

1 Byron Bergeron Esq. #7598
432 Court Street
2 Reno Nevada 89501
775 229 3736
3 bbergeronlaw@live.com

FILED
2018 OCT 17 AM 11:00
ELKO CO DISTRICT COURT

Electronically Filed
Nov 01 2018 02:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

4
5 **IN AND FOR THE COUNTY OF ELKO, FOURTH JUDICIAL DISTRICT COURT,**

6 **STATE OF NEVADA**

7
8 THE STATE OF NEVADA,)

Case No. CR FP-17-3893

9 Plaintiff,)

Dept. 1

10 vs.)

11 TENNILE WHITAKER,)

12 Defendant.)
13)
14)

15 **NOTICE OF APPEAL**

16 Notice is hereby given that defendant TENNILE WHITAKER hereby appeals from the
17 judgment of conviction entered on October the 5th, 2018

18 
19 Byron Bergeron Esq. #7598
432 Court Street
20 Reno Nevada 89501
775 229 3736
21 Bbergeronlaw@live.com
22
23
24
25

1 **CERTIFICATE OF SERVICE**

2 I, Byron Bergeron, not a party to this action, affirm under penalty of perjury pursuant to
3 NRCP 4, that on October 11th, 2018, I sent in the mail via the United States Postal Service to:

4
5 Chad Thompson

6 Elko Deputy District Attorney

7 540 Court Street Elko Nevada

8 2nd Floor 89801
9

10 DATED: October 11th 2018

11
12 By: 

13 Byron Bergeron
14
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ORIGINAL

FILED

2018 OCT 17 AM 11:04

ELKO CO DISTRICT COURT

CLERK _____ DEPUTY HA

KARLA K. BUTKO, ESQ.
State Bar No. 3307
BYRON BERGERON, ESQ.
State Bar No. 7598
P. O. Box 1249
Verdi, NV 89439
(775) 786-7118
Attorneys for Defendant/Appellant

IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF ELKO

TENNILLE RAE WHITAKER,
Defendant/Appellant,

vs.

Case No. CR-FP-17-3893

THE STATE OF NEVADA,
Respondent.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

TENNILLE RAE WHITAKER

2. Identify the judge issuing the decision, judgment, or
order appealed from: The Honorable NANCY PORTER.

3. Identify all parties to the proceedings in the district
court (the use of et al. to denote parties is prohibited): TYLER
INGRAM, ESQ., Elko County District Attorney for the State of
Nevada, CHAD B. THOMPSON, Deputy District Attorney; BYRON

1 BERGERON, Esq., privately retained counsel represented Tennille
2 Whitaker at all stages of the District Court proceedings; TYLER
3 INGRAM, Esq., Elko County District Attorney's Office represents
4 the State on this direct appeal; BYRON BERGERON , ESQ., and KARLA
5 K. BUTKO, Esq., privately retained counsel, represent TENNILLE
6 RAE WHITAKER on this direct appeal from the judgment of
7 conviction.
8

9 4. **Identify all parties involved in this appeal (the use of**
10 **et al. to denote parties is prohibited):** Tyler Ingram, Elko
11 County District Attorney, for the State of Nevada; Byron
12 Bergeron and Karla K. Butko, Esq., for Appellant Tennille
13 Whitaker.
14

15 5. **Set forth the name, law firm, address, and telephone**
16 **number of all counsel on appeal and identify the party or parties**
17 **whom they represent:** Tyler Ingram, Elko County District Attorney
18 for the State of Nevada, 540 Court Street, Second Floor, Elko,
19 Nevada 89801 (775) 738-3101; Byron Bergeron, Esq., and Karla K.
20 Butko, Esq., for Appellant Tennille Rae Whitaker, P. O. Box 1249,
21 Verdi, NV 89439 (775) 786-7118.
22

23 6. **Indicate whether appellant was represented by appointed**
24 **or retained counsel in the district court:** Appellant has been
25 represented by privately retained counsel at all stages of the
26 case.
27
28

1 7. Indicate whether appellant is represented by appointed or
2 retained counsel on appeal: Appellant is represented by
3 privately retained counsel on direct appeal from the judgment of
4 conviction.
5

6 8. Indicate whether appellant was granted leave to proceed
7 in forma pauperis, and the date of entry of the district court
8 order granting such leave: In forma pauperis motion pending so
9 that transcripts will be made available at taxpayers expense.
10

11 9. Indicate the date the proceedings commenced in the
12 district court (e.g., date complaint, indictment, information, or
13 petition was filed): The Information was filed on November 16,
14 2017.
15

16 10. Provide a brief description of the nature of the
17 action and result in the district court, including the type of
18 judgment or order being appealed and the relief granted by the
19 district court: This is a direct appeal from a plea of nolo
20 contendere in the district court. On April 30, 2018, Ms. Whitaker
21 pled nolo contendere to four counts of violating NRS 201.340, a
22 Category C felony; Ms. Whitaker was sentenced to a severe term of
23 8-20 years in prison; this appeal follows the judgment of
24 conviction which entered on October 5, 2018; the sentencing
25 hearing occurred on October 4, 2018.
26

27 11. Indicate whether the case has previously been the
28

1 subject of an appeal to or original writ proceeding in the
2 Supreme court, an, if so, the caption and Supreme Court Docket
3 number of the prior proceeding: The case has not been previously
4 the subject of appellate court review.
5

6 12. Indicate whether the appeal involved child custody or
7 visitation: N/A.

