

ONSITE VISIT REPORT

Nye and Esmeralda Counties

Visit date: March 4-5, 2025

I. Brief Narrative

Outreach and Compliance Advisor David Schieck traveled to Tonopah for the District Court Law and Motion calendar on March 4, 2025 and also to meet with DIDS Board member Joni Eastley

Justice of the Peace Jennifer Klapper was out of the jurisdiction for a conference and there were no Tonopah Justice Court hearings scheduled during my visit. Goldfield Justice Court had only one case on calendar, but I was able to meet and talk with Judge Johnson during the visit

During my meeting with Joni Eastley she indicated that it is possible the Nye County Sheriff may be closing the Tonopah jail. Nye County has lost the contract with ICE for housing immigration detainees which has resulted in a loss of inmate numbers. I related the situation with Eureka closing it's jail and the problems that have been created. During the District Court calendar a number of cases were delayed as the transport of defendants from the Pahrump jail was late. There seems to be a disconnect between the Court and the jails regarding scheduling and housing. It is illogical to house inmates with cases in Tonopah in Pahrump and vice versa.

II. Forty-eight (48) Hour hearings.

I met with Goldfield Justice of the Peace Johnson on March 5, 2025. She only had a limited calendar of one criminal case and DA Glennan was not present nor was defense counsel Jason Earnest. It appeared that they had agreed to continue the hearing and the client was out of custody and appeared. The Court offered to dismiss the charges if he so requested, but instead he asked that the hearing be continued. The Judge reported no issues with holding the forty-eight hour hearings.

III. Facilities for Attorney-client privileged communications.

During my meeting with Joni Eastley she suggested that the District Court courtroom in

Tonopah could be redesigned to add to meeting rooms at the back of the courtroom to create a private room for attorney-client communications. This would resemble the design of Department 1 in Parhump. Funding to complete such renovation seemed unlikely based on other capital expenditures that have been approved in Parhump according to Eastley.

My Onsite Visit Report dated March 19, 2024 stated as follows:

“There are no private rooms available outside of the Courtroom for meetings. Conversations therefore would be in public hallways or outside of the courthouse. For in custody clients the jail has a large room with tables and chairs that can be used to meet with clients and there are holding cells directly outside of the courtroom that can also be utilized, but are a little less private as an officer is stationed in the hallway.”

There has been no change in Tonopah since the March 19, 2024 report. It is worth noting that Ms. Eastley is making an effort to address issues raised in my reports. Unfortunately the same cannot be said concerning other issues that need to be addressed in Nye County.

IV. Issues with Appointed Conflict Counsel

The capital case in Esmeralda County is still pending as a possible capital case. The preliminary hearing has been continued several times and may now be rescheduled in May, 2025. I was unable to speak with DA Glennan as he was out of the office, but I discussed with Justice of the Peace Johnson issues concerning the cost of prosecution. I suggested that a second prosecutor was going to be needed and that the County needed to be made aware of the potential cost of capital case litigation. She was aware of the budget of the District Attorney's office and concurred that some adjustment was going to be needed for a capital trial and related costs, such as witness fees, travel expenses and jury fees.

V. Interviews and Discussions with Attorneys

There continued to be complaints concerning the refusal of the Court to process competency referrals without a delay of several weeks while the case is placed on calendar after bindover from Justice Court for a competency order. Department 2 allows such referrals to be submitted and signed in chambers while Department 1 requires the case to appear on calendar to sign off on the referral. This is a waste of resources and unnecessarily delays the defendant from being sent for evaluation. This is not an issue limited to Tonopah but also in Parhump.

During several delays in the Court proceedings I was able to talk with attorney Steve

Altig concerning rural indigent defense. He is seriously considering taking on more rural appointments rather than his current Clark County contract. In my opinion he could fill a number of openings in the rural counties and provide effective counsel on conflict appointments.

VI. Access to Resources

On several occasions the Court complained that it could not get into the case management system from Tonopah. While not directly an indigent defense issue, to the extent that the Court is not able to handle cases on the Tonopah calendar due to the deficiencies with the case management system unnecessary delays may occur.

VII. Quality of Representation

Court observation reports are being submitted regarding the cases heard in District Court on March 4, 2025. Two cases require special mention herein.

