

IN THE SUPREME COURT OF THE STATE OF NEVADA

TYLER CHASE NIED,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Electronically Filed
Jun 17 2019 01:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 78147

APPELLANT'S APPENDIX

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING RESTITUTION AMOUNT**

SECOND JUDICIAL DISTRICT

STATE OF NEVADA

THE HONORABLE BARRY L. BRESLOW, PRESIDING

Thomas E. Vilorio, Esq.
P.O. Box 62
Reno, Nevada 89504
775/284-8888
Nevada Bar No.: 003833
Attorney for Appellant

Appellate Division
Washoe Co. District Attorney
1 South Sierra Street, 7th Floor
Reno, Nevada 89501
775/337-5752
Attorneys for Respondent

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STATE OF NEVADA V. TYLER CHASE NIED
No. 78147

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DA #17-5557

RPD RP17-009682 and RPD RP17-009685

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Transaction # 6789079 : nmason

1 CODE 1800
2 Christopher J. Hicks
3 #7747
4 P.O. Box 11130
5 Reno, NV 89520
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.: CR18-1142

12 v.

Dept. No.: D08

13 TYLER NIED,

14 Defendant.

15 AMENDED 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 TYLER
19 NIED, the defendant above-named, has committed the crime(s) of:

20 RECKLESS DRIVING RESULTING IN DEATH OR SUBSTANTIAL BODILY
21 HARM TO ANOTHER PERSON a violation of NRS 484B.653(6), a category B
22 felony, (53896) in the manner following, to wit:

23 That the said defendant on or about the 13th day of May,
24 2017, at Reno Township, within the County of Washoe, State of Nevada,
25 did willfully, unlawfully and recklessly drive a White Jeep upon West
26 4th Street, a public street in the County of Washoe, State of Nevada,

1 in willful and wanton disregard of the safety of persons and
2 property, which act of driving and neglect of duty proximately caused
3 substantial body harm to ALHASSAN NEFGA and PATRICK HOLT,
4

5 All of which is contrary to the form of the Statute in such
6 case made and provided, and against the peace and dignity of the
7 State of Nevada.
8

9 CHRISTOPHER J. HICKS
10 District Attorney
11 Washoe County, Nevada
12

13 By: /s/Kevin Naughton
14 KEVIN NAUGHTON
15 12834
16 DEPUTY DISTRICT ATTORNEY
17
18
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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 RENO POLICE DEPARTMENT
6 CHRISTOPHER A. GOOD
7 SCOTT NELSON
8 ROBERT STOCKWELL
9 THOMAS ALAKSA
10 CHRIS ROSE
11 SETH FEATHERS
12 BRYAN SANCHEZ
13 VINCENT ROBLES

14
15 NEVADA HIGHWAY PATROL
16 ALYSSA HOWALD
17 JOSEPH TEIXEIRA
18 MATTHEW THOMPSON

19 ALHASSAN NEFGA

20 PATRICK HOLT, 1331 RALSTON STREET RENO, NV 89502.

21 AFFIRMATION PURSUANT TO NRS 239B.030

22 The party executing this document hereby affirms that this
23 document submitted for recording does not contain the social security
24 number of any person or persons pursuant to NRS 239B.030.

25 CHRISTOPHER J. HICKS
26 District Attorney
Washoe County, Nevada

By: /s/Kevin Naughton
KEVIN NAUGHTON
12834
DEPUTY DISTRICT ATTORNEY

PCN: RPD0016984C; RPD0016985C-NIED

CODE 1785
Christopher J. Hicks
#7747
P.O. Box 11130
Reno, NV 89520
(775) 328-3200

ORIGINAL

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

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No. CR18-1142

v.

Dept. No. D08

TYLER NIED,

Defendant.

GUILTY PLEA MEMORANDUM

1. I, TYLER NIED, understand that I am charged with the offense of: RECKLESS DRIVING RESULTING IN DEATH OR SUBSTANTIAL BODILY HARM TO ANOTHER PERSON a violation of NRS 484B.653(6), a category B felony.

2. I desire to enter a plea of guilty to the offense of RECKLESS DRIVING RESULTING IN DEATH OR SUBSTANTIAL BODILY HARM TO ANOTHER PERSON a violation of NRS 484B.653(6), a category B felony, as more fully alleged in the charge filed against me.

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

A. I waive my privilege against self-incrimination.

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

4 C. I waive my right to confront my accusers, that is, the
5 right to confront and cross examine all witnesses who would testify
6 at trial.

7 D. I waive my right to subpoena witnesses for trial on my
8 behalf.

9 4. I understand the charge against me and that the
10 elements of the offense which the State would have to prove beyond a
11 reasonable doubt at trial are that on May 13th, 2017, or thereabout,
12 in the County of Washoe, State of Nevada, I did, willfully,
13 unlawfully and recklessly drive a White Jeep upon West 4th Street, a
14 public street in the County of Washoe, State of Nevada, in willful
15 and wanton disregard of the safety of persons and property, which act
16 of driving and neglect of duty proximately caused substantial body
17 harm to ALHASSAN NEFGA and PATRICK HOLT.

18 5. I understand that I admit the facts which support all
19 the elements of the offense by pleading guilty. I admit that the
20 State possesses sufficient evidence which would result in my
21 conviction. I have considered and discussed all possible defenses
22 and defense strategies with my counsel. I understand that I have the
23 right to appeal from adverse rulings on pretrial motions only if the
24 State and the Court consent to my right to appeal in a separate
25 written agreement. I understand that any substantive or procedural

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1 pretrial issue(s) which could have been raised at trial are waived by
2 my plea.

3 6. I understand that the consequences of my plea of guilty
4 are that I may be imprisoned for a period of 1 to 6 years in the
5 Nevada State Department of Corrections. I am eligible for probation.
6 I must also be fined a minimum of \$2,000 up to a maximum of \$5,000.

7 7. In exchange for my plea of guilty, the State, my
8 counsel and I have agreed to recommend the following: The State will
9 not file additional criminal charges resulting from the arrest in
10 this case. The parties will be free to argue for an appropriate
11 sentence.