8 13. If this is a civil case, indicate whether this appeal
9 involves the possibility of settlement: N/A.
10

11
12 DATED this 15th day of October, 2018.

13
14 

15 KARLA R. BUTKO, Esq.

16 BYRON BERGERON, Esq.

17 P. O. Box 1249

18 Verdi, NV 89439

19 (775) 786-7118

20 Attorney for Defendant/Appellant

21 State Bar No. 3307
22
23
24
25
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27
28

1
2 CERTIFICATE OF SERVICE

3 Pursuant to NRAP 25, I certify that I am an employee of
4 Karla K. Butko, Ltd., P. O. Box 1249, Verdi, NV 89439, and
5 that on this date I caused the foregoing document to be delivered
6 to all parties to this action by

7 X placing a true copy thereof in a sealed, stamped
8 envelope with the United States Postal Service at
9 Reno, Nevada.

10 Reno/Carson Messenger Service (DA's Office)

11 addressed as follows:

12 Tyler Ingram, Esq.
13 Lyon County District Attorney's Office
14 540 Court Street, Second Floor
15 Elko, NV 89801

16 DATED this 15 day of October, 2018.

17 Karla K Butko
18 KARLA K. BUTKO

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

20 The undersigned does hereby affirm that the preceding
21 document does not contain the Social Security Number of any
22 person.

23 DATED this 15 day of October, 2018.

24 Karla K Butko
25 KARLA K. BUTKO, ESQ.
26
27
28

ORIGINAL

FILED

2018 OCT 17 AM 11:04

ELKO CO DISTRICT COURT

CLERK _____ DEPUTY MA

KARLA K. BUTKO, ESQ.
State Bar No. 3307
BYRON BERGERON, ESQ.
State Bar No. 7598
P. O. Box 1249
Verdi, NV 89439
(775) 786-7118
Attorneys for Defendant/Appellant

IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF ELKO

TENNILLE RAE WHITAKER,

Defendant/Appellant,

vs.

Case No. CR-FP-17-3893

THE STATE OF NEVADA,

Respondent.

MOTION FOR TRANSCRIPTS FOR APPEAL; JAVS RECORDINGS

Defendant/Appellant, TENNILLE RAE WHITAKER, by and through
his court-appointed counsel, moves for an Order granting
Defendant/Appellant the rough draft transcript of the entry of
plea and sentencing hearing at taxpayer expense for preparation
of her appeal.

Notice of Appeal was filed properly on or about the 16th day
of October, 2018. Defendant/Appellant received a lengthy prison
term and should be considered indigent at this time.

Defendant/Appellant was represented by retained counsel
during the district court stage of the case, who was paid by
family members, and has retained counsel, Karla K. Butko, Esq.,

1 to represent her on direct appeal for a very small retainer fee.

2 Defendant/Appellant cannot pay for the transcript due to her
3 incarceration.

4 The transcripts requested at this point in time include:

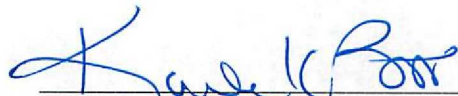
5 Date	Event	Court Reporter
6 04/30/18	Nolo Contendre Plea	JAVS
7 10/04/18	Sentencing hearing	JAVS

8 Portions of the transcript requested: 1) The entire
9 transcripts for the dates above.

10 This notice requests a transcript of only those portions of
11 the district court proceedings which counsel reasonably and in
12 good faith believes are necessary to determine whether appellate
13 issues are present.

14 I recognize that I must personally serve a copy of this form
15 on the above named court reporter and opposing counsel. I note
16 that I have contacted, by letter, the Judicial Assistant for the
17 Honorable Nancy Porter to request copies of the JAVS and/or the
18 transcripts of the proceedings.

19 DATED this 15th day of October, 2018.

20
21 

22 KARLA K. BUTKO, Esq.

23 BYRON BERGERON, Esq.

24 P. O. Box 1249

25 Verdi, NV 89439

26 (775) 786-7118

27 Attorney for Appellant

State Bar No. 3307

CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of Karla K. Butko, Ltd., P. O. Box 1249, Verdi, NV 89439, and that on this date I caused the foregoing document to be delivered to all parties to this action by

X placing a true copy thereof in a sealed, stamped envelope with the United States Postal Service at Reno, Nevada.

_____ Federal Express or other overnight delivery

_____ Reno/Carson Messenger Service

addressed as follows:

The Honorable Nancy Porter
Fourth Judicial District Court
Elko County Courthouse
571 Idaho Street
Elko, NV 89801

Tyler Ingram, Esq.
Lyon County District Attorney's Office
540 Court Street, Second Floor
Elko, NV 89801

DATED this 15th day of October, 2018.



