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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez |
| Date | February 26, 2025 | County | Elko |
| Court | Elko Justice Court – Department B | Judge | Bryan Drake |
| Defense Attorney | Nestor Marcial  Deputy Public Defender | Prosecutor(s) | Justin Barainca  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 | 1 | Number of Clients  Out-of-Custody | 0 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 0 |
| Hearing Types | Continued 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?**  Nestor appeared to be prepared for his case today. | | | |
| **How knowledgeable was the Attorney about their cases?**  Nestor appeared to be knowledgeable about his case 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. | | | |
| **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 had one client on today’s calendar. The client was in custody, present in court, and the hearing was a Continued Preliminary Hearing. The State was on its last witness, a Sheriff’s Officer. The hearing had been continued from the previous date to allow the defense to file a written motion to suppress the officer’s testimony regarding client statements (the argument for suppression is based on an alleged ***Miranda*** violation). During the continuance, Nestor filed a written Motion to Suppress, the State filed an Opposition. Prior to continuing the direct examination of the officer, DDA Barainca asked that the court not rule on the defense motion to suppress testimony. DDA Barainca explained that he would proceed in the prelim without that testimony. Prior to concluding its case, the State will make a conditional argument for a bind over. If the Court does not believe sufficient probable cause to bind over the case has been met, the State will offer the defendant’s statements to be introduced, which will require ruling on the motion to suppress. State resumed direct examination of officer. The court found sufficient pc was provided (without the testimony regarding the client’s statements/admissions). The case was bound over to District Court. An Arraignment date will be set through the court calendaring system.  The court then set the trailing misdemeanor case for a pretrial conference on April 24 at 10 a.m. | | | |