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

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

21 10. I understand that the State, at their discretion, is
22 entitled to either withdraw from this agreement and proceed with the
23 prosecution of the original charges or be free to argue for an
24 appropriate sentence at the time of sentencing if I fail to appear at
25 any scheduled proceeding in this matter OR if prior to the date of my
26 sentencing I am arrested in any jurisdiction for a violation of law

1 OR if I have misrepresented my prior criminal history. I understand
2 and agree that the occurrence of any of these acts constitutes a
3 material breach of my plea agreement with the State. I further
4 understand and agree that by the execution of this agreement, I am
5 waiving any right I may have to remand this matter to Justice Court
6 should I later withdraw my plea.

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

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

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1 applicable to my case, must be filed within thirty days of my
2 sentence and/or judgment.

3 13. I understand that this plea and resulting conviction
4 will likely have adverse effects upon my residency in this country if
5 I am not a U. S. Citizen. I have discussed the effects my plea will
6 have upon my residency with my counsel.

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

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

13 16. I am signing this Plea Memorandum voluntarily with
14 advice of counsel, under no duress, coercion, or promises of
15 leniency.

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

3 AFFIRMATION PURSUANT TO NRS 239B.030

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

6 DATED this 28th day of August, 2013

7 J. [Signature]
8 DEFENDANT

9
10 [Signature]
11 TRANSLATOR/INTERPRETER

12 [Signature]
13 Attorney Witnessing Defendant's Signature

14 [Signature]
15 Prosecuting Attorney
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2018-12-19 08:19:23 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7031040 : cvera

PRESENTENCE INVESTIGATION REPORT

The Honorable Barry L. Breslow
Department VIII, Washoe County
Second Judicial District Court

Date Report Prepared: 12/12/18

Prosecutor: Kevin Naughton, Deputy District Attorney
Defense Attorney: Thomas Aronja, Retained (775) 284-8888

PSI: 555572

Defendant: Tyler Chase Nield
Case: CR18-1142
DA: 17-55572
P&P Bin: 1004737304

RCN: R180016985C
Offense Date: 5/13/17
Arrest Date: 5/14/17
Plea Date: 8/29/18, Guilty
Sentencing Date: 1/7/19

I. CASE INFORMATION

II. CHARGE INFORMATION

Offense: Reckless Driving Resulting in Death or Substantial Bodily Harm to Another Person (F)
NRS: 484B.650 (6)
NOC: 53896
Category: B

Penalty: By a minimum term of not less than 1 year(s) and a maximum term of not more than 6 years in the Nevada Department of Corrections, and by a fine of not less than \$2,000 but not more than \$5,000.

PRESENTENCE INVESTIGATION REPORT

Page 2

Tyler Chase Nied
CC#: CR18-1142

III. DEFENDANT INFORMATION

Address: 1611 North Virginia Street #49
City/State/Zip: Reno, NV 89503
NV Resident: Yes
SSN: [REDACTED]
POB: Reno, NV
Date of Birth: [REDACTED]/97
Age: 21
Phone: [REDACTED]
Driver's License: 0804604414
State: Nevada
Status: Valid

FBI: 8CTX3CIWN
SID: NV04579029
Aliases: Nied, Tyler C; Nied, Tyler
Additional SSNs: None
Additional DOBs: None
Alien Registration: N/A
US Citizen: Yes
Notification Required per NRS 630.307: N/A

Identifiers:

Sex: Male Race: White Height: 5'7 Weight: 140
Hair: Brown Eyes: Green
Scars: Right elbow: 4" surgical (verified 12/11/18)
Tattoos (type and location): None reported

Social History: The following social history is as related by the defendant and is unverified unless otherwise noted:

Childhood/Family: The defendant reported his parents divorced when he was less than a year old. He resided back and forth with both parents and moved from state to state. Both parents abused alcohol. He denied any Social Services involvement. He reported his family has been supportive since the Instant Offense.

Marital Status: Single

Children: None reported

Custody Status of Children: N/A

Monthly Child Support Obligation: N/A

Employment Status: The defendant is employed at Eclipse Pizza working as "pizza chef" and cashier.

Number of Months Employed Full Time in 12 months Prior to commission of Instant Offense: 10

Age at first arrest: 19 or younger ☒ 20- 23 ☐ 24 or older ☐

Income: \$1,000 per month **Other Sources:** None

Assets: Vehicle: \$5,000

Debts: Credit cards: \$500; Medical: Unknown

Education: The defendant is a Reno High School graduate. He completed a half year of college at the University of Nevada Reno.

PRESENTENCE INVESTIGATION REPORT

Page 3

Tyler Chase Nied
CC#: CR18-1142

DEFENDANT INFORMATION (Continued)

Military Service: N/A

Health and Medical History: The defendant reported good health without any present or past serious, chronic diseases or illnesses, or any disabling medical problems.

Mental Health History: The defendant reported has been diagnosed with Insomnia, Depression, Anxiety, and Post Traumatic Stress Disorder. He was prescribed Trazadone and Lexapro; however, he has stopped taking his medication in October 2018. He indicated "At some points" had thoughts about suicide when he feels depressed; however, he has never attempted it.

The defendant attended Sovereign Health of California and BLVD Treatment Centers in 2017 and 2018 for mental health counseling.

Gambling History: None reported

Substance Abuse History:

Alcohol: From age 15 through April 2017, once per week use.

Marijuana: From age 16 until age 18, occasional use. From age 18 through Instant Offense, daily use.

LSD/Acid: At age 19, approximately three times.

The defendant completed Sovereign Health of California and BLVD Treatment Centers in 2017 and 2018 for his substance abuse. He is currently attending alcohol and drug abuse counseling, once a week.