KARLA K. BUTKO

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

DATED this 15th day of October, 2018.



KARLA K. BUTKO, ESQ.

PGM ID-DSPDOC
DATE 10/29/18

ELKO COUNTY COURT SYSTEM
CASE#: EC DC CR-FP-17-0003893

PAGE 1
TIME 9:42

TYPE: FELONY - AGAINST PERSONS

STATUS: CLOSED

10/08/18

-----JUDGE -----
CURRENT: PORTER, NANCY

--PARTY #--

PL 001: NEVADA, STATE OF
VS.

-----ATTORNEYS-----
THOMPSON, CHAD

DF 002: WHITAKER, TENNILLE RAE
DOB: 2/12/77

BERGERON, BYRON
BUTKO, KARLA K

CHARGE 1: FP SEX CONDUCT SCHOOL NRS 201.540
DISPOSITION: JUDG OF CONV - NOLO DATE: 10/05/18

CHARGE 2: FP SEX CONDUCT SCHOOL NRS 201.540
DISPOSITION: JUDG OF CONV - NOLO DATE: 10/05/18

CHARGE 3: FP SEX CONDUCT SCHOOL NRS 201.540
DISPOSITION: JUDG OF CONV - NOLO DATE: 10/05/18

CHARGE 4: FP SEX CONDUCT SCHOOL NRS 201.540
DISPOSITION: JUDG OF CONV - NOLO DATE: 10/05/18

CHARGE 5: A DC GEN ANALYSIS ASSMT DC GEN ANALYSIS
DISPOSITION: JUDG OF CONV - NOLO DATE: 10/05/18

ASSMNT 6: A DC GENETIC MARKER ASSMT DC GENETIC
DISPOSITION: JUDG OF CONV - NOLO DATE: 10/05/18

MAJOR EVENTS

1/23/18 FILE CHECKED OUT BY:	PECK	000
1/25/18 ARRAIGNMENT (DC)	FOR: 4/30/18 15:00 DC1SEC	002
1/25/18 FILE CHECKED IN BY:	MERKLEY	000
4/24/18 FILE CHECKED OUT BY:	FLEURY	000
5/16/18 SENTENCING	FOR: 10/04/18 13:30 DC1SEC	002
5/16/18 FILE CHECKED IN BY:	JALLEN	000
9/26/18 FILE CHECKED OUT BY:	FLEURY	000
10/05/18 FILE CHECKED IN BY:	PECK	000
10/08/18 FILE CLOSED	JAKEMAN	000
10/08/18 DATE CLOSED	DISPOSITION: FILE CLOSED	

FILING PROCEEDINGS
DATE EVENT COMMENT EVENT DATE ENTRY PERSON/P
6/06/17 BOOKING INFORMTN RPT MERKLEY 002

PGM ID-DSPDOC
DATE 10/29/18

ELKO COUNTY COURT SYSTEM
CASE#: EC DC CR-FP-17-0003893

PAGE 2
TIME 9:42

6/07/17 BAIL BOND SS-250-00362 - \$160,000.00	MERKLEY	002
6/07/17 RECEIPT(S) #25030	MERKLEY	002
6/07/17 AGREEMENT TO APPEAR and Waive Extradition	MERKLEY	002
8/29/17 CRIMINAL COMPLAINT	MERKLEY	001
9/05/17 FAX OF WAIVER OF FIFTEEN DAY RULE, WAIVER OF INITIAL APPEARANCE	MERKLEY	002
11/06/17 WAIVER OF PRELIM EXM	MERKLEY	002
11/07/17 ORD BINDING OVER -DC	MERKLEY	000
11/09/17 FILE OPEN - DC CRIM FILE OPENED - DC CRIMINAL	MERKLEY	002
11/09/17 RECORD OF CT PROC.	MERKLEY	000
11/16/17 CRIMINAL INFORMATION Certified copy issued AND PLACED ON FF'S DESK @10:28	RODRIGUEZ	001
12/27/17 CERTIFIED COPY ISSUE OF: CRIMINAL INFO TO: DEPT OF EDUCATION PER THEIR RQST	DEMARS	000
1/23/18 FILE CHECKED OUT BY: DC I for review/signature	PECK	000
1/25/18 ARRAIGNMENT (DC)	FOR: 4/30/18 15:00 DC1SEC	002
1/25/18 FILE CHECKED IN BY:	MERKLEY	000
4/24/18 FILE CHECKED OUT BY: DC I for review/signature	FLEURY	000
4/27/18 ORDER REGARDING MEDIA REQ (FILE CHECKED OUT SENT PLEADING TO DC1)	PECK	000
4/27/18 REQUEST MEDIA (FILE CHECKED OUT SENT PLEADING TO DC 1)	PECK	000
4/27/18 OFFER OF PROOF WITH RESPECT OT THE DEF TENNILLE RAE WHITAKER'S	PECK	001