The first was a double death DUI sentencing case that had eight victim speakers and which had been resolved only due to the use of the Settlement Conference process. Attorney Steven Altig had been retained through the preliminary hearing and opted to remain on the case pro bono to resolve the case. He was already familiar with the unique legal issues the case presented and it would have been time consuming for counsel to be appointed and come up to speed on the case. His efforts as pro bono counsel achieved a favorable outcome for his client who was facing a possible sentence of 16 to 40 years and was sentenced to only 6 to 16 years. I have observed Mr. Altig on multiple cases and he provides excellent representation to his clients. I have heard no negative comments about his performance from anyone.

The second case involved Kelly Ford and client Anthony Uriate-Soto. The case was on for calendar call and the presence of the client had been waived. The client had invoked his right to a speedy trial and the State declared ready. Mrs. Ford made statements on the record to the extent that the client had no defense to the case and that she was ready for trial because the only thing she had to do at trial was to make sure the client behaved himself. She stated she had no witnesses and no defense and complained that the client could not make up his mind about taking a plea offer. The client was not present for any of the proceedings wherein these statements were made to the Court. Mr Uriate-Soto and any defendant has the right to proceed to trial with a presumption of innocence and to hold the State to its burden of proof of all elements of the charged offense beyond a reasonable doubt. To put on the record at calendar call that the sole responsibility of defense counsel at trial is to make sure the client behaves himself is not acceptable. She additionally informed the Court that it would be a waste of resources to do a trial and

suggested that two weeks continuance would allow her time to get the defendant to take a deal. The Court indicated that the jury draw scheduled would proceed and the case was set over to March 13, 2025 on the Parhump calendar and I will be following this case.

VIII. Recommendations

Actively integrate the three new attorneys into the system by assigning low B felony and below cases to them.

Solicit additional attorney contracts as either new contracts or to replace any attorneys that may not renew at the end of June, 2025. I have been told that both Kelly Ford and Alexis Duecker may not renew, which leaves a substantial void and require reassignment of many cases.

Monitor and provide assistance where possible to the new Nye County attorneys.

Hire an Appointed Counsel Contract Coordinator to facilitate a more efficient indigent defense system.

IX. Miscellaneous contact

While checking into lodging on the evening of March 3, 2025, Judge Wanker also arrived to check in. The Judge inquired if I was going to observe Court the following day, and then proceeded to state that I had “thrown her under the bus” at the Board of County Commissioners meeting on January 28, 2025. After I indicated that we had different opinions, she immediately referenced the trial where Chris Harrison had pulled pills out of his pocket. I advised her that I had watched the JAVS of the entire trial and was fully aware of what occurred during the trial. I then concluded my check-in without further conversation with the Judge. The next morning, while waiting for the Court to convene, I talked with attorney Jason Earnest who related that the Judge during a morning meeting before Court had spontaneously informed himself and Senior Deputy DA Brower about our conversation about me “throwing her under the bus”

This is not first time that I have been told of derogatory comments made by Judge Wanker toward myself. This is understandable as I have been critical of her courtroom. Specifically, with regard to the County Commission hearing, Judge Wanker chose to interject herself into the subject of approval of the three new contracts during the Public Comment portion of the agenda item. She did so before I spoke, and I did not respond to any of her comments, rather just supporting the new contracts as necessary to bring caseload numbers down. One of the statements made by Judge Wanker during her public comment concerned the lack of experienced attorneys applying for the open position. It cannot be overlooked that there were only three applicants for three positions. During

the time that the positions were posted I solicited a number of experienced defense attorney to apply for a contract. Several of them specifically indicated no desire to apply if the position included appearing before Judge Wanker

On January 8, 2008 the Nevada Supreme Court entered an Order in ADKT 411 which stated in relevant part:

“WHEREAS, participation by the trial judge in the appointment of counsel, other than public defenders and special public defenders, and in the approval of expert witness fees and attorney fees creates an appearance of impropriety; and
WHEREAS, the appointment of counsel, approval of fees, and determination of indigency should be performed by an independent board, agency, or committee, or by judges not directly involved in the case;
WHEREAS, the selection of lawyers, other than public defenders and special public defenders, to represent indigent defendants should be made by the administrators of an indigent defense program;”

Clearly, Judge Wanker believes that she should be allowed to participate in selecting the attorneys that appear in the Fifth Judicial District to represent indigent defendants but doing so is in violation of the findings and Order of the Nevada Supreme Court. She has voiced her opinion concerning the performance of attorneys and her concerns have been noted and addressed. Her decision to engage in this discussion in the lobby of the Belvada and then during an in-chambers discussion of pending cases with a contract public defender and senior deputy district attorney shows a lack of judicial decorum

X. Next Steps

Continue to monitor the caseload and performance of public defenders currently under contract.

Dated March 7, 2025

David Schieck

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