

IN THE SUPREME COURT OF THE STATE OF NEVADA

UPUTAU DIANA POASA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed  
Sep 21 2018 09:55 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

No. 76676

**Appeal from a Judgment of Conviction, Case No. CR17-2063  
The Second Judicial District Court of the State of Nevada  
Honorable Lynne K. Simons, District Judge**

**JOINT APPENDIX**

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Washoe County Public Defender

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Attorneys for Appellant

Attorneys for Respondent

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DA #17-5714

SPD 17-4152

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CR17-2063  
2018-01-02 08:40:34 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6459998 : mcholino

1 CODE 1800  
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7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

8 IN AND FOR THE COUNTY OF WASHOE

9 \* \* \*

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No.: CR17-2063

12 v.

Dept. No.: D06

13 UPUTAUA DIANA POASA,

14 Defendant.

15 INFORMATION

16 CHRISTOPHER J. HICKS, District Attorney within and for the  
17 County of Washoe, State of Nevada, in the name and by the authority  
18 of the State of Nevada, informs the above entitled Court that UPUTAUA  
19 DIANA POASA, the defendant above named, has committed the crime(s)  
20 of:

21 COUNT I. GRAND LARCENY OF AUTO, LESS THAN \$3500, a  
22 violation of NRS 205.228.2, a category C felony, (56011) in the  
23 manner following, to wit:

24 That the said defendant on or about the 15th day of May,  
25 2017, or thereabout and before the filing of this Information, within  
26 the County of Washoe, State of Nevada, did willfully and unlawfully

1 steal, take and drive away a 2013 Nissan Rogue, owned by KELLY  
2 KENDRICK, with the intent then and there to permanently deprive the  
3 owner thereof.

4 COUNT II. UNLAWFUL TAKING OF A MOTOR VEHICLE, a violation  
5 of NRS 205.2715, a gross misdemeanor, (50567) in the manner  
6 following, to wit:

7 That the said defendant on or about the 15th day of May,  
8 2017, or thereabout and before the filing of this Information, within  
9 the County of Washoe, State of Nevada, did willfully and unlawfully  
10 take and drive away a 2013 Nissan Rogue, within Washoe County,  
11 Nevada, without the consent of KELLY KENDRICK, the owner of the said  
12 vehicle.

13  
14  
15 All of which is contrary to the form of the Statute in such  
16 case made and provided, and against the peace and dignity of the  
17 State of Nevada.

18  
19 CHRISTOPHER J. HICKS  
20 District Attorney  
21 Washoe County, Nevada

22  
23 By: /s/ Darcy Cameron  
24 DARCY CAMERON  
25 12100  
26 DEPUTY DISTRICT ATTORNEY

1           The following are the names and addresses of such witnesses  
2 as are known to me at the time of the filing of the within  
3 Information:

4  
5 SPARKS POLICE DEPARTMENT  
6 RYAN PATTERSON

7 KELLY LEE KENDRICK, 1877 EL RANCHO DR SPARKS, NV 89431  
8 JOSHUA MCKNIGHT, 40 HIGH ST #6 RENO, NV 89502

9           The party executing this document hereby affirms that this  
10 document submitted for recording does not contain the social security  
11 number of any person or persons pursuant to NRS 239B.230.

12 CHRISTOPHER J. HICKS  
13 District Attorney  
14 Washoe County, Nevada

15 By /s/ Darcy Cameron  
16 DARCY CAMERON  
17 12100  
18 DEPUTY DISTRICT ATTORNEY  
19  
20  
21  
22  
23  
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25

26 PCN: SPPD0052115C; RPD0029606C-POASA

ORIGINAL

FILED  
Electronically  
CR17-2063  
2018-01-10 04:48:02 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6476162

1 CODE 1785  
2 Christopher J. Hicks  
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6 (775) 328-3200

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
8 IN AND FOR THE COUNTY OF WASHOE

9 \* \* \*

10 THE STATE OF NEVADA,

11 Plaintiff,

Case No. CR17-2063

12 v.

Dept. No. D06

13 UPUTAUA DIANA POASA,

14 Defendant.

15 GUILTY PLEA MEMORANDUM

16 1. I, UPUTAUA DIANA POASA, understand that I am charged  
17 with the offense(s) of: COUNT I. GRAND LARCENY OF AUTO, LESS THAN  
18 \$3500, a violation of NRS 205.228.2, a category C felony, and COUNT  
19 II. UNLAWFUL TAKING OF A MOTOR VEHICLE, a violation of NRS 205.2715,  
20 a gross misdemeanor.

21 2. I desire to enter a plea of guilty to the offense(s)  
22 of, COUNT I. GRAND LARCENY OF AUTO, LESS THAN \$3500, a violation of  
23 NRS 205.228.2, a category C felony, and COUNT II. UNLAWFUL TAKING OF  
24 A MOTOR VEHICLE, a violation of NRS 205.2715, a gross misdemeanor, as  
25 more fully alleged in the charge filed against me.

26 ///

1           3. By entering my plea of guilty I know and understand  
2 that I am waiving the following constitutional rights:

3           A. I waive my privilege against self-incrimination.

4           B. I waive my right to trial by jury, at which trial the  
5 State would have to prove my guilt of all elements of the offenses  
6 beyond a reasonable doubt.

7           C. I waive my right to confront my accusers, that is, the  
8 right to confront and cross examine all witnesses who would testify  
9 at trial.

10          D. I waive my right to subpoena witnesses for trial on my  
11 behalf.

12           4. I understand the charge(s) against me and that the  
13 elements of the offense(s) which the State would have to prove beyond  
14 a reasonable doubt at trial are that on May 15th, 2017, or  
15 thereabout, in the County of Washoe, State of Nevada, I did, as to  
16 Count I, willfully and unlawfully steal, take and drive away a 2013  
17 Nissan Rogue, owned by KELLY KENDRICK, with the intent then and there  
18 to permanently deprive the owner thereof.

19           I understand the charge(s) against me and that the elements  
20 of the offense(s) which the State would have to prove beyond a  
21 reasonable doubt at trial are that on May 15th, 2017, or thereabout,  
22 in the County of Washoe, State of Nevada, I did, as to Count II, did  
23 willfully and unlawfully take and drive away a 2013 Nissan Rogue,  
24 within Washoe County, Nevada, without the consent of KELLY KENDRICK,  
25 the owner of the said vehicle.

26    ///

1           5. I understand that I admit the facts which support all  
2 the elements of the offense(s) by pleading guilty. I admit that the  
3 State possesses sufficient evidence which would result in my  
4 conviction. I have considered and discussed all possible defenses  
5 and defense strategies with my counsel. I understand that I have the  
6 right to appeal from adverse rulings on pretrial motions only if the  
7 State and the Court consent to my right to appeal in a separate  
8 written agreement. I understand that any substantive or procedural  
9 pretrial issue(s) which could have been raised at trial are waived by  
10 my plea.