PGM ID-DSPDOC
DATE 10/29/18

ELKO COUNTY COURT SYSTEM
CASE#: EC DC CR-FP-17-0003893

PAGE 3
TIME 9:42

PROPOSED PLEA OF NOLO CONTENDERE
(FILE CHECKED OUT SENT PLEADING TO DC 1)

4/30/18 HRG - DC1-ARRAIGN	FLEURY	002
4/30/18 MEMO OF PLEA AGREEMENT # OF PAGES 8 (FILE CHECKED OUT SENT PLEADING TO DC 1)	PECK	002
4/30/18 ORD RE: MEDIA REQUEST FILED IN OPEN COURT AT 3:19 PM	FLEURY	000
4/30/18 TRANS CONF RPT - P&P	FLEURY	002
4/30/18 MISC PLEADING ADDITIONAL DOCUMENTS TO BE CONSIDERED AT TIME OF SENTENCING UNDER SEAL (FILE CHECKED OUT SENT PLEADING TO DC 1)	PECK	000
4/30/18 CONFIDENTIAL REPORT (FILE CHECKED OUT SENT PLEADING TO DC 1)	PECK	000
5/04/18 FAX SENT FAXED DOCKET TO MARNI W/P&P PER HER REQUEST	DEMARS	000
5/16/18 SENTENCING SENTENCING	FOR: 10/04/18 13:30 DC1SEC	002
5/16/18 FILE CHECKED IN BY:	JALLEN	000
5/18/18 LETTER FROM DEMAR DAHL	PECK	002
8/14/18 NOTICE OF VICTIM PACT STATEMENT	PECK	002
9/26/18 FILE CHECKED OUT BY: DC I for review/signature	FLEURY	000
9/26/18 STATEMENT .EF'S STATEMENT TO BE CONSIDERED AT TIME OF SENTENCING UNDER SEAL (MISC LETTERS IN SUPPORT OF DEF) FILE CK'D OUT. PLACED PLEADING IN DC1'S P/U BOX AT 12:30 PM.	DEMARS	002
9/26/18 NOTICE OF VICTIM IMPACT STATEMENT. FILE CK'D OUT. PLACED PLEADING IN DC1'S P/U BOX AT 3:05 PM.	DEMARS	001
9/28/18 NOTICE OF VICTIM IMPACT STATEMENT	PECK	002
9/28/18 STATEMENT	RODRIGUEZ	001

PGM ID-DSPDOC
DATE 10/29/18

ELKO COUNTY COURT SYSTEM
CASE#: EC DC CR-FP-17-0003893

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TIME 9:42

NOTICE OF VICTIM IMPACT STATEMENT
PLEADING PLACED IN DC1 PICK UP BOX @8:31 ON 10/1/18

10/01/18 NOTICE OF VICTIM IMPACT STATEMENT (FILE CHECKED OUT SENT PLEADING TO DC 1)	PECK	001																																				
10/03/18 CONFIDENTIAL TREATMENT SUMMARY UPDATE FILED UNDER SEAL PLEADING PLACED IN DC1 PICK UP BOX @11:12	RODRIGUEZ	002																																				
10/04/18 HRG - DC1-SENTENCE	FLEURY	002																																				
10/04/18 NOTIFICATN 176.0926 NOTIFICATION OF REGISTRATION REQUIREMENTS FILED IN OPEN COURT @ 3:45PM	FLEURY	002																																				
10/04/18 NOTICE OF CONVICTION FILED IN OPEN COURT @ 3:45PM	FLEURY	000																																				
10/05/18 FILE CHECKED IN BY:	PECK	000																																				
10/05/18 JUDG OF CONV - NOLO CT 1-CT 4: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540 (NOC 51067): 24-60 months NDOC w/credit for 2 days served as of 10/4/18 for Ct 1, 24-60 months NDOC w/credit for 0 days served for Ct 2, consecutive to Ct 1, 24-60 months NDOC w/credit for 0 days served for Ct 3, consecutive to Cts 1 and 2, 24-60 months NDOC w/credit for 0 days served for Ct 4, consecutive to Cts 1, 2 and 3, maximum aggregate is 240 months and minimum aggregate is 96 months, lifetime supervision, \$25 admin fee, \$3 genetic admin fee, \$150 genetic testing fee, register as sex offender (6 pgs) (cert copy issued)	JAKEMAN	002																																				
10/05/18 BOND EXONERATED SS-250-00362 - \$160,000.00 Certificate of Discharge mailed to Aawsome Bail Bonds on 10/9/18	JAKEMAN	002																																				
10/08/18 PAYMENT/AR UPDATE DISPOSITION:	JAKEMAN	002																																				
<table border="0"><tr><td colspan="2"></td><td colspan="2">Current A/R Account Info</td></tr><tr><td colspan="2">A/R SOURCE BALANCES</td><td colspan="2">A/R ACCOUNT BALANCES</td></tr><tr><td>Amount Due</td><td>.00</td><td>Amount Due</td><td>.00</td></tr><tr><td>Amount Paid</td><td>\$178.00</td><td>Amount Paid</td><td>\$178.00</td></tr><tr><td>Susp/Wrt Off</td><td>.00</td><td>Susp/Wrt Off</td><td>.00</td></tr><tr><td>SRC NOW DUE</td><td>.00</td><td>TOT NOW DUE</td><td>.00</td></tr><tr><td>Last Pmt Date</td><td>10/10/18</td><td>Last Pmt Date</td><td>10/10/18</td></tr><tr><td>Last Pmt Amt</td><td>\$178.00</td><td>Last Pmt Amt</td><td>\$178.00</td></tr><tr><td>Next Due Date</td><td>11/01/18</td><td>Past Due</td><td>.00</td></tr></table>					Current A/R Account Info		A/R SOURCE BALANCES		A/R ACCOUNT BALANCES		Amount Due	.00	Amount Due	.00	Amount Paid	\$178.00	Amount Paid	\$178.00	Susp/Wrt Off	.00	Susp/Wrt Off	.00	SRC NOW DUE	.00	TOT NOW DUE	.00	Last Pmt Date	10/10/18	Last Pmt Date	10/10/18	Last Pmt Amt	\$178.00	Last Pmt Amt	\$178.00	Next Due Date	11/01/18	Past Due	.00
		Current A/R Account Info																																				
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PGM ID-DSPDOC
DATE 10/29/18

