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| **DIDS Attorney Observation Report** | | **Reviewer** | Derrick Lopez by Zoom video |
| Date | March 14, 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 | 10 |
| Defendants Present | In Person / Virtual / Off-Site | Custodial Status | IC / OOC / Blend |
| Number of Clients  In Custody | 1 | Number of Clients  Out-of-Custody | 9 |
| Cases Continued  In Custody | 0 | Cases Continued  Out-of-Custody | 3 |
| Hearing Types | Arraignment, Pretrial, Entry of Plea, and Sentencing 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. | | | |
| **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. | | | |
| **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 10 clients during today’s court session:   1. Client 1: Pretrial conference. The client is out-of-custody and not present in court. Nestor does not know why the client is not present. Submits to the court’s discretion whether to issue a bench warrant. The State requests a Bench Warrant for Elko County only (client is believed to live in Ogden, UT). The court issued a bench warrant for Elko County only in the amount of $800 cash only. 2. Client 2: Pretrial hearing. The client is out-of-custody and present in person. Nestor requested a continuance to continue to pursue a possible resolution with the State. No objection from the State. Court continued the case to 4/18/2025 at 10:00 a.m. 3. Client 3: Arraignment hearing. The client is out-of-custody and present in person. This client has 2 cases pending:  * A brand new case: the client was arraigned today (one count of Resisting a Public Officer, a misdemeanor). The client requested the appointment of the Public Defender. The court appointed the Public Defender’s Office on the new case. A not guilty plea was entered on behalf of the client. A pretrial hearing was scheduled for 5/16/2025 at 10:00 a.m. * An older case: the client had a pretrial hearing set for today. The Elko Public Defender’s Office was previously appointed on this case. Nestor requested a continuance of the pretrial hearing to 5/16/2025 to consider the State’s global offer (made at counsel table today) and to receive and review the discovery in the new case, and discuss the new case and global offer with the client. The court continued the pretrial hearing to 5/16/2025 at 10:00 a.m.  1. Client 4: Pretrial hearing. The client is out-of-custody and present in person.   Nestor informed the court that the parties have reached a resolution. In exchange for the client’s guilty plea to Resist Public Officer, a misdemeanor, the State will recommend a fine only and will dismiss the remaining count (Driving on a Suspended DL).  The client pled guilty to Resist a Public Officer. Count 2 was dismissed. Following court canvass, the guilty plea was accepted.  The client waived his right of allocation.  Nestor argued in mitigation and in support of the joint sentencing recommendation of a fine only (no specific dollar amount). Nestor pointed out that the client is working two jobs to support two children, a significant other, and himself.  **Sentence**:   * Fine: $250 +85+10+7+3 = $355 payments of $50 per month beginning 4/20/25 and on the 20th of each month until paid in full. * 10 days jail suspended 1 year on conditions:  1. No drugs, alcohol, and marijuana. 2. No businesses where one of the primary business is alcohol, except for purposes of employment. 3. Violate no laws. 4. Pay the fines, fees, and assessments imposed above. 5. Client 5: Sentencing hearing. The client is out-of-custody and present in person. The client previously pled guilty to DUI. The other count, Open Container, was previously dismissed. Marcial requested a continuance of the Sentencing hearing. Nestor explained that the client needs to obtain a Substance Use Evaluation. However, the client has not been able to accomplish that yet. The client lives in Salt Lake City, Utah.   The State does not oppose the continuance.  The court provided the client with a list of known evaluators in the Salt Lake City area and continued the Sentencing hearing to 6/20/2025 at 10:00 a.m.    **Remarks/Recommendations/Notes (continued from previous page):**   1. Client 6: Pretrial hearing. The client is out-of-custody and not present in court.   The client was planning to appear by Zoom today but is not on Zoom and is not present in court. Nestor requested a continuance. Nestor explained to the court that he spoke with the client last week in preparation for today’s hearing. Nestor also explained that they had an office meeting scheduled for yesterday but the client was a no call/no show.  The State requested the court issue a Bench Warrant for Elko County only (the client lives in Utah).  The court issued a Bench Warrant for $890 cash only, Elko County only.   1. Client 7: The client has 2 cases pending. A Pretrial hearing on one case and a Deferred Sentencing Review Hearing on the other case. The client is out-of-custody and not present in court. Nestor explained to the court that the client is currently serving a prison sentence in Utah. The client’s anticipated parole date is May 27, 2025. Nestor requested that both hearings be continued to June, 2025, so that the client may appear. The State requested a Bench Warrant be issued on both cases. [Note: the pending charges in both cases are misdemeanors.] The court issued a Bench Warrant in both cases in the amount of $890 cash only and for Elko County only. 2. Client 8: Entry of Plea hearing. The client is in custody and appeared by Zoom video from the Elko jail. Nestor informed the court that the parties have reached a resolution. In exchange for the client’s guilty plea to two misdemeanors (Possession of Drug Paraphernalia and Possession of a Drug Which May Not Be Introduced Into Interstate Commerce), the State will dismiss a felony Possession of Controlled Substance case currently pending in the Elko Justice Court. Both sides will be free to argue regarding the sentences imposed on each misdemeanor.   The client pled guilty to both misdemeanors. Following court canvass, the court accepted the guilty pleas.  [Note: no discussion regarding concurrent or consecutive sentences or client’s understanding of that possibility].  State recommendation: the State argued for additional jail time (between 60 and 90 days jail based on the suspicion that the defendant is a drug seller). The State believes that the Credit for Time Served is 21 days.  Defense recommendation: Nestor recommended that the client be sentenced to time served. Nestor argued that the client should not be sentenced to additional time based on a mere suspicion of drug selling activity. There is no proof of such conduct. Nestor believes that the correct Credit for Time Served is 23 or 24 days jail. In the alternative, if the court is inclined to impose additional jail time, then Nestor recommends a flat sentence of 30 days jail.  The court found that the Credit for Time Served is 22 days.  Sentence: 60 days jail with 30 of those days suspended until 3/20/2026 on the following conditions:   * Serve 30 days jail with credit for time served of 22 days. * Pay a fine, fees, and assessments totaling $890 at a rate of not less than $100 per month beginning 4/20/2025. * Not possess drugs, alcohol, or marijuana. * Not enter any bars or gaming establishments, except for purposes of employment. * Violate no criminal laws.   [Note: the court did not indicate whether this sentence was for the Possession of Drug Paraphernalia charge or the Possession of a Drug Which May Not Be Introduced Into Interstate Commerce charge or for both or whether the sentences would run concurrently or consecutively. Consequently, the sentences should run concurrently.]     1. Client 9: Review hearing on Deferred Sentencing. The client is out-of-custody and present in person. The court found that the client had substantially complied with the terms of the deferred sentencing. Based on that compliance, the court ordered that the case is dismissed.   **Remarks/Recommendations/Notes (continued from previous page):**   1. Client 10: Review hearing on Deferred Sentencing. The client is out-of-custody and present in person. The court found that the client had substantially complied with the terms of the deferred sentencing. Based on that compliance, the court ordered that the case is dismissed. | | | |