11           6. I understand that the consequences of my plea of  
12 guilty, as to Count I, are that I may be imprisoned for a period of 1  
13 to 5 years in the Nevada State Department of Corrections and I am  
14 eligible for probation. I may also be fined up to \$10,000.

15           I further understand that the consequences of my plea of  
16 guilty, as to Count II, are that I may be imprisoned for a period of  
17 up to 364 days in the Washoe County Jail and/or fined up to \$2,000,  
18 and I am eligible for probation.

19           The sentence on each count may be concurrent or consecutive  
20 to each other.

21           7. In exchange for my plea of guilty, the State, my  
22 counsel and I have agreed to recommend the following: If I pay \$800  
23 in restitution and complete substance abuse counseling before  
24 sentencing, the State will allow me to withdraw my guilty plea as to  
25 the felony and be sentenced on the gross misdemeanor and the State  
26 will not object to probation. However, if I do not pay \$800 in



1 restitution and/or do not complete substance abuse counseling, my  
2 plea to the gross misdemeanor will be withdrawn and I will be  
3 sentenced on the felony. The State and I will be free to argue for  
4 an appropriate sentence.

5 8. I understand that, even though the State and I have  
6 reached this plea agreement, the State is reserving the right to  
7 present arguments, facts, and/or witnesses at sentencing in support  
8 of the plea agreement.

9 9. I also agree that I will make full restitution in this  
10 matter, as determined by the Court. Where applicable, I additionally  
11 understand and agree that I will be responsible for the repayment of  
12 any costs incurred by the State or County in securing my return to  
13 this jurisdiction.

14 10. I understand that the State, at their discretion, is  
15 entitled to either withdraw from this agreement and proceed with the  
16 prosecution of the original charges or be free to argue for an  
17 appropriate sentence at the time of sentencing if I fail to appear at  
18 any scheduled proceeding in this matter OR if prior to the date of my  
19 sentencing I am arrested in any jurisdiction for a violation of law  
20 OR if my bail/own recognizance release is revoked OR if I have  
21 misrepresented my prior criminal history. I understand and agree  
22 that the occurrence of any of these acts constitutes a material  
23 breach of my plea agreement with the State. I further understand and  
24 agree that by the execution of this agreement, I am waiving any right  
25 I may have to remand this matter to Justice Court should I later  
26 withdraw my plea.

1           11. I understand and agree that pursuant to the terms of  
2 the plea agreement stated herein, any counts which are to be  
3 dismissed and any other cases charged or uncharged which are either  
4 to be dismissed or not pursued by the State, may be considered by the  
5 court at the time of my sentencing.

6           12. I understand that the Court is not bound by the  
7 agreement of the parties and that the matter of sentencing is to be  
8 determined solely by the Court. I have discussed the charges, the  
9 facts and the possible defenses with my attorney. All of the  
10 foregoing rights, waiver of rights, elements, possible penalties, and  
11 consequences, have been carefully explained to me by my attorney. My  
12 attorney has not promised me anything not mentioned in this plea  
13 memorandum, and, in particular, my attorney has not promised that I  
14 will get any specific sentence. I am satisfied with my counsel's  
15 advice and representation leading to this resolution of my case. I  
16 am aware that if I am not satisfied with my counsel I should advise  
17 the Court at this time. I believe that entering my plea is in my  
18 best interest and that going to trial is not in my best interest. My  
19 attorney has advised me that if I wish to appeal, any appeal, if  
20 applicable to my case, must be filed within thirty days of my  
21 sentence and/or judgment.

22           13. I understand that this plea and resulting conviction  
23 will likely have adverse effects upon my residency in this country if  
24 I am not a U. S. Citizen. I have discussed the effects my plea will  
25 have upon my residency with my counsel.

26 ///

1 14. I offer my plea freely, voluntarily, knowingly and  
2 with full understanding of all matters set forth in the Information  
3 and in this Plea Memorandum. I have read this plea memorandum  
4 completely and I understand everything contained within it.

5 15. My plea of guilty is voluntary and is not the result  
6 of any threats, coercion or promises of leniency.

7 16. I am signing this Plea Memorandum voluntarily with  
8 advice of counsel, under no duress, coercion, or promises of  
9 leniency.

10 17. I do hereby swear under penalty of perjury that all of  
11 the assertions in this written plea agreement document are true.

12 AFFIRMATION PURSUANT TO NRS 239B.030

13 The undersigned does hereby affirm that the preceding  
14 document does not contain the social security number of any person.

15 DATED this 10<sup>th</sup> day of January, 2018

16 UPUTANA D POASH  
17 DEFENDANT

18 \_\_\_\_\_  
19 TRANSLATOR/INTERPRETER

20 [Signature]  
21 Attorney Witnessing Defendant's Signature

22 [Signature]  
23 Prosecuting Attorney  
24  
25  
26

1 CODE #4185

2 SUNSHINE REPORTING SERVICES

3 151 Country Estates Circle \*

4 Reno, Nevada 89511

5 (775) 323-3411

6  
7  
8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR WASHOE COUNTY

10 HONORABLE LYNNE K. SIMONS, JUDGE

11 -o0o-

12 STATE OF NEVADA,

13 Plaintiff,

Case No. CR17-2063

14 Dept. No. 6

15 vs.

16 UPUTAUA POASA,

17 Defendant.  
18 /

19 TRANSCRIPT OF PROCEEDINGS

20 ARRAIGNMENT

21 JANUARY 10, 2018

22 RENO, NEVADA

23  
24  
25 REPORTED BY: AMY JO TREVINO, CRR #825

A P P E A R A N C E S

FOR THE PLAINTIFF:

NATHAN MACLELLAN, ESQ.  
Deputy District Attorney  
One South Sierra Street  
P.O. Box 30083  
Reno, Nevada 89520  
328-3200

FOR THE DEFENDANT:

JOANNA L. ROBERTS, ESQ.  
Deputy Public Defender  
350 S. Center Street, 5th Floor  
Reno, Nevada 89520  
337-4800

1 WASHOE COUNTY, NEVADA, JANUARY 10, 2018, 9:00 A.M.

2 -o0o-

3  
4 THE COURT: Case number CR17-2063. State of Nevada  
5 versus Uputaua Poasa.

6 MS. ROBERTS: Yes.

7 THE COURT: Did I pronounce that correct?

8 THE DEFENDANT: Yes.

9 MS. ROBERTS: Joanna Roberts on behalf of Uputaua  
10 Poasa. Ms. Poasa is present in custody.

11 MR. MACLELLAN: Nate MacLellan on behalf of the State.

12 P&P OFFICER: Karen Hornbarger for the Division.

13 THE COURT: This is time set for arraignment in this  
14 matter. Counsel, I have a copy of the Information if you would  
15 like it.

16 MS. ROBERTS: I am actually borrowing one from the  
17 D.A. We are in receipt of that Information. Ms. Poasa  
18 indicates her true and accurate name is spelled correctly on  
19 line 12 of that Information. We are familiar with the contents  
20 of the Information and waive a formal reading.