ELKO COUNTY COURT SYSTEM
CASE#: EC DC CR-FP-17-0003893

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Min Mon Pmt \$25.00

10/08/18	TRANSFER TO A/R	TRANSFER TO A/R	JAKEMAN	002
10/08/18	TRANS CONF RPT-C REP Notice of Conviction, Notification of Registration Requirements and JOC faxed to Sex Offender Registry		JAKEMAN	002
10/08/18	TRANS CONF RPT - DPS JOC, Criminal Info, Criminal Complaint and Booking Sheet faxed to Dept of Public Safety		JAKEMAN	002
10/08/18	FILE CLOSED		JAKEMAN	000
10/10/18	PAYMENT/AR UPDATE Amt \$178.00 DISPOSITION: PAYMENTS-CK OLD SYS Rcpt# 10007		PECK	002
10/15/18	NOTE ADDED TO FILE KARLA BUTKO CALLED TO ADVISE THAT BYRON BERGERON HAD MAILED A NOTICE OF APPEAL AND SHE WILL BE MAILING THE CASE APPEAL STATEMENT.		MERKLEY	000
10/17/18	NOTICE OF APPEAL FILED AT 11 A.M. BY BYRON BERGERON'S OFFICE ON 10/17/2018 COPIES MAILED IN SASE ON 10/29/2018		JALLEN	002
10/17/18	CASE APPEAL STATEMNT FILED BY KARLA BUTKO'S OFFICE COPIES IN SASE ON 10/29/2018		JALLEN	002
10/17/18	MOTION FOR TRANSCRIPTS FOR APPEAL; JAVS RECORDING BY KARLA BUTKO'S OFFICE, COPIES IN SASE ON 10/29/2018		JALLEN	002
10/29/18	NOTE ADDED TO FILE RETURNED NOTICE OF APPEAL SUBMITTED BY KARLA BUTKO'S OFFICE PER HER REQUEST AS A NOTICE OF APPEAL HAD ALREADY BEEN FILED BY MR. BERGERON'S OFFICE NOTICE OF APPEAL WAS RETURNED UNFILED ENTRY BY JALLEN		MERKLEY	002
10/29/18	CLERK'S CERTIFICATE FOR SUPREME COURT APPEAL		JALLEN	000

BONDS

6/06/17	BOND-SURETY SURETY BOND (ORG AMT: 160,000.00 RCPT: 25030	JAKEMAN
	POSTED BY: AAWSOME BAIL BONDS	
10/05/18	BOND-EXONERATED	JAKEMAN

PGM ID-DSPDOC
DATE 10/29/18

ELKO COUNTY COURT SYSTEM
CASE#: EC DC CR-FP-17-0003893

PAGE 6
TIME 9:42

PEOPLE INVOLVED

ENTERED	PERSON	PERSON TYPE	STATUS	ENTRY PERSON
10/29/18	BUTKO, KARLA K	ATT	ACTIVE	MERKLEY

1 CASE NO. CR-FP-17-3893

2 DEPT. NO. 1

FILED
2018 OCT -5 PM 4:22
ELKO CO DISTRICT COURT
CLERK _____ DEPUTY *[Signature]*

3
4
5
6 IN THE FOURTH JUDICIAL DISTRICT COURT
7 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO
8

9 THE STATE OF NEVADA,
10 Plaintiff,

JUDGMENT OF CONVICTION
(No Contest Plea - Incarceration)