Gang Activity/Affiliation: None reported

IV. CRIMINAL RECORD

Criminal history records obtained by the Division reflect the following information:

CONVICTIONS- 0 FEL: 0 GM: 0 MISD: 0

INCARCERATIONS- 0 PRISON: 0 JAIL: 0

SUPERVISION HISTORY:

CURRENT- Probation Terms: 0 Parole Terms: 0

PRIOR TERMS:

Probation- 0 Revoked: 0 Discharged: Honorable: 0 Other: 0

Parole- 0 Revoked: 0 Discharged: Honorable: 0 Other: 0

PRESENTENCE INVESTIGATION REPORT

Page 4

Tyler Chase Nied
CC#: CR18-1142**CRIMINAL RECORD (Continued)****Adult:**

Arrest Date:	Offense:	Disposition:
5/14/17 Reno, NV PD	Duty to Stop at Scene of Accident Causing Bodily Injury (F)	CR18-1142, Instant Offense 5/18/17: Released on bail

Driving History: According to records of the Nevada Department of Motor Vehicles, the defendant's driving history contains the following information:

CONVICTION DATE**OFFENSE**

4/7/16	01-10 > Speed Limit
5/3/17	01-10 > Speed Limit

Summary: Convictions: 2 Withdrawals: 1 Schools: 0 Accidents: 0

V. OFFENSE SYNOPSIS

Records provided by the arresting agency and the prosecuting agency reflect that the instant offense occurred substantially as follows:

On May 13, 2017, officers with the Reno Police Department responded to a report of a vehicle versus a pedestrian (victim #1) accident at 10:56pm. Approximately two minutes later, officers observed the defendant, Tyler Chase Nied driving his vehicle the wrong way. The officers attempted to affect a traffic stop wherein the defendant failed to yield and quickly accelerated, running two red lights through the streets of downtown Reno. The pursuit was discontinued for to safety reasons.

A short time later, the defendant's vehicle became involved in a rollover accident, hitting an occupied vehicle (victim #2). Upon police arrival, the defendant had already fled the scene. A witness provided a physical description of the defendant. REMSA arrived and transported the victim to Renown Medical Center. Police located the defendant walking shirtless, unsteady on his feet and had blood on his arm. Also observed were scratches and blood coming from his ear and chest. The officer asked the defendant why he left the scene of the accident and the defendant stated, "I just couldn't stay there any longer." REMSA arrived and transported the defendant to Renown Medical Center.

At the hospital, an officer interviewed the defendant and stated he smoked marijuana the day before and while driving too fast and ran over the foot of victim #1. He stated he drove away and a short time later he crashed into a van, victim #2.

The officers also learned that the victim #2 was unconscious and intubated and suffered a broken pelvis, face and head trauma causing minor brain bleed. Victim #1 had a laceration to his leg and head that caused a minor brain bleed but was not life threatening.

PRESENTENCE INVESTIGATION REPORT

Page 5

Tyler Chase Nied
CC#: CR18-1142

OFFENSE SYNOPSIS (Continued)

The defendant submitted to a blood draw and was medically cleared. He was arrested, and transported to the Washoe County Jail and booked accordingly.

According to a Washoe County Sheriff's Office Forensic Science Division report dated May 25, 2017, the blood tested positive for 11-nor-9-carboxy-THC (Marijuana Metabolite) 6.4ng/mL 1.3 ng/mL.

VI. DEFENDANT'S STATEMENT

☐ See Attached ☒ Defendant interviewed, statement submitted ☐ Defendant not interviewed

The defendant was interviewed by the Division on December 11, 2018 at the Washoe County Jail. He was apprised of his criminal history and agreed with its contents. When asked about the instant offense, the defendant reported he did not sleep for approximately five days prior. He smoked marijuana earlier in the day and was hallucinating. By the evening, he began to drive downtown and stated, "It didn't feel real, kind of like a video game." He remembers hearing sirens, then crashing and running from the scene; however, he did not comprehend as to why he was being arrested. With respect to sentencing, the defendant is hoping for Diversion. He plans to continue his counseling, working, and going back to school.

VII. VICTIM INFORMATION/STATEMENT

VC2258587, Victim #1: Although the Division attempted to contact the victim by mail to ascertain financial loss (if any,) and obtain thoughts on sentencing, the requested information has not been received. If any additional information is received by the Division, it will be provided to the Court at sentencing. No medical records were located in the District Attorney's file. Loss: \$0.00

VC2258586, Victim #2: The victim provided a Medical Bill Summary, totaling \$459,147.26. A Victim Impact Statement was also provided and has been attached to this report. The victim plans to address the Court at the time of sentencing. The defendant's insurance paid a settlement of \$50,000. He received a settlement \$25,000 for Underinsured Motorist Claim and \$4,678.33 Vehicle Physical Damage payout totaling \$79,678.33 from his insurance.

Medical records indicate that the victim suffered a Traumatic Subdural Hemorrhage with loss of consciousness of unspecified duration, Initial encounter; Acute Respiratory Failure, unspecified whether with hypoxia or hypercapnia; Hypo-osmolality and Hyponatremia; Hemorrhage due to genitourinary prosthetic devices, implants and grafts; Other Fracture of unspecified Lumbar Vertebra; Laceration of scalp; Laceration of left lower leg; Contusion of lower back and pelvis; Diffuse Traumatic Brain Injury with loss of consciousness of unspecified duration; and Hematuria, unspecified. The victim was in the hospital for approximately two months and was in a coma for seven days. He was diagnosed with traumatic brain injury. Loss \$538,825.59

VC2108500: Victims of Crime: Victim #1 was approved for medical, hospital, and loss wages claims. The total amount paid out is \$5,393.46. Loss: \$5,393.46

Total Loss: \$544,219.05

PRESENTENCE INVESTIGATION REPORT

Page 6

Tyler Chase Nied

CC#: CR18-1142

VIII. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: Released on bail

CTS: 5/14/17- 5/18/17= 5 days (WCJ)

IX. PLEA NEGOTIATIONS

In exchange for the defendant's plea of guilty, the State, the defense and the defendant have agreed to recommend the following: The State will not file additional criminal charges resulting from the arrest in this case. The parties will be free to argue for an appropriate sentence. The defendant agrees to make full restitution in this matter, as determined by the Court.

X. RECOMMENDATIONS

Based on information obtained and provided in this report, the following recommendations are submitted.

FEEES

Administrative Assessment: \$25.00	Chemical/Drug Analysis: N/A	DNA: \$150.00 fee
DNA Admin Assessment: \$3.00	Attorney Fee: N/A	
Domestic Violence Fee: N/A	Extradition: N/A	Psychosexual Fee: N/A

SENTENCE

Minimum Term: 12 months	Maximum Term: 36 months	Location: NDOC
Consecutive to/Concurrent With: N/A	Probation Recommended: No	Probation Term: N/A
Fine: \$2,000	Restitution: \$544,219.05	Mandatory Probation/ Prison: No

☒ Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

☐ Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

PRESENTENCE INVESTIGATION REPORT

Page 7

Tyler Chase Nied
CC#: CR18-1142

RECOMMENDATIONS (Continued)

Per the Nevada Revised Statutes, any changes to factual allegations in the Presentence Investigation Report may be ordered by the court within 180 days of the entry of Judgement of Conviction. The prosecuting attorney and defendant must agree to correct the contents.