21 Today Ms. Poasa is prepared to plead guilty to two  
22 counts. Count 1 being grand larceny of an auto, less than  
23 \$3,500, which is a Category C felony. Count 2 being an  
24 unlawful taking of a motor vehicle, a gross misdemeanor.

25 The negotiations are as follows, Your Honor: If

1 Ms. Poasa pays \$800 in restitution, and completes a substance  
2 abuse counseling program before sentencing, the State will  
3 allow her to withdraw her guilty plea as to the felony and be  
4 sentenced on the gross misdemeanor to which the parties will  
5 stipulate to probation. However, if Ms. Poasa does not pay the  
6 \$800 in restitution and/or does not complete a substance abuse  
7 counseling, the plea to the gross misdemeanor will be withdrawn  
8 and she will be sentenced on the felony. The State and the  
9 defense would be free to argue at sentencing on that felony  
10 charge.

11 Separate and apart from the negotiations, Your Honor,  
12 we are going to be requesting an OR under Court Services.  
13 Obviously, the negotiations contemplate that given the fact  
14 that she does need to complete counseling or at least to  
15 attempt to complete counseling and make that \$800 restitution  
16 payment. If I may approach, Your Honor.

17 THE COURT: You may. The record will reflect that  
18 counsel has provided me with a document entitled Guilty Plea  
19 Memorandum. Is that a correct statement, Mr. MacLellan?

20 MR. MACLELLAN: It is.

21 THE COURT: Please swear the defendant.

22 (Defendant sworn.)

23 THE COURT: Ms. Poasa, did you hear the negotiations  
24 that were described by your counsel?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you agree with them?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: How old are you?

4 THE DEFENDANT: I just turned 19.

5 THE COURT: What language do you read, write, and  
6 understand the best?

7 THE DEFENDANT: English.

8 THE COURT: How far did you get in school?

9 THE DEFENDANT: 11th grade.

10 THE COURT: So you were easily able to read the Guilty  
11 Plea Memorandum; is that right?

12 THE DEFENDANT: Yes.

13 THE COURT: And did you have an opportunity to fully  
14 discuss it with your attorney?

15 THE DEFENDANT: Yes.

16 THE COURT: Turning to page six of the Guilty Plea  
17 Memorandum, there is a line that says defendant and there is a  
18 signature. Can you see that?

19 THE DEFENDANT: Yes.

20 THE COURT: Is that your signature?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And by signing it you are telling me one,  
23 you completely understand the Guilty Plea Memorandum, and two,  
24 that you agree with each and every term and condition?

25 THE DEFENDANT: Yes, Your Honor.



1           THE COURT: And you understand as you stand here today  
2 how your plea and both of the counts work under the  
3 negotiations, correct?

4           THE DEFENDANT: Yes.

5           THE COURT: All right. Do you understand that by  
6 pleading guilty you are giving up important constitutional  
7 rights?

8           THE DEFENDANT: Yes.

9           THE COURT: Do you understand you are waiving your  
10 right to a jury trial within 60 days of today?

11          THE DEFENDANT: Yes.

12          THE COURT: You further understand that you are  
13 waiving your right to require the State to prove the charges  
14 against you beyond a reasonable doubt?

15          THE DEFENDANT: Yes.

16          THE COURT: Do you further understand you are waiving  
17 your right against self-incrimination?

18          THE DEFENDANT: Yes, Your Honor.

19          THE COURT: And by admitting these charges do you  
20 understand you are in fact incriminating yourself?

21          THE DEFENDANT: Yes.

22          THE COURT: Do you understand that you have a right to  
23 cross-examine all of the State's witnesses?

24          THE DEFENDANT: Yes.

25          THE COURT: Do you also understand that you are giving

1 up your right to subpoena witnesses in to testify on your  
2 behalf at the time of trial?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. MacLellan, will you please advise  
5 Ms. Poasa what the State would be required to prove beyond a  
6 reasonable doubt if this case would proceed to trial?

7 MR. MACLELLAN: The State would be prepared to prove  
8 beyond a reasonable doubt at trial that on May 15th, 2017 or  
9 thereabout, in the County of Washoe, State of Nevada, you did  
10 as to Count 1 willfully and unlawfully steal, take and drive  
11 away a 2013 Nissan Rogue, owned by Kelly Kendrick, last name  
12 K-E-N-D-R-I-C-K, with the intent then and there to permanently  
13 deprive the owner thereof. And as to Count 2 the State would  
14 prove beyond a reasonable doubt that you did on or about  
15 May 15, 2017, willfully and unlawfully take and drive away a  
16 2013 Nissan Rogue within the County of Washoe, State of Nevada,  
17 without the consent of Kelly Kendrick, the owner of the said  
18 vehicle.

19 And I'm sorry, Judge, I think that the second one  
20 should -- and the second one, just to clarify the language,  
21 appears to be very similar. The second is an unlawful taking  
22 of a motor vehicle, which is a gross misdemeanor pursuant to  
23 205.2715, and the first count is a grand larceny of an auto,  
24 less than \$3,500, which is violation of NRS 205.228, subsection  
25 two, which is a Category C felony.

1 MS. ROBERTS: Your Honor, the difference between this  
2 is, obviously, the grand larceny or the grand larceny is with  
3 the intent to permanently deprive. The other one is take  
4 without that intent.

5 THE COURT: So you don't want any --

6 MR. MACLELLAN: No, I do, I just want -- they are so  
7 similar I think we should just clarify that, and I didn't read  
8 the statutory language for the first and second, so I just  
9 wanted to clarify.

10 THE COURT: I think it is clear on the record. Do you  
11 understand that as a consequence of your plea of guilty to  
12 Count 1 that you may be in prison for a period of one to five  
13 years in the Nevada State Department of Corrections, you are  
14 eligible for probation, you may also be fined up to \$10,000?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand as a consequence of your  
17 plea of guilty as to Count 2 that you may be in prison for a  
18 period up to 364 days in the Washoe County jail and/or fined up  
19 to \$2,000 and you are eligible for probation?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that if the Court were  
22 to sentence on both counts, notwithstanding what has been  
23 described as negotiations, that those counts could be served  
24 concurrent or consecutive?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: What do you understand concurrent to mean?

2 THE DEFENDANT: Is that like for the --

3 MS. ROBERTS: I think the confusion lies, Your Honor,  
4 in the fact that she -- one of the charges will be dismissed,  
5 so there really isn't much regarding concurrent.

6 THE COURT: Correct, but you had a discussion in your  
7 Guilty Plea Memorandum with regard to consecutive or  
8 concurrent, which is why I want to talk about it. If there was  
9 an instance where the Court were to sentence on both counts,  
10 then they could be, so that the sentence would run at the same  
11 time or on top of each other, which is concurrent or one after  
12 another, which is consecutive. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: It's also why I phrased it notwithstanding  
15 the negotiations. So what the discussion is, just so that you  
16 know, that what the ultimate penalty would be if both counts  
17 were sentenced, notwithstanding the negotiations.