11 V.

12 TENNILLE RAE WHITAKER,
13 Defendant.
14 _____ /

15 On the 30th day of April, 2018, above-named Defendant, TENNILLE RAE WHITAKER, AKA
16 TENNILLE RAE HORN-WHITAKER, AKA TENNILLE RAE HORN [who is further described as follows:
17 Date of Birth: 2/12/1977; (age 41); Place of Birth: Elko, Nevada] was arraigned and entered a plea of no
18 contest to the crimes described below and as more fully set forth in the criminal information filed herein.
19 Legal counsel present at Defendant's arraignment were Byron Bergeron, Esq., representing Defendant, and
20 Mark S. Mills, Elko County Deputy District Attorney, representing the State. At the time above-named
21 Defendant entered her plea of no contest, this Court informed her of all applicable constitutional rights, the
22 elements of the crimes charged, and the maximum possible penalty for said crimes. After being so informed,
23 above-named Defendant stated that she understood all of the applicable constitutional rights, the elements
24 of the crimes charged and the maximum possible penalty for said crimes. This Court then made a finding
25 that Defendant had entered her plea freely and voluntarily, and with full understanding of her constitutional
26 rights, the nature of the charges and the consequences of her plea.

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COUNT 4: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS. 201.540. (NOC 51067).

After hearing from all parties and allowing Defendant an opportunity to personally address the Court, this Court finds that the appropriate judgment in this case is and shall be as follows:

For the conviction of Count 2, Defendant is sentenced to a maximum term of 60 months in the Nevada Department of Corrections with minimum parole eligibility after 24 months. Defendant is credited with 0 days heretofore served as computed to and including the date of this sentencing (the 4th day of October, 2018). Said sentence shall be served consecutively with the sentence in Count 1.

11

1 For the conviction of Count 3, Defendant is sentenced to a maximum term of
2 60 months in the Nevada Department of Corrections with minimum parole
3 eligibility after 24 months. Defendant is credited with 0 days heretofore
4 served as computed to and including the date of this sentencing (the 4th day of
5 October, 2018). Said sentence shall be served consecutively with the
6 sentences in Counts 1 and 2.

7 For the conviction of Count 4, Defendant is sentenced to a maximum term of
8 60 months in the Nevada Department of Corrections with minimum parole
9 eligibility after 24 months. Defendant is credited with 0 days heretofore
10 served as computed to and including the date of this sentencing (the 4th day of
11 October, 2018). Said sentence shall be served consecutively with the
12 sentences in Counts 1, 2 and 3.

13 The maximum aggregate for all counts is 240 months, and the minimum
14 aggregate for all counts is 96 months.

15 Pursuant to NRS 176.0931, Defendant is sentenced to lifetime supervision after
16 any period of probation or any term of imprisonment and any period of release
17 on parole.

18 **FINANCIAL AND RESTITUTION REQUIREMENTS**

19 Defendant is ordered to pay the administrative fee in the amount of \$25.00
20 as required by NRS 176.062, and a judgment is rendered against Defendant
21 in that amount. Said amount shall be deducted from any cash bail monies
22 posted by Defendant before any remainder is returned upon the exoneration
23 of bail. It is further ordered that if Defendant has any monies in the
24 possession of the Elko County Jail, that said monies shall be delivered
25 directly to the Elko County Clerk and applied to this fee.

26 Defendant is ordered to pay the \$3.00 administrative assessment on each
count for purposes of obtaining a biological specimen and conducting a
genetic marker analysis, and a judgment is rendered against Defendant in that
amount. It is further ordered that if Defendant has any monies in the
possession of the Elko County Jail, that said monies shall be delivered
directly to the Elko County Clerk and applied to this fee.

Defendant is ordered to pay the genetic testing fee of \$150.00 as required by
NRS 176.0915. Said amount shall be deducted from any cash bail monies
posted by Defendant before any remainder is returned upon the exoneration
of bail. It is further ordered that if Defendant has any monies in the
possession of the Elko County Jail, that said monies shall be delivered
directly to the Elko County Clerk and applied to this fee.

24 **OTHER REQUIREMENTS**

25 Defendant is required to register as a sex offender pursuant to NRS 179D.441
26 through NRS 179D.495, prior to being released from custody.

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1 **BAIL**

2 IT IS HEREBY ORDERED that any bail bond previously posted for said Defendant shall be
3 exonerated. Any cash bail for said Defendant shall be applied first to fines and/or costs due pursuant to this
4 judgment and, unless otherwise agreed to by the parties, any amount remaining shall be returned by the clerk
5 to the person who posted said cash bail.

6 **ENTRY OF JUDGMENT**

7 IT IS FURTHER ORDERED that the clerk of the above-entitled Court enter this JUDGMENT OF
8 CONVICTION as part of the record in the above-entitled matter.