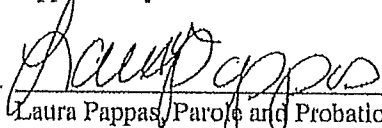
The information used in the Presentence Investigation Report may be utilized reviewed by federal, state and/or local agencies for the purpose of prison classification, program eligibility and parole consideration.

Respectfully Submitted,

Natalie A. Wood, Chief

Report prepared by: A. Rico Specialist III
DPS Parole and Probation, Specialist

Approved by:



Laura Pappas, Parole and Probation Supervisor
Department of Public Safety
Parole and Probation, Northern Command

AR/tp

DEFENDANT STATEMENT

Write in your own words the circumstances of your offense, why you committed the offense, your present feelings about your situation, and why you may be suitable for probation if eligible. A copy of this statement will be sent to the judge. Write or print clearly. If using a pencil, please write as dark as possible. If you do not want to submit a written statement, still initial that you acknowledge all changes to the PSI must be made prior to sentencing.

On the day of May 13, 2017, I had not slept for several days. I was sleep deprived and had little grasp of reality. I was experiencing visual and auditory hallucinations as I previously had in Oregon a month earlier. I have little memory of the moments leading up to the accident. Everything felt like a dream. This whole event should never have taken place.

I am deeply sorry for the impact of my neglect and the lives I have affected. Most importantly I hope the victims have fully recovered.

I think about those events every day and how I could have prevented them. From the bottom of my heart I never meant to hurt anyone. I want to bring love into this world and did the exact opposite that night. Right now I am just trying to make up for the harm I caused others and get my life back on track.

I have attended drug treatment for the last 18 months while actively staying sober. Along with mental health counseling for about nine of those months. I have remained at the same place of employment for the last nine months and I'm currently enrolled in 12 credits at the University of Nevada, Reno.

I know nothing can undo what has been done, but I hope through strength and perseverance I can move forward. Lastly, I am hoping for a chance at diversion so my future will not be destroyed by a felony conviction. I will not let the court down if granted this privilege.

Per Nevada Supreme Court opinion in Stockmeyer v. State, any changes to your Presentence Investigation Report must be made at or before sentencing. The information used in your Presentence Investigation Report may be reviewed by federal, state and/or local agencies and used for future determinations to include, but not limited to, parole consideration. TN (Defendant initials)

Signature Tried

Date 12-11-18

Page 2
Victim Impact Statement

VL2258586

PLEASE DESCRIBE HOW YOU WERE IMPACTED BY THIS CRIME – Note extent of injuries, property damage or loss, physical disabilities, funeral expenses or psychological/adjustment problems. Attach documentation (i.e. estimates, insurance claims, medical bills, invoices, receipts, etc.). You may use the back of this page or attach additional pages for your comments.

SEE ATTACHED

Signature

Print Name

C8208 Revised (6/12/12) MG



PLEASE DESCRIBE HOW YOU WERE IMPACTED BY THIS CRIME:

I have requested that my mother help with the preparation and submission of this letter since I still struggle with putting my thoughts together. After the accident I was unconscious and admitted to Renown Hospital as a John Doe. My identification was not turned in at the time of the accident; so, the hospital had no way to identify me. My family had no idea as to what had happened to me and thankfully, my wife pursued getting information from the Reno Police Department. Upon stopping a unit that was going through our neighborhood, she was able to ask a Police Officer if he could give her any additional information. During her conversation with this officer, another unit pulled up and the officer walked over to find out what was happening. He overheard the conversation and realized, he was the officer that responded to the accident. He told my wife, [REDACTED], he could take her to where I was.

I was in a coma for 7 days. My family was given little hope as to my recovery and / or my ability to walk, talk, return to work, or maintain a normal life style. I was diagnosed as sustaining A traumatic brain injury. After coming out of the coma, I remained in Renown Hospital for approximately two months. I was facing a long road of rehabilitation. After being released from Renown Hospital, I was admitted to the Renown Rehabilitation facility. I was there approximately 6 weeks. It was here that I received the greatest amount of rehabilitation. They worked with me to regain use of the right side of my body, as I lost all ability to move that side of my body. The staff also worked with me to regain my speech and walking. Upon being released from the Renown Rehabilitation facility, I continued to receive rehab therapy through Rehab Without Walls for an additional 6 weeks. I still am numb and weak on the right side of my body, which hinders me writing normal. I still struggle with everyday tasks and walk with a limp. This has also affected my ability to have intimacy with my wife. To date, I still am unable to drive and have not been released to operate a forklift so that I am able to return to the job I had before the accident.

After the accident, I was unable to return to work until the end of September. I could only return to work for 10 hours a week. Almost one year after the accident, I had worked back up to working 30 hours a week. I was struggling a lot with depression and the fact that I was not the same as I was before the accident. On the anniversary date of the accident, I tried to take my life. I was frustrated, depressed and felt I had nothing to live for any longer. My family's financial status was in the toilet and we were struggling just to pay the rent. Fortunately, my brother-in-law found me passed out and called an ambulance.

Once again, I was transported to Renown Hospital. The staff was able to treat me on time and I was able to recover. I was in Renown for approximately 2 weeks. After that, I was transported to Reno Behavioral Center. I was only able to stay there for approximately 1 month, because my insurance would no longer cover the expenses. It was their psychiatrist's recommendation that I be admitted into

Nevada Community Enrichment Program in Las Vegas. Unfortunately, my insurance would not approve this stay, so I was not able to receive this treatment.

Today, I continue to receive counselling. I am also finally able to meet with the medical staff that can help me. Recently, I was seen by an Ocular-Neurologist, as I still have double-vision. I am scheduled to meet with a Neurologist and a Psychiatrist in November. I have been on medication since I was discharged from Reno Behavioral Center without any follow-up checks. That concerns me and my family greatly.

It seems that I am now finally able to receive the medical care that I have needed all along. Unfortunately, I was never referred to the right professionals to assist me through the transition of the changes in my ability to provide for my family and function. Because of not having this care, I sank further and further into depression and anger.

