke the O.R. release based solely on presumptive testing when the state had the ability to do confirmation testing.  The court found that the state did prove the client violated the conditions of his release by using controlled substances. The court ordered that the client’s release on his own recognizance is revoked and the client be remanded into jail custody. The court set the bail at $2,000 cash or bond.  Brian informed the court that the client has now changed his mind regarding the waiver of his right to a preliminary hearing. The client now wants a preliminary hearing. The court set the preliminary hearing for 4/15/2025 at 11:00 a.m.  Prior to the hearing being concluded, the client changed his mind again. The client wants to waive his preliminary hearing. Following the court canvass of the client, the court accepted the client’s waiver of preliminary hearing and bound the case over to District Court. The Arraignment date will be set by Judicial Calendaring.  The court advised the client that should he bail out, the conditions of release previously ordered by the Justice Court are no longer in effect. The court advised the client that the District Court may impose conditions of release. | | | |