9 SO ORDERED this 5 day of October, 2018.

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11 NANCY PORTER
12 DISTRICT JUDGE - DEPARTMENT 1
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1 CERTIFICATE OF HAND DELIVERY

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District Court,
3 Department 1, and that on this 5 October, 2018, I personally hand delivered a file stamped copy of the
4 foregoing **JUDGMENT OF CONVICTION** (No Contest Plea - Incarceration) addressed to:

5 Dept. of Parole and Probation
6 3920 E. Idaho Street
7 Elko, NV 89801
[Box in Clerk's Office]

Elko County Sheriff's Office
775 W. Silver Street
Elko, NV 89801
{1 File Stamped Copy and 1 Certified Copy}
[Box in Clerk's Office]

8 Tyler J. Ingram, Esq.
9 Elko County District Attorney
540 Court Street, 2nd Floor
10 Elko, NV 89801
[Box in Clerk's Office]

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14 CERTIFICATE OF MAILING

15 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District Court,
16 Department 1, and that on this 5 day of October, 2018, I deposited for mailing in the U.S. mail at Elko,
17 Nevada, postage prepaid, a copy of the foregoing **JUDGMENT OF CONVICTION** (No Contest Plea -
18 Incarceration) addressed to:

19 Byron Bergeron, Esq.
20 Attorney at Law
432 Court Street
21 Reno, NV 89801

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1 CERTIFICATE OF ELECTRONIC SERVICE

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Fourth Judicial District Court,
3 Department 1, Elko, Nevada, and that on this 5 day of October, 2018, I caused to be delivered via
4 electronic-mail, a file stamped copy of the foregoing **JUDGMENT OF CONVICTION** (No Contest Plea-
5 Incarceration), along with a copy of Defendant's Pre-Sentence Investigation Report addressed to:

6 Nevada Department of Corrections
7 Offender Management Division, Sentence
8 Management

Attn: Shelly Williams, Records Supervisor

9 E-mail: skwilliams@doc.nv.gov

Attn: Kristy Rodriguez

10 E-mail: kwinters@doc.nv.gov

Attn: Mary Gourlay

11 E-Mail: mgourlay@doc.nv.gov

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**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable NANCY PORTER, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 4/30/18

VS.

Case No.: CR-FP-17-0003893

Dept: 1

TENNILLE RAE WHITAKER,

Defendant.

State of Nevada represented by Mark Mills, Esq.
Defendant present, not in custody, and represented by
Byron Bergeron, Esq.
Division of Parole and Probation represented by Marni Pool.
Court Clerk, Faye Fleury, present.

ARRAIGNMENT – NO CONTEST – PLEA AGREEMENT

The Court noted the presence of the parties.

The matter was before the Court for an arraignment on the charges alleged in a Criminal Information filed on November 16, 2017. All parties indicated they were ready to proceed.

The Court noted that a Memorandum of Plea Agreement was filed.

A certified copy of the Criminal Information was presented to the Defendant and the formal reading was waived by the defense.

The name of the Defendant was correctly stated.

The Defendant was sworn.

The Court inquired if the Defendant had been advised by Counsel regarding non citizenship.

Defendant advised he had been advised by Counsel.

The Court read the charging portion of the Criminal Information.

The State cited the elements of the crimes and the potential penalties involved.

The Defendant understood the charges, was satisfied with the legal services rendered to date, understood that sentencing was wholly within the discretion of the Court and was ready to proceed.

The Court noted that a 8-page Memorandum of Plea Agreement with an attached Certificate of Counsel was filed on April 30, 2018. The Court canvassed the Defendant concerning execution of the document.

Defense counsel placed the terms of the Plea Agreement on the record. Both parties agreed to waive attachment of the Criminal Information. All parties concurred.

The Court reviewed the Defendant's Constitutional Rights and the Defendant waived the same.

The Court asked the Defendant to enter pleas to COUNT 1: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 2: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 3: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 4: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) The Defendant entered pleas of no contest following the terms of the Plea Agreement.

The Court advised it had reviewed the Offer of Proof in this matter.

The Court advised a no contest plea has the same effect as guilty plea for all criminal purposes.

Defense agreed the State could prove its case beyond a reasonable doubt.

The Defendant understood and agreed.

The Court found there was a factual basis for the Defendant's pleas and canvassed the Defendant regarding the pleas.

The Court stated its findings and accepted the Defendant's no contest pleas based upon the Memorandum of Plea Agreement, Certificate of Counsel and statements made in open Court.

The Court **ORDERED** a Presentence Investigation Report due on or before June 29, 2018. Sentencing date would be set at a later date.

Court adjourned.

ROUGH DRAFT

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA**

RECORD OF COURT PROCEEDINGS

Present - Honorable NANCY PORTER, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 10/04/18

Case No.: CR-FP-17-0003893

Dept: 1

TENNILLE RAE WHITAKER,

Defendant.

State of Nevada represented by Chad Thompson, Esq.
Defendant present, not in custody, and represented by
Byron Bergeron, Esq.
Division of Parole and Probation represented by Sara Macias.
Court Clerk, Faye Fleury, present.

SENTENCING HEARING

The Court noted the presence of the parties.

The Court noted that the Defendant last appeared in Court on April 30, 2018 and entered a plea of no contest to COUNT 1: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 2: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 3: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 4: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) The matter was before the Court for the entry of judgment and the imposition of sentence. All parties indicated they were ready to proceed.