From a financial standpoint, the loss of my income has been devastating. I have three children and my wife was the only one with an income. This has been a great struggle. Tyler's insurance paid his policy limit of \$50,000 and my insurance paid out on underinsured insurance at \$25,000. That was eaten up right away with medical expenses and the 50% I had to pay to my attorney to help keep liens from being placed against my wife and me. I have attached my medical expenses, which amounted to just about \$600,000 for the first hospitalization. Fortunately, I have a great employer and insurance company, who stepped up to the plate and took care of most of these insurance expenses.

I wanted to make sure this letter was provided to you but I will be submitting the medical records under separate cover. The second hospitalization has been out of pocket and my employer's insurance. I am in the process of getting all the supporting expense documentation and will submit that upon receipt.

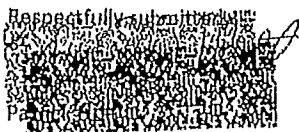
My vehicle was totaled and was our only family vehicle. We received a settlement in the amount of \$4,678.33. I have listed that information under the Insurance Claim Information section.

Insurance Claim Information

State Farm Insurance, PO Box 106170, Atlanta, GA 30348-6170, (844) 292-8615, Claim #28-0119-S17, Policy #0632-517-28A, Settlement: \$25,000 Underinsured Motorist Claim.

State Farm Insurance, PO Box 52250, Phoenix, AZ 85072-2250, (855) 231-15990, Ext: 712, Claim #28-0119-S17, Policy #0632-517-28A, Settlement \$4,678.33 Vehicle Physical Damage.

Progressive Insurance Company, PO Box 26747, Richmond, VA 23261, (800) 776-4747, Claim #17-1629827, Policy # - Not Available, Settlement \$50,000 Bodily Injury Claim.

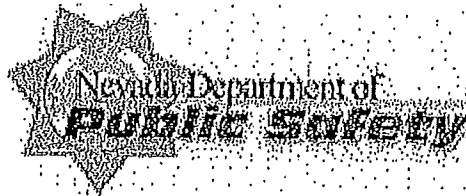
Respectfully submitted,

Patricia A. [illegible]

10/09/2018

MEDICAL BILLS SUMMARY

	<u>PROVIDER</u>	<u>TREATMENT DATES</u>	<u>BILL AMOUNT</u>
1	Northern Nevada Emergency Physicians	05/13/2017 to 05/13/2017	\$1,612.00
2	REMSA	05/13/2017 to 05/13/2017	\$1,110.00
3	Sierra Neurosurgery Group	05/13/2017 to 06/02/2017	\$5,913.00
4	Renown	05/13/2017 to 07/14/2017	\$436,572.81
5	Pacific Medical, Inc.	05/14/2017 to 05/14/2017	\$335.00
6	Reno Radiological Associates, Chtd.	05/14/2017 to 06/09/2017	\$3,841.45
7	Premiere Surgical Specialists	05/14/2017 to 06/13/2017	\$4,284.00
8	Rehab Without Walls, Inc.	07/17/2017 to 07/23/2017	\$4,830.00
9	Renown Medical Group	07/24/2017 to 08/03/2017	\$649.00
	TOTAL MEDICAL BILLS TO DATE:		\$459,147.26

Brian Sandoval
Governor



James M. Wright
Director

Natalie Wood
Chief

DIVISION OF PAROLE AND PROBATION

December 12, 2018

PROBATION SUCCESS PROBABILITY (PSP) SCORE

Offender:	NIED, TYLER	Offense Score Total:	35
PSI #:	555572	Social Score Total:	26
BIN #:	1004737304	Raw Score Total:	29
Case #:	CR18-1142	Total PSP Score:	61

Prior Criminal History:

Felony Convictions:	1 = None	Jail Sentences:	2 = None
Misdemeanor Convictions:	2 = None	Juvenile Commitments:	2 = None/or over 24
Pending, unrelated cases:	2 = None	Years free of Conv:	4 = Over 5
Subsequent Crim Hist:	2 = None	Prior Formal Suprv:	2 = None
Prior Incarcerations:	3 = None	Criminal Pattern:	2 = None/No Record

Present Offense:

Circumstances of Arrest:	0 = Resistive	Sophistication/Premeditation:	1 = Moderate
Type of Offense:	-1 = Multiple person (to 2)	Plea Bargain Benefits:	1 = Somewhat
Psych or Medical Impact:	0 = Disability	Financial Impact:	0 = Excessive
Weapon:	3 = N/A	CoOffender:	0 = Leader/Coerced Others or NONE
Controlled Substances:	3 = N/A	Motive:	0 = Deliberate

Raw Score x 1.2 = Offense Score Total: 35

Social History:

Age:	1 = Under 25	Family Situation:	2 = Moderately Supportive
Employment/Program:	4 = Continuous/Housewife/Mental Health	Education:	2 = High School/GED/Voc.
Financial:	2 = Could be developed	Military:	1 = Hon Discharge/No Mil
Employability:	2 = Readily/Not Needed/Mental Health		

Pre Sentence Adjustment:

Commitment/Ties:	2 = Local/In State	Resource Availability:	2 = Available
Program Participation:	2 = Completed	Substance Drug:	-2 = Serious Abuser/Addict
Honesty/Cooperation:	2 = Candid	Substance Alcohol:	2 = Problematic
Attitude/Supervision:	2 = Positive	Attitude/Offense:	2 = Contrite

Social Score Total: 26

Offense Score + Social Score = PSP TOTAL SCORE: 61

**DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PAROLE AND PROBATION
SENTENCE RECOMMENDATION SELECTION SCALE**

☒ Felony

☐ GM

Defendant's Name: Tyler Chase Nied

CC# CR18-1142

CT: 1 Offense: Reckless Driving Result Death SBH to anothe NRS: 484B.653 (6) Category: B

Rec: 12-36 months NDOC, suspended, Prob Only Non Probation

CT: Offense: NRS: Category:

Rec: Prob Only Non Probation

CT: Offense: NRS: Category:

Rec: Prob Only Non Probation

CT: Offense: NRS: Category:

Rec: Prob Only Non Probation

CT: Offense: NRS: Category:

Rec: Prob Only Non Probation

PSP TOTAL SCORE: 61 0-54 = Denial ☐ 55-64 = Borderline ☒ 65-100 = Probation ☐

DEVIATION JUSTIFICATION: In to OR Out to Probation ☐ In / Prison ☐ Out / Probation ☐

Raw Score (Offense): 29 (PSP RAW SCORE from the OFFENSE Section. Used to determine SENTENCE RECOMMENDATION in the matrix below. Ex: a Raw Score of 37 would select from the LOW-MEDIUM column)

Diversion Recommended: (Check one): 453 ☐ 458 ☐ Veterans ☐ Mental Health ☐ Other ☐

SENTENCE STRUCTURE	CATEGORY Score	LOW RANGE 39-49	LOW - MEDIUM 28-38	MEDIUM RANGE 17-27	MEDIUM - HIGH 6-16	MAXIMUM ≤ 5 (or less)
364 days Begin sentence consideration at midpoint six month sentence and adjust based on factors delineated	Gross Misdemeanor (GM)	Factors to justify greater sentence: Prior criminal history, harm to victim, issues can be addressed via probation, restitution will be ordered Factors to justify lesser sentence and/or fine only: Minimal/no financial loss, minimal/no prior criminal history, age of offender, out of state offender, no issues to be addressed via probation, time in custody prior to sentencing, contemplated in plea negotiations				
1 - 4 years	Category E Category D	12-30 months <input type="checkbox"/>	12-32 months <input type="checkbox"/>	12-34 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	19-48 months <input type="checkbox"/>
1 - 5 years	Category C	12-32 months <input type="checkbox"/>	12-34 months <input type="checkbox"/>	12-36 months <input type="checkbox"/>	18-60 months <input type="checkbox"/>	24-60 months <input type="checkbox"/>
1 - 6 years	Category B	12-36 months <input type="checkbox"/>	12-36 months <input checked="" type="checkbox"/>	12-48 months <input type="checkbox"/>	24-72 months <input type="checkbox"/>	28-72 months <input type="checkbox"/>
1 - 10 years	Category B	12-36 months <input type="checkbox"/>	12-48 months <input type="checkbox"/>	16-72 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
1 - 15 years	Category B Enhancement	12-48 months <input type="checkbox"/>	24-60 months <input type="checkbox"/>	36 - 96 months <input type="checkbox"/>	48-180 months <input type="checkbox"/>	60-180 months <input type="checkbox"/>
2 - 10 years	Category B	24-60 months <input type="checkbox"/>	28-72 months <input type="checkbox"/>	32-84 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
2 - 15 years	Category B	24-72 months <input type="checkbox"/>	32-84 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-180 months <input type="checkbox"/>	66-180 months <input type="checkbox"/>
3 - 10 years	Category B	36-90 months <input type="checkbox"/>	40-100 months <input type="checkbox"/>	42-110 months <input type="checkbox"/>	44-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>
3 - 15 years	Category B	36-96 months <input type="checkbox"/>	42-120 months <input type="checkbox"/>	48-120 months <input type="checkbox"/>	60-180 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>
5 - 15 years	Category B	60-150 months <input type="checkbox"/>	64-162 months <input type="checkbox"/>	68-174 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>	72-180 months <input type="checkbox"/>
1 - 20 years	Category B	12-48 months <input type="checkbox"/>	18-96 months <input type="checkbox"/>	24-120 months <input type="checkbox"/>	36-240 months <input type="checkbox"/>	72-240 months <input type="checkbox"/>
2 - 20 years	Category B	24-60 months <input type="checkbox"/>	30-96 months <input type="checkbox"/>	36-120 months <input type="checkbox"/>	48-240 months <input type="checkbox"/>	84 - 240 months <input type="checkbox"/>
3 - 20 years	Category B	36-72 months <input type="checkbox"/>	42-108 months <input type="checkbox"/>	54-144 months <input type="checkbox"/>	66-240 months <input type="checkbox"/>	96 -240 months <input type="checkbox"/>
5 - 20 years	Category B & habitual offender	60-150 months <input type="checkbox"/>	64-162 months <input type="checkbox"/>	72-174 months <input type="checkbox"/>	84-240 months <input type="checkbox"/>	96 -240 months <input type="checkbox"/>
Life w/or without parole	Category A And habitual offender	Life/possibility of parole after 20 years <input type="checkbox"/>	Life/ possibility of parole after 20 years <input type="checkbox"/>	Life w/possibility of parole <input type="checkbox"/>	Life w/possibility of parole <input type="checkbox"/>	Life with no possibility of parole <input type="checkbox"/>

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PAROLE AND PROBATION
SENTENCE RECOMMENDATION SELECTION SCALE

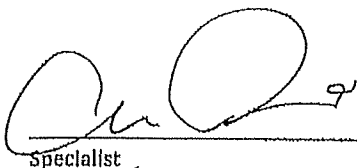
Other Areas of Concern: Check all that apply:

- ☐ Low Intelligence/Cognitive Difficulties
☐ Physical Handicap
☐ Reading and Writing Limitations/Significant Learning Disabilities
☐ Mental Health Issues
☐ Other _____

IMPORTANT: The factors and areas of concern identified above should not result in a negative impact when formulating a sentencing recommendation. If any of these factors apply to an offender, a downward sentence deviation towards leniency may be appropriate.

ANY RECOMMENDATION THAT DEVIATES FROM SUGGESTED SENTENCE MUST INCLUDE JUSTIFICATION (+) OR (-)

DEVIATION JUSTIFICATION:



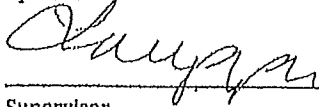
Specialist

5187

CID #

Dec 12, 2018

Date



Supervisor

2440

CID #

12/19/18

Date

FILED
Electronically
CR18-1142
2019-01-15 01:37:17 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7068714 : swlliam

1 2610
2 Thomas E. Viloría, Esq.
3 Nevada Bar No. 003833
4 FAHRENDORF, VILORIA,
5 OLIPHANT & OSTER L.L.P.
6 P.O. Box 3677
7 Reno, NV 89505
8 (775) 348-9999
9 Attorney for Defendant

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

12 ***

13 THE STATE OF NEVADA

14 Plaintiff,

Case No. CR18-1142

15 vs.