18 THE DEFENDANT: Okay.

19 THE COURT: Do you understand that I'm not bound by  
20 the negotiations of what's been reduced to writing in the  
21 Guilty Plea Memorandum or any arguments that are made at the  
22 time of sentencing, that the Court will determine your  
23 sentence. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: And that may result in your incarceration.

1 Do you understand?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that the negotiations  
4 contemplate that the charge will be dismissed, but it's the  
5 Court's ultimate decision; do you understand that?

6 THE WITNESS: Yes.

7 THE COURT: You may be incarcerated for a consecutive  
8 sentence?

9 THE DEFENDANT: Yes.

10 THE COURT: Your attorney will talk to you about that,  
11 but generally I try to follow the negotiations if I deem it  
12 appropriate.

13 With all the rights in mind that you've waived and all  
14 the information I've provided to you, do you still wish to  
15 plead guilty?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you had sufficient time to discuss  
18 this case with your attorney?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you satisfied with your representation  
21 that has been provided to you by your attorney throughout this  
22 entire proceeding including today?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Has anyone promised you anything to get  
25 you to plead guilty?

1 THE DEFENDANT: No.

2 THE COURT: Has anyone threatened you or anyone close  
3 to you in order to get you to plead guilty?

4 THE DEFENDANT: No.

5 THE COURT: Are you pleading guilty freely and  
6 voluntarily?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you under the influence of any  
9 alcohol, or drugs, or do you have any condition that would  
10 preclude you from understanding me and understanding what is  
11 happening to you today?

12 THE DEFENDANT: No.

13 THE COURT: Do you have any questions for me about  
14 that case?

15 THE WITNESS: No.

16 THE COURT: All right, what is your plea as to  
17 Count 1?

18 THE DEFENDANT: Guilty.

19 THE COURT: And what is your plea as to Count 2?

20 THE DEFENDANT: Guilty, Your Honor.

21 THE COURT: The Court finds that Ms. Poasa understands  
22 the nature of the offense charge, the consequences of her plea,  
23 that she has made a knowing, voluntary and intelligent waiver  
24 of her constitutional rights, and the Court will accept her  
25 guilty plea and set a date for sentencing. You understand that

1 all those negotiations are separate and apart from your request  
2 for a release, do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay, so before we set a date let's go to  
5 your request.

6 MS. ROBERTS: The defense would move for an OR with  
7 Court Services. She is 19 years old. She lives with her mom,  
8 sister, and daughter in the area. Has lived in the Sparks area  
9 for eight to nine years. Her, also her extended family lives  
10 here. She graduated -- I'm sorry, she attended Hug High School  
11 as well as Washoe High School. If she were to be released, she  
12 is anticipating returning to school and graduating. She did  
13 make it through the 11th grade. She is looking at jobs at  
14 Burger King and Taco Bell and will be applying there if  
15 released. She already has approximately \$500 saved towards  
16 restitution, and is obviously, going to have to make some more  
17 money so therein lies the reason or one of the motivations to  
18 get a job. She has every motivation in the world to comply and  
19 to follow the Court's orders, given the fact that if she does,  
20 it's likely that she could get rid or at least get the felony  
21 dropped. So any sort of work that she does on the outside will  
22 definitely make an impact on this Court. She is very much  
23 aware of that. Obviously, that also runs twofold. If she  
24 does -- doesn't do well, then she is going to be looking at a  
25 felony, I can guarantee that.

1           THE COURT: The information I have from Pretrial  
2 Services, which you may want to address, the defendant was  
3 released on her own recognizance at this case and it was  
4 Justice Court level. The defendant FTA'd and a bench warrant  
5 had to be issued. She is at higher risk at nine on the MPR  
6 total. On the MPR total I have here is it shows a seven risk,  
7 but I don't know if Pretrial Services actually added one update  
8 about that would only be an eight, so I am not sure how they  
9 got to the level of nine.

10           MS. ROBERTS: I would think that was a misprint, Your  
11 Honor, because they do this at the time of the original  
12 arraignment. Ms. Poasa went, as I understand went to a  
13 funeral. She had some difficulties making it back in time. It  
14 was -- and so at that point she actually called our office,  
15 asked for a continuance and, you know, I think at this point  
16 she was going to say she now -- she has really no excuse.  
17 After that she got scared and she just didn't show up. At this  
18 point she is much more -- well, she was also not familiar with  
19 the adult criminal system and how important it is to make every  
20 court appearance, how important it is to make every Court  
21 Services check in. Now she does. She has been in custody for  
22 over, gosh, since she has been placed back in, I want to say  
23 over a month, Your Honor, and has definitely learned a huge  
24 lesson in the importance of complying. Again, she knows what  
25 happens if she doesn't in the future, Your Honor.



1 THE COURT: Mr. MacLellan, do you wish to speak to  
2 this? Given the nature of the negotiations it seems it did  
3 contemplate --

4 MR. MACLELLAN: Right, and it appears Ms. Cameron  
5 contemplated the own recognizance release at the Justice Court  
6 level after the FTA, so the State stands by the negotiations.

7 THE COURT: All right. You will be released on your  
8 own recognizance and with this observation that the underlying  
9 negotiations you need to accomplish some tasks in order to come  
10 back here, but you have to check in. You heard the report I  
11 just read you. I get these every week so will know whether you  
12 have any positive tests or if you don't show up. You have to  
13 show up.

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Okay, so what date shall we do for  
16 sentencing?

17 THE CLERK: April 11th, 2018, at 9:00 a.m.

18 THE COURT: And you will be required -- is that going  
19 to be enough time? And you will need to check in with Pretrial  
20 Services.

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: I will see you back on the 11th of April.

23 (Proceedings concluded.)  
24  
25

1 STATE OF NEVADA       )  
                              ) SS.  
2 WASHOE COUNTY       )

3  
4           I, AMY JO TREVINO, an Official Reporter of the Second  
5 Judicial District Court of the State of Nevada, in and for  
6 Washoe County, DO HEREBY CERTIFY;

7           That I was present in Department 6, of the  
8 above-entitled Court on January 10, 2018, and took verbatim  
9 stenotype notes of the proceedings had upon the matter  
10 captioned within, and thereafter transcribed them into  
11 typewriting as herein appears;

12           That the foregoing transcript, consisting of pages 1  
13 through 15, is a full, true and correct transcription of my  
14 stenotype notes of said proceedings.

15           DATED: At Reno, Nevada, this 21st day of February,  
16 2018.

17  
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21                               /s/ Amy Jo Trevino  
22                               AMY JO TREVINO, CRR #825

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

vs.

UPUTAU DIANA POASA,

Defendant.