The Defendant advised the Court that she had received the Presentence Investigation Report, reviewed the same with counsel and understood the recommendations contained therein.

Defense counsel made corrections to the report.

Counsel had issued with the wording in the PSI report regarding the references to pupil and student aid and those references in relation to the victims in the matter.

The Court requested Counsel to go through each reference he wanted to correct on the PSI.

The State advised the PSI was an offense synopsis and was not a legal document and lay terms are usually used. Counsel agreed to allow Defense to refer to each reference as a pupil.

Defense requested to go through each reference and make corrections.

The Court again directed Counsel to go through each correction he wanted to make for the record.

Defense made corrections to the references of victims as pupils to pupils/student aids.

The State advised regarding the selection scale that was marked on the PSI report.

Neither the State nor the Division made corrections to the report.

The Court inquired as to the psychosexual evaluation.

Counsel had reviewed the evaluation

The Defense advised she had reviewed the psychosexual evaluation.

Defense counsel presented a recommendation on behalf of the Defendant.

The Court advised the Defendant of her right to make a statement on her own behalf.

The Defendant did address the Court.

The State presented its position for sentencing.

The Court directed Defense to call his first witness.

Jennifer Hansen was sworn and examined on direct by the Defense. No recross by the State.
Witness excused.

William Horn was sworn and examined on direct by the Defense. No recross by the State.
Witness excused.

Daniel Romans was sworn and examined on direct by the Defense. No recross by the State.
Witness excused.

The Court directed the State to call its first witness.

Luida Madison was sworn and examined on direct by the State. No cross by the Defense. Witness excused.

Jennifer Hooper was sworn and examined on direct by the State. No cross by the Defense. Witness excused.

The Court advised the Defenses argument regarding constitutional issues could not be addressed at this level, but may be remedied in a Federal Court.

The matter being submitted;

The Court stated its findings.

The Court **ORDERED** a Judgment of Conviction be entered against the Defendant finding the Defendant guilty of COUNT 1: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 2: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 3: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067) COUNT 4: SEXUAL CONDUCT BETWEEN SCHOOL EMPLOYEE OR VOLUNTEER AND A PUPIL, A CATEGORY C FELONY AS DEFINED BY NRS 201.540. (NOC 51067)

The Court **FURTHER ORDERED** the Defendant to pay a \$25.00 administrative assessment fee, a \$150.00 genetic testing fee and submit to test to determine her genetic markers and be sentenced to serve for Count 1 a maximum term of 60 months in the Nevada Department of Corrections with minimum parole eligibility after 24 months with credit for 2 days previously served; be sentenced to serve for Count 2 a maximum term of 60 months in the Nevada Department of Corrections with minimum parole eligibility after 24 months; be sentenced to serve for Count 3 a maximum term of 60 months in the Nevada Department of Corrections with minimum parole eligibility after 24 months. be sentenced to serve for Count 4 a maximum term of 60 months in the Nevada Department of Corrections with minimum parole eligibility after 24 months. Counts 1, 2, 3 and 4 will be served concurrent/consecutive with one another. The aggregate minimum sentence is 96 months and the aggregate maximum sentence is 240 months. The Defendant shall be under lifetime supervision as a sex offender and was given the registration requirements.

Court adjourned.

FILED

2018 OCT 29 AM 9:55

ELKO CO DISTRICT COURT

CLERK _____ DEPUTY ONA

Case No. CR-FP-17-0003893

Dept. No. 1

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

TENNILLE RAE WHITAKER,
Appellant,

vs.

CLERK'S CERTIFICATION

STATE OF NEVADA,
Respondent,

I, CAROL FOSMO, the duly elected, acting and qualified County Clerk and Ex-Officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed are true, full and correct copies of certain documents in Case No. CR-FP-17-0003893, Dept. 1, TENNILLE RAE WHITAKER, Appellant, vs. STATE OF NEVADA, Respondent, as appears on file and of record in my office.

WITNESS My Hand and Seal of said Court on October 29, 2018.

CAROL FOSMO, ELKO COUNTY CLERK

By 
JONI L ALLEN, DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that I caused to be sent electronically and/or mailed a certified copy of the annexed documents in Case No. CR-FP-17-0003893, Dept., TENNILLE RAE WHITAKER, Appellant, vs. STATE OF NEVADA, Respondent, as appears on file and of record in this Court, to the following:

Supreme Court of the State of Nevada via Eflex

Byron Bergeron
432 Court Street
Reno, Nevada 89501

Karla K. Butko
PO Box 1249
Verdi, Nevada 89439

Elko County District Attorney's Office
ksullivan@elkocountynv.net
csmith@elkocountynv.net
cthompson@elkocountynv.net

Adam Paul Laxalt
Nevada Attorney General
Attn: Criminal Division
100 North Carson Street
Carson City, NV 89701-4717

DATED this 29, day of OCTOBER, 2018.


JONI L ALLEN, Deputy Clerk