Dept. No. 8

16 TYLER NIED,

17 Defendant.

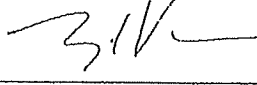
18 NOTICE OF OBJECTION TO RESTITUTION AMOUNT IN PSI
19 (FILED CONFIDENTIAL)

20 COMES NOW, Defendant, Tyler Nied, by and through his attorneys, FAHRENDORF,
21 VILORIA, OLIPHANT & OSTER L.L.P., and objects to the restitution amount of \$544,219.05.

22 This Objection is based upon the following Points and Authorities, the PSI and all papers
23 and pleading on file herein.

24 DATED this 15th day of January, 2019.

25 FAHRENDORF, VILORIA,
26 OLIPHANT & OSTER L.L.P.

27 By: 
28 Thomas E. Viloría, Esq.

ATTORNEYS AND
COUNSELORS AT LAW
Office: (775) 284-8888 Fax: (775) 284-3838
P.O. Box 62 ~ RENO, NEVADA 89504
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

FAHRENDORF,
VILORIA,
OLIPHANT
& OSTER L.L.P.

FAHRENDORF,
VILORIA,
OLIPHANT
& OSTER L.L.P.
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P.O. BOX 62 ~ RENO, NEVADA 89504
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

1 POINTS AND AUTHORITIES

2 I. Statement of Facts

3 On May 14, 2017, Defendant Tyler Nied was arrested for charges related to Duty to Stop
4 at Scene of Accident Causing Bodily Injury. On May 17, 2017, a Complaint alleging two counts
5 of Leaving the Scene of a Crash Involving Personal Injury was filed in the Reno Justice Court.
6 On July 20, 2018, an Amended Information was filed charging Reckless Driving Resulting in
7 Death or Substantial Bodily Harm to Another Person. Mr. Nied has entered a Guilty Plea and is
8 seeking Diversion pursuant to NRS 458.

9 Victim #1 (Alhassan Nefga) has zero loss. However, Victims of Crime through the
10 Division of Parole and Probation is requesting \$5,393.46 as Victim #1 was approved for medical,
11 hospital, and lost wage claims. There is no documentation to support this amount.

12 Victim # 2 (Patrick Holt) through the Division of Parole and Probation is requesting
13 \$538,825.59. In support a Medical Bills Summary totaling \$459,147.26 dated 10/09/2018 is
14 attached to the PSI. In his victim impact statement attached to the PSI, Mr. Holt asserts he had
15 lost wages, yet there is no documentation relating to the lost wages. He also asserts his medical
16 bills totaled \$600,000 without any documentation supporting this amount.

17 Mr. Holt concedes that he recovered \$50,000 from the Defendant's auto policy and
18 \$25,000 UIM from his own policy for a total of \$75,000, but his civil attorney fees and lien
19 reductions reduced his net recovery by 50%.

20 More importantly, Mr. Holt admits that "I have a great employer and insurance company,
21 who stepped up to the plate and took care of most of the insurance expenses." He does state, he
22 will submit the medical records under separate cover. The second hospitalization has been out of
23 pocket and my employer's insurance. I am in the process of getting all of the supporting expense
24 documentation and will submit that upon receipt."

25 There is no supporting documentation relating to the medical bills, wage loss and out of
26 pocket expense.

27 ///

28 ///

II. Discussion

The purpose of restitution in the context of a criminal case is to compensate the victim for costs arising from a defendants' criminal act. *Martinez v. State*, 120 Nev. 200, 202-203, 88 P.3d. 825, 827 (2004). Victims' medical costs for the treatment of their injuries directly resulting from the crime are the proper subject of restitution. *Norwood v. State*, 112 Nev. 438, 441, 915 P.2d 277, 279 (1996). Crime victims' unpaid medical bills are debts of those victims. *Id.*, 112 Nev. at 441, 915 P.2d at 279.

However, the Nevada Supreme Court has stated, "[s]entencing courts are cautioned to rely on reliable and accurate evidence in setting restitution. An insurance company is not a victim. *Martinez v. State*, 115 Nev. 9, 974 P.2d 133 (1999) and NRS 176.015(5)(b). A defendant's obligation to pay restitution to a victim may not be reduced because a victim is reimbursed by an insurance company. *Id.*, 115 Nev. at 12, 974 P.2d at 134-35. However, in accordance with *Norwood* when an insurance company has already paid the medical bills and the victim is not awaiting reimbursement, the victim is not entitled to a double recovery, but only the amount of unpaid medical debts or actual out of pocket expenses. Under the double recovery doctrine, there can be only one recovery of damages for one wrong or injury. *Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 443, 245 P.3d 547, 549 (2010); see also *Major v. State*, 130 Nev. 657, 333 P.3d 235 (2014)(allowing a District Court in a criminal case to order restitution to social services to the extent that the district court's order did not overlap with the existing [child] support obligation imposed by the family court).

A defendant is not entitled to a full evidentiary hearing at sentencing regarding restitution, but he is entitled to challenge restitution sought by the State and may obtain and present evidence to support that challenge." *Martinez*, 115 Nev. at 13, 974 P.2d at 135. Furthermore, the restitution amount must not be based upon the consideration of information or accusations founded on facts supported by impalpable or highly suspect evidence. Accord, *Lloyd v. State*, 94 Nev. 167, 576 P.2d 740 (1978); *Silks v. State*, 545 P.2d 1159, 1161 (1976).

In the present case none of the underlying medical bills have been provided. No documentation from Victims of Crime has been provided. None of the wage loss documentation

FAHRENDORF,
VILORIA,
OLIPHANT
& OSTER LLP.
ATTORNEYS AND
COUNSELORS AT LAW
Office: (775) 284-8888 Fax: (775) 284-3838
P.O. BOX 62 ~ RENO, NEVADA 89504
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

1 has been provided. In addition, the actual amount of out of pocket expenses incurred by the
2 victims and the amount of remaining unpaid medical bills are unknown. The proper restitution
3 amounts are unknown.

4 The Defendant should only be required to make restitution for unpaid medical expenses
5 and lost wages. The victims should not be awarded restitution for amounts already paid by
6 health insurance. In addition, the Defendant should receive an offset for the \$50,000 received by
7 Defendant's auto policy less fees and costs. Even more troubling is that this court cannot order
8 restitution based on the insufficient impalpable or highly suspect evidence included in and
9 attached to the PSL.