Case No. CR17-2063

Dept. No. 6

ORDER REVOKING OWN RECOGNIZANCE PRETRIAL RELEASE

Based upon the previously filed recommendation by Pretrial Services, IT IS HEREBY ORDERED that UPUTAU DIANA POASA'S Own Recognizance Pretrial Release, in the above referenced case, is hereby revoked. A bench warrant shall be issued with bail set at \$ 5000<sup>00</sup> cash only.

Dated this 7<sup>th</sup> day of February, 2018.

  
DISTRICT JUDGE

1 CODE 1642  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 JOANNA ROBERTS, #8238  
4 P.O. BOX 11130  
5 RENO, NV 89520-0027  
6 (775) 337-4800  
7 ATTORNEY FOR: DEFENDANT

8  
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
10  
11 IN AND FOR THE COUNTY OF WASHOE

12 THE STATE OF NEVADA,  
13  
14 Plaintiff,

15 vs.

Case No. CR17-2063

16 UPUTAUA DIANA POASA,  
17  
18 Defendant.

Dept. No. 6

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ELECTION OF ASSIGNMENT TO A PROGRAM OF TREATMENT  
PURSUANT TO NRS 458.300

COMES NOW, the Defendant, UPUTAUA DIANA POASA, by and through the Washoe County Public Defender's Office and JOANNA ROBERTS, Deputy Public Defender, and pursuant to NRS 458.300, respectfully requests that her election to undergo a treatment program be accepted by the Court.

Defendant is eligible for such election and hereby elects such a program; she is not disqualified by law.

Defendant is aware of the provisions of NRS 458.300. She knows that if she elects treatment and is accepted for treatment, which must be supervised by a state-approved facility, (a) the Court may impose any conditions that could be imposed as conditions of probation; (b) she could be under the supervision of the treatment provider for a period of not less than one year nor more than three

1 years; (c) that she could be confined inside a treatment facility or released for  
2 supervised care in the community and (d) that if she satisfactorily completes the  
3 treatment program and satisfies the conditions of the Court, the conviction will be  
4 set aside, but if she does not satisfactorily complete the treatment program and  
5 satisfy the Court's conditions, she may be sentenced and the sentence executed.

6 **AFFIRMATION PURSUANT TO NRS 239B.030**

7 The undersigned does hereby affirm that the preceding document does not  
8 contain the social security number of any person.

9 DATED this 3rd day of August, 2018

10  
11 JEREMY T. BOSLER  
12 Washoe County Public Defender

13 By: /s/ JOANNA ROBERTS  
14 JOANNA ROBERTS  
15 Deputy Public Defender  
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Deputy District Attorney

DATED this 3rd day of August, 2018

/s/ Linda Gray  
Linda Gray

1 Code No. 4185

2  
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4  
5 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE  
7 THE HONORABLE LYNNE K. SIMONS, DISTRICT JUDGE

8 ---oOo---

9  
10 THE STATE OF NEVADA,

11 Plaintiff,

Case No. CR17-2063

12 -vs-

Department No. 6

13 UPUTAUA POASA,

14 Defendant.

15 \_\_\_\_\_/

16  
17 SENTENCING

18 Wednesday, August 8th, 2018

19 Reno, Nevada

20  
21  
22  
23  
24  
25 Reported by:  
Job 488168

KATE MURRAY, CCR #599

## APPEARANCES:

For the Plaintiff:  
NATHAN MacLELLAN, ESQ.  
Deputy District Attorney  
One South Sierra Street  
Reno, Nevada

For the Defendant:  
JOE GOODNIGHT, ESQ.  
Deputy Public Defender  
350 South Sierra Street  
Reno, Nevada

The Defendant:  
UPUTAU POASA

For the Division of Parole & Probation:  
CARLOS PEREZ  
BILLY JENNINGS



1 RENO, NEVADA; WEDNESDAY, AUGUST 8TH, 2018; 12:15 A.M.

2 ---oOo---

3  
4  
5 THE COURT: Case No. CR17-2063, State of  
6 Nevada versus Uputaua Diana Poasa.

7 MR. MacLELLAN: Nate MacLellan for the  
8 State.

9 OFFICER PEREZ: Carlos Perez for the  
10 Division.

11 OFFICER JENNINGS: Billy Jennings for the  
12 Division.

13 MR. GOODNIGHT: Joe Goodnight for  
14 Ms. Poasa. She is present in custody.

15 THE COURT: Good morning, Ms. Poasa.

16 THE DEFENDANT: Good morning, ma'am.

17 THE COURT: As I indicated, this is the  
18 time set for sentencing.

19 I did review the underlying PSI, March  
20 20th, 2018, and the supplement dated July 21st,  
21 2018, filed in on August 1st.

22 May I hear from the Division? I need an  
23 updated time served.

24 OFFICER PEREZ: Yes, Your Honor. Updated  
25 time served as of today is 99 days.

1 THE COURT: Any other changes,  
2 corrections, or additions?

3 OFFICER PEREZ: No, Your Honor.

4 MR. MacLELLAN: I do have a change or  
5 correction to note, Your Honor.

6 This was a case that appears to have been  
7 pled in the alternative, so on page 8, the Division  
8 recommends that Count II run concurrent with Count I  
9 and makes a sentencing recommendation.

10 That count, at the conclusion of today's  
11 hearing, will be dismissed pursuant to the fact that  
12 the defendant failed to hold up her end of the  
13 bargain of the negotiations.

14 THE COURT: All right. Mr. Goodnight, do  
15 you have any changes, corrections, or additions?

16 MR. GOODNIGHT: No, Your Honor. I'm on  
17 the same lines as Mr. MacLellan. I don't know how  
18 you want to do it procedurally, but she would ask to  
19 withdraw her plea to Count II, the gross  
20 misdemeanor, pursuant to the negotiations, and then  
21 proceed to sentencing on the felony.

22 THE COURT: All right. If everyone  
23 stipulated she can withdraw her plea and she  
24 indicates to me that she would like to, we will  
25 proceed.

1 Everyone stipulated, correct?

2 MR. MacLELLAN: The State so stipulates,  
3 Your Honor, and moves to dismiss Count II from the  
4 criminal Information.

5 THE COURT: Okay. You want to withdraw  
6 your plea, correct?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And stipulate to the  
9 dismissal of that count, correct?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: I made a notation, a note on  
12 the PSI, and that will be filed in, and I have  
13 initialed it.

14 MR. GOODNIGHT: Thank you.

15 THE COURT: After you are sentenced, it  
16 will be dismissed.

17 Okay. You may proceed.

18 MR. GOODNIGHT: Your Honor, Ms. Poasa is  
19 in a difficult position. We have a mental health  
20 evaluation that says she has issues with alcohol and  
21 marijuana.

22 She was given a chance to go do some  
23 treatment and pay the restitution, and I'm not sure  
24 if it's her maturity level, or her young age -- I  
25 guess they go hand in hand.

1           She's 19 years old. She has had issues  
2 with her juvenile compliance in the past, but she  
3 simply didn't do it.

4           I guess in looking at her past, we have  
5 to decide what to do with Ms. Poasa. She definitely  
6 doesn't want to go to prison.

7           Ms. Roberts filed an election for 458  
8 diversion, but I'm not sure she put herself in a  
9 tenable position to argue for that today either.

10          The election is there, and so I guess  
11 we'll leave that to the Court, but she is hopeful  
12 that the Court will not send her to prison, make  
13 Drug Court a condition of her probation or her  
14 diversion, and have her do the treatment that she  
15 needs.

16          I have extensive notes from Ms. Roberts  
17 about her family upbringing. You get some of that  
18 from the PSI and some of that from the mental health  
19 evaluation, but just some things to add.

20          If you couldn't tell, she is one of 11  
21 siblings -- I'm sorry, 12. I was corrected.

22          Her father died when she was three. My  
23 understanding is she was raised by her stepdad, and  
24 the stepdad was abusive to her mother.

25          She and her sister were in an argument

1 one night in front of her mother, and the next day,  
2 her mother had a stroke, and the stepdad blamed her  
3 for the stroke.

4 She has had to kind of live with that.  
5 She still feels blame, whether it's appropriate or  
6 not.

7 Right after that time is when she started  
8 drinking, started getting in trouble in the juvenile  
9 system.

10 Then at one point, her stepdad took her  
11 younger siblings and moved out of state and left her  
12 here, so not only did she lose the company and  
13 support of her mother, but she lost all of her  
14 siblings, and that is kind of what she has been  
15 going through for the last couple of years.

16 She is still here. She wants to go be a  
17 caregiver for her mom. Her mom is basically being  
18 taken care of by one of her older sisters.

19 She is 19, and sending her to prison is  
20 something I don't think the adult system wants to  
21 do, but she needs to do something. You know, she  
22 needs to do some sort of treatment and make some  
23 sort of effort to show that she doesn't deserve to  
24 go to prison.

25 I guess she is asking for yet another

1 chance to not go to prison.

2 I'm not sure if her mindset was that of  
3 someone in the juvenile system where you get lots of  
4 chances, and that may not be that big of a deal, but  
5 the Court definitely has her attention now.

6 She has been in custody for almost 100  
7 days. She is facing a prison sentence.

8 THE COURT: She has a minimal criminal  
9 history.

10 MR. GOODNIGHT: Yes. She has one  
11 misdemeanor conviction.

12 THE COURT: Right.

13 MR. GOODNIGHT: I think diversion isn't  
14 totally out of the question just based on her young  
15 age and her lack of criminal history.

16 She would love to avoid a felony  
17 conviction. Her real concern is avoiding going to  
18 prison at this point and getting the help she needs.

19 THE COURT: All right. Thank you. Has  
20 she stipulated to pay the restitution?

21 MR. GOODNIGHT: I think the \$800 amount  
22 was stipulated to originally.

23 THE COURT: That is what I recall. Okay.  
24 Mr. MacLellan?

25 MR. MacLELLAN: Judge, it's my point of

1 view that diversion is out of the question pursuant  
2 to the fact that on January 10th of this year, the  
3 defendant was, in essence, afforded that opportunity  
4 to work her way to an argument for diversion, failed  
5 to appear on April 11th, 2018, and then was finally  
6 brought in on June 20th of 2018.

7 She was arrested on May 28th in  
8 Winnemucca for possession of marijuana and  
9 extradited back on this Court's bench warrant.

10 She has failed to appear twice in this  
11 case and had the opportunity to not only ask for  
12 diversion but to have a gross misdemeanor being held  
13 over her in that program.

14 She squandered those opportunities, and  
15 even though she may say she was used to the juvenile  
16 program, that suggested she has been in the system  
17 before and should have understood what this Court  
18 told her, that she was being given an opportunity  
19 and to not squander that.

20 I do understand she is only 19 years old,  
21 but I think that, as I stated, she has a pretty big  
22 opportunity to come back and ask this Court for  
23 probation on a gross misdemeanor, or secondary to  
24 that, for diversion.

25 She didn't do so. She didn't pay any

1 restitution, and she actually absconded from the  
2 jurisdiction.

3           It's my point of view, Judge, that this  
4 Court should sentence her to 12 to 30 months in the  
5 Nevada Department of Corrections pursuant to the  
6 fact that she is not a candidate for probation  
7 because of the likelihood of noncompliance; however,  
8 I do understand Mr. Goodnight's argument, and  
9 hearing the Court ask her age and criminal history,  
10 I may see where this is going.

11           If the Court is inclined to give her that  
12 opportunity, it's my suggestion that the Court  
13 should forfeit the 99 days credit for time served  
14 that she has currently, and as a condition of  
15 probation, have her serve an additional 90 days in  
16 jail to understand the gravity of her actions, but  
17 also, not have her released from custody until she  
18 can be transported to an inpatient treatment  
19 facility through IAP assistance.

20           If the Court is going to grant her  
21 probation, I believe those should be the conditions  
22 for her to get that opportunity.

23           If she is not inclined to accept that,  
24 then again, I believe the only opportunity for her  
25 is to go to the Nevada Department of Corrections.



1 THE COURT: All right. Thank you.

2 Ms. Poasa, the law gives you an  
3 opportunity to speak to me. Would you like to  
4 address me before I enter sentence?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: You may.

7 THE DEFENDANT: Your Honor, being sober  
8 this time around has helped me become better at  
9 three things: Patience, integrity, and coping with  
10 things that were getting me into trouble.

11 It's also helped me realize that I don't  
12 want to be away from my family anymore.

13 It's way different, the consequences are  
14 way more severe than being a minor, and I know you  
15 already gave me a chance, and it's going to be hard  
16 for you to reconsider, but I am sorry.

17 I apologize, and I come before you as a  
18 woman today to ask you for another chance.

19 THE COURT: All right. Thank you. Is  
20 there any legal reason why the Court cannot impose  
21 judgment at this time?

22 MR. GOODNIGHT: No, Your Honor.

23 THE COURT: I agree with Mr. MacLellan  
24 that diversion is not appropriate.

25 I was looking for my transcript. I don't

1 want to pull it out of my binder, but I'm positive  
2 that I would have said, This is your chance to prove  
3 yourself to me. When I say that, I mean it.

4 Balancing all the factors, I actually  
5 dealt -- Dr. Pearson really doesn't recommend at  
6 this point an inpatient program, and I have concerns  
7 about sending you to an inpatient program because  
8 you already saw somebody here who was transported,  
9 and goes in the front door and out the back door,  
10 and I'm not sure -- you keep returning to your  
11 juvenile experience.

12 This is very different. This is grown up  
13 time, and I think you need more checking in with the  
14 Court and being here and pursuing it.

15 Your lack of adult criminal history  
16 weighs in favor of probation, but you will have to  
17 participate in the Specialty Court as a condition.

18 Therefore, it is -- the opportunity you  
19 had, you probably will not realize the opportunity  
20 you squandered until about 10 years from now or five  
21 years from now when you're applying for jobs and  
22 everything else, what you did, so now, you're going  
23 to have a felony on your record.

24 You're sentenced to 12 to 34 months in  
25 the Nevada Department of Corrections.

1           That sentence will be suspended. You  
2 will be granted the opportunity of probation not to  
3 exceed five years.

4           As a condition of probation, you must  
5 participate in and successfully complete -- I'm  
6 going to indicate Adult Drug Court, but I am --  
7 obviously, you're referred to the Specialty Court,  
8 and they'll decide what court is best for you there,  
9 if it is anything other than Adult Drug Court.

10           There are consequences there. If you  
11 don't show up, there are sanctions, and as a further  
12 condition, you will have to spend another 30 days in  
13 the Washoe County Jail.

14           Now, I want to have my clerk calculate 30  
15 days and the first appearance so that you are  
16 directly transported. I don't -- I'm not going to  
17 let you go out into the community. You're going to  
18 go straight to your appearance.

19           MR. GOODNIGHT: It would be approximately  
20 the 5th would be 28 days if the Adult Drug Court  
21 meets on the 5th. Sorry.

22           THE CLERK: Her first appearance would be  
23 September 6th. That would be 29 days.

24           THE COURT: All right. So you'll be  
25 required to serve an additional 29 days, and you'll

1     forfeit your 99 days of credit for time served.

2                 MR. GOODNIGHT: We object, for the  
3     record.

4                 THE COURT: Grounds?

5                 MR. GOODNIGHT: She doesn't want that.

6                 THE COURT: Well, I know. No one really  
7     wants to go to prison, and no one wants their time,  
8     but that is what we're going to do.

9                 It's significant here because you're  
10    facing a prison sentence, and now, you're going in  
11    with not much credit.

12                You'll potentially -- in addition, you  
13    have to comply with your terms of probation. You  
14    must report in and tell them where you are and what  
15    you're doing. You must notify them of your  
16    residence.

17                You may not have possession or use of any  
18    alcohol. That affects people you live with. Do you  
19    understand that?

20                You may not have possession or use of any  
21    controlled substances. You may not have possession  
22    or use of any marijuana.

23                You will be required to participate in a  
24    substance abuse evaluation within 30 days if an  
25    additional one is required. There is one on file,

1 and if the Division requires any in addition to what  
2 the Specialty Court may have you do.

3 You may not have possession or use of any  
4 weapons. You're subject to search and seizure at  
5 any time.

6 You must follow all the directives and  
7 conduct required of you and the laws applicable to  
8 you.

9 You may not travel out of state without  
10 permission of the Division.

11 You must be pursuing employment or  
12 vocational training when, in the discretion of the  
13 Division, your programming with the Specialty Courts  
14 would allow for that.

15 You must meet all of your financial  
16 obligations, and I don't know if I said it is not to  
17 exceed five years.

18 Any other conditions?

19 OFFICER PEREZ: Your Honor, we just  
20 request no contact with the victim. I believe the  
21 victim is Kelly Hendricks.

22 THE COURT: Thank you very much. No  
23 contact with Ms. Kelly Hendricks.

24 Anything else?

25 MR. MacLELLAN: I'm not sure the

1 restitution was officially ordered.

2 THE COURT: Thank you. I know it was  
3 stipulated to, and it will be ordered. \$800 payable  
4 in increments as determined by the Division in  
5 accordance with your income at that time.

6 Good luck to you.

7 THE DEFENDANT: Thank you, ma'am.

8 (Hearing concluded at 12:31 p.m.)  
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1 STATE OF NEVADA                    }  
2 COUNTY OF WASHOE                } ss.

3  
4 I, KATE MURRAY, Certified Court Reporter  
5 of the Second Judicial District Court, in and for  
6 the County of Washoe, State of Nevada, do hereby  
7 certify:

8 That I was present in the above-entitled  
9 court on Wednesday, August 8th, 2018, and took  
10 stenotype notes of the above-entitled proceedings,  
11 and thereafter transcribed them into typewriting as  
12 herein appears;

13 That the foregoing transcript is a full,  
14 true and correct transcription of my stenotype notes  
15 of said hearing.

16  
17 DATED: At Reno, Nevada, this 21st day  
18 of August, 2018.

19  
20 /s/Kate Murray  
21 KATE MURRAY, CCR #599  
22  
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1 CODE 1850

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR17-2063

12 UPUTAUA DIANA POASA,

Dept. No. 6

13 Defendant.  
14

15 JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of Guilty, and no legal reason or cause  
17 existing to preclude entry of judgment against her, the Court rendered judgment as follows:

18 1. Upataua Diana Poasa, is guilty of the crime of Grand Larceny of Auto,  
19 Less Than \$3500, a violation of NRS 205.228(2), a category C felony, as charged in Count  
20 I of the Information.

21 2. She is punished by:

22 a) Imprisonment in the Nevada Department of Corrections for a  
23 maximum term of thirty-four (34) months with a minimum parole eligibility of twelve (12)  
24 months, with credit for zero (0) days time served as to Count I.

25 b) Payment of restitution to the victim in the amount of Eight  
26 Hundred Dollars (\$800.00).

27 c) Payment to the Clerk of the Second Judicial District Court of  
28 the following amounts:



- 1                                   1.     Twenty-Five Dollar (\$25.00) administrative assessment
- 2 fee; and
- 3                                   2.     Three Dollar (\$3.00) administrative assessment for
- 4 obtaining a biological specimen and conducting a genetic marker analysis; and
- 5                                   3.     Five Hundred Dollars (\$500.00) for legal representation;
- 6 and
- 7                                   4.     Sixty Dollar (\$60.00) chemical analysis fee; and
- 8                                   5.     One Hundred Fifty Dollar (\$150.00) DNA Analysis fee.

9                   Defendant shall submit to a DNA analysis to determine the presence of  
10 genetic markers, if not previously ordered.

11                   4.     It is further ordered that the prison sentences are suspended and the  
12 Defendant is placed on probation for a period not to exceed sixty (60) months under the  
13 terms, general conditions and special conditions as stated in the Order Admitting  
14 Defendant to Probation and Fixing the terms thereof, which shall be filed  
15 contemporaneously with this Judgment of Conviction. As a special condition of probation  
16 the Defendant shall enter into and successfully complete the Second Judicial District Court  
17 – Adult Drug Court Specialty Court Program and she shall remain in custody at the  
18 Washoe County Jail until her first appearance in Adult Drug Court on Thursday,  
19 September 6, 2018, at 10:00 a.m. and the all prior credit for time served is forfeited.  
20 Defendant will be supervised by the Division of Parole and Probation.

21                   It is further ordered, the charge of Unlawful Taking of a Motor Vehicle, a  
22 violation of NRS 205.2715, as charged in Count II of the Information is dismissed.

23 //

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1 Any fine, fee or administrative assessment imposed upon the Defendant as  
2 reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada Revised  
3 Statutes (NRS 176.275). Should the Defendant not pay these fines, fees, or assessments,  
4 collection efforts may be undertaken.

5 Dated the 9<sup>th</sup> day of August, 2018.  
6 NUNC PRO TUNC to August 8, 2018.

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DISTRICT JUDGE  
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1 CODE 2670

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR17-2063

11 vs.

Dept. No. 6

12 UPUTAUA DIANA POASA,

13 Defendant.  
14 \_\_\_\_\_ /

15 ORDER ADMITTING DEFENDANT TO PROBATION  
16 AND FIXING THE TERMS THEREOF

17 The Defendant is guilty of the crimes of Grand Larceny of Auto, Less Than  
18 \$3500, a violation of NRS 205.228(2), a category C felony. The Defendant is sentenced to  
19 a term of imprisonment in the Nevada Department of Corrections of 12 – 34 months.  
20 Execution of that sentence is suspended and the Defendant is hereby admitted to  
21 probation for a period not to exceed 60 months under the following conditions:

22 A. General:

- 23 1. **Reporting:** The Defendant shall report in person to the Division of Parole  
24 and Probation as instructed by the Division or its agent. Defendant is  
25 required to submit a written report each month on forms supplied by the  
26 Division. This report shall be true and correct in all aspects.  
27 2. **Residence:** Defendant shall not change her place of residence without first  
28 obtaining permission from the Division of Parole and Probation, in each  
instance.  
3. **Intoxicants:** Defendant shall not consume any alcoholic beverages  
whatsoever. Upon order of the Division of Parole and Probation or its agent,  
Defendant shall submit to a medically recognized test for blood/breath  
alcohol content.

- 1           4.   **Controlled Substances:** Defendant shall not use, purchase or possess any  
2           illegal drugs, or any prescription drugs, unless first prescribed by a licensed  
3           medical professional. Defendant shall immediately notify the Division of  
4           Parole and Probation of any prescription received. Defendant shall submit to  
5           drug testing as required by the Division or its agent.
- 6           5.   **Weapons:** Defendant shall not possess, have access to, or have under her  
7           control, any type of weapon.
- 8           6.   **Search:** Defendant shall submit her person, property, place of residence,  
9           vehicle or areas under her control to search including electronic surveillance  
10          or monitoring of her location, at any time, with or without a search warrant or  
11          warrant of arrest, for evidence of a crime or violation of probation by the  
12          Division of Parole and Probation or its agent.
- 13          7.   **Associates:** Defendant must have prior approval by the Division of Parole  
14          and Probation to associate with any person convicted of a felony, or any  
15          person on probation or parole supervision. Defendant shall not have any  
16          contact with persons confined in a correctional institution unless specific  
17          written permission has been granted by the Division of Parole and Probation  
18          and the correctional institution.
- 19          8.   **Directives and Conduct:** Defendant shall follow the directives of the  
20          Division of Parole and Probation and her conduct shall justify the opportunity  
21          granted to her by this community supervision.
- 22          9.   **Laws:** Defendant shall comply with all municipal, county, state, and federal  
23          laws and ordinances.
- 24          10.   **Out-of-State Travel:** Defendant shall not leave the state without first  
25          obtaining written permission from the Division of Parole and Probation.
- 26          11.   **Employment/Program:** Defendant shall seek and maintain legal  
27          employment, or maintain a program approved by the Division of Parole and  
28          Probation and not change such employment or program without first  
29          obtaining permission. All terminations of employment or program must be  
30          immediately reported to the Division.
- 31          12.   **Financial Obligation:** Defendant shall pay administrative assessment fees,  
32          fines and restitution as ordered in the special conditions of probation. Any  
33          excess monies paid will be applied to any other outstanding fees, fines  
34          and/or restitution, even if it is discovered after Defendant's discharge.

35   B. Special Conditions as follows:

- 36          1.   The Defendant shall abstain from the use, possession and control of  
37          marijuana during her entire term of probation.
- 38          2.   The Defendant shall submit to a substance abuse evaluation at the request  
39          the Division of Parole and Probation, at her own expense, and if necessary,  
40          participate in any recommended counseling programs as approved by the  
41          Division of Parole and Probation until mutually discharged by agreement of  
42          the counselor and supervising officer.
- 43          3.   The Defendant's previous credit for time served is forfeited.
- 44          4.   The Defendant shall enter into and successfully complete the Second  
45          Judicial District Court – Adult Drug Court Specialty Program and shall remain

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in custody at the Washoe County Jail until her first appearance in Adult Drug Court on Thursday, September 6, 2018, at 10:00 a.m.

5. The Defendant shall have no contact whatsoever by any manner or means, including electronic means, or through a third party with Kelly Kendrick during the entire term of her probation.
6. The Defendant shall effect restitution to the victim in the amount of Eight Hundred Dollars (\$800.00) during her term of probation in monthly payment amounts to be determined by the Division of Parole and Probation.
7. The Defendant shall maintain gainful employment, or be seeking gainful employment and/or be participating in a vocational rehabilitation program, during her entire term of probation.
8. The Defendant shall pay the administrative assessment fees (\$3.00 and \$25.00), attorney's fees (\$500.00), chemical analysis fee (\$60.00) and DNA analysis fee (\$150.00) in the Judgment of Conviction during her term of probation.

Further, the Defendant is advised that the Court reserves the right to modify these terms of Probation at any time and as permitted by law.

Dated this 9<sup>th</sup> day of August, 2018.  
NUNC PRO TUNC to August 8, 2018.

  
DISTRICT JUDGE

1 CODE NO. 2515  
2 WASHOE COUNTY PUBLIC DEFENDER  
3 JOHN REESE PETTY, State Bar Number 10  
350 South Center Street, 5th Floor  
4 P.O. Box 11130  
Reno, Nevada 89520-0027  
5 (775) 337-4827  
Attorney for Defendant

6  
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE  
9

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

Case No. CR17-2063

13 UPUTAUA DIANA POASA,

Dept. No. 6

14 Defendant.  
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16 **NOTICE OF APPEAL**

17 Defendant, Uputaua Diana Poasa, appeals to the Supreme Court of Nevada  
18 from the judgment of conviction entered in this action on August 9, 2018. This is a  
19 fast track appeal under NRAP 3C.

20 The undersigned hereby affirms, pursuant to NRS 239B.030, that this  
21 document does not contain the social security number of any person.

22 DATED this 10th day of August 2018.  
23

24 JEREMY T. BOSLER  
WASHOE COUNTY PUBLIC DEFENDER

25 By: /s/ John Reese Petty  
26 JOHN REESE PETTY, Chief Deputy

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UPUTAU DIANA POASA  
JID # P00158255  
Washoe County Jail  
911 Parr Blvd., H02  
Reno, Nevada 89512

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## CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 21st day of September 2018.

Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble, Chief Appellate Deputy  
Washoe County District Attorney's Office

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Uputaua Diana Poasa  
1156 H. Street, #1156  
Sparks, Nevada 89431

John Reese Petty  
Washoe County Public Defender's Office