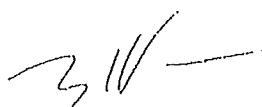
10 III. Conclusion

11 Based upon the foregoing, Mr. Nied objects to any amount of restitution being ordered
12 until such time as sufficient documentation is provided to this court and counsel.

13 AFFIRMATION PURSUANT TO NRS 239B.030

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

16 DATED this 15th day of January, 2019.

17 
18 _____
19 Thomas E. Viloria, Esq.
20 Attorney for Defendant
21
22
23
24
25
26
27
28

FAHRENDORF,
VILORIA,
OLIPHANT
& OSTER L.L.P.

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COUNSELORS AT LAW
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P.O. BOX 62 - RENO, NEVADA 89504
327 CALIFORNIA AVENUE - RENO, NEVADA 89509

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the law firm of
3 FAHRENDORF, VILORIA, OLIPHANT & OSTER L.L.P., and that on the date shown below, I
4 caused service of a true and correct copy of the attached;

5 NOTICE OF OBJECTION TO RESTITUTION AMOUNT IN PSI
6 (FILED CONFIDENTIAL)

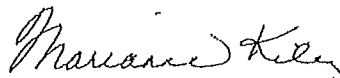
7 to be completed by electronic service upon electronically filing the within document with the
8 Second Judicial District Court addressed to:

9 KEVIN NAUGHTON, ESQ, for STATE OF NEVADA
10 DIV. OF PAROLE & PROBATION

11 and by personal delivery to:

12 Honorable Barry Breslow
13 75 Court Street, Dept. 8
14 Reno, NV 89501

15 DATED this 15th day of January, 2019.

16 

17 Employee of Fahrendorf, Viloria,
18 Oliphant & Oster L.L.P.
19
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CR18-1142 DC 8650088020-078
STATE VS TYLER CHASE NIED
District Court 01/16/2019 01:42 PM
Washoe County 1695
MI 0077

CR18-1142 – STATE OF NEVADA VS. TYLER CHASE NIED

NOTICE

This is a cover sheet for imaging purposes only.

It is not considered to be part of the exhibit.

SENTENCING HEARING

CR18-1142 STATE OF NEVADA vs. TYLER CHASE NIED

Deputy District Attorney Kevin Naughton on behalf of the State of Nevada
Thomas Viloria, Esq. on behalf of Tyler Chase Nied

Case No: CR18-1142 Dept. No: 8 Clerk: M. Conway Date: 1/16/2019

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	Plaintiff - State of Nevada	UMR Claims Data Totals	1/16/2019	No objection	1/16/2019

10/11/2018

HOLT, Patrick

From: spiritman707 <spiritman707@aol.com>

To: arlco <arlco@dps.state.nv.us>

Subject: HOLT, Patrick

Date: Thu, Oct 11, 2018 5:13 pm

Attachments: UMR Claims Data.pdf (257K), UMR Claims Data Totals.xlsx (18K)

Hello Andrew;

UMR has provided us with the claims data that is in their system for Patrick. It was prepared in a PDF format, so I took the liberty to prepare an excel spreadsheet with the totals from each page for your file. This is the first attachment.

The second attachment is the excel spreadsheet. I also added the attorney fees settlement that were paid out of the insurance settlement checks. That is the second attachment.

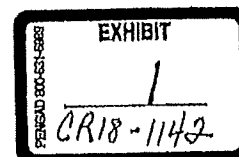
The family was also greatly impacted as a result of this injury. Patrick's oldest daughter, Destiny, needed to be hospitalized at West Hills due to severe panic attacks. That was an additional expense the family sustained.

The family continues to meet with a counselor weekly. Those expenses are all out of pocket but we do not have receipts for that counseling at this time.

Please let us know if you need any additional information. Also, would you please confirm the court date?

Sincerely,

Marie Holt (mother to Patrick Holt)



Totals - UMR Claims Report for Patrick Holt (2nd Hospitalization - Severe Depression, Attempted Suicide)

Page Number	Amount	Pr Discount	Allowed	Not Payable	Deductible	Paid	Copay	Pt Owes
1	43012.5	7900.26	29296.42	6080.82	650	27230.35	0	2206.07
2	13505	0	9936.15	3568.85	0	9936.15	0	0
Totals	56517.5	7900.26	39232.57	9649.67	650	37166.5	0	2206.07

Totals - UMR Claims Report for Patrick Holt (Hospitalization - Accident)

Page Number	Amount	Pr Discount	Allowed	Not Payable	Deductible	Paid	Copay	Pt Owes
2	4212	1687.92	1296.08	1228	250	990.27	425	730.76
3	10935.5	646.9	9947.65	341	0	9885.82	0	61.78
4	28783.93	5258.92	20396.08	3128.93	0	20372.49	0	873.52
5	25665	5133.59	18921.41	1610	0	18065.67	0	855.74
6	151389.5	30867.21	762.04	119760.25	0	762.04	0	0
Totals	220985.93	43594.54	51323.26	126068.18	250	50076.29	425	2521.8
Combined Totals	277503.43	51494.8	90555.83	135717.85	900	87242.79	425	4727.87

Attorney Settlement - Bradley, Drendel and Jeanney

State Farm	25000
Progressive	50000
Total	75000

Attorney Fees	33.333
Total Pd Attorney	

24999.75

Total Out of Pocket

30152.62

1

CLAIM #	CLAIM DATE	PROVIDER NAME	AMOUNT	PR DISCOUNT	ALLOWED	NOT PAYABLE	DEDUCTIBLE PAID	COPAY	PT OWES
18263112773	09/18/2018	BAUMGARDNER,Z	\$140.00	\$0.00	\$0.00	\$140.00	\$0.00	\$0.00	\$140.00
18223131479	08/09/2018	BAUMGARDNER,Z	\$95.00	\$17.40	\$77.60	\$0.00	\$0.00	\$0.00	\$0.00
18167150836	06/14/2018	BAUMGARDNER,Z	\$140.00	\$25.50	\$114.50	\$0.00	\$114.50	\$0.00	\$0.00
18200155662	05/26/2018	PARRA,M	\$265.00	\$115.00	\$150.00	\$0.00	\$0.00	\$149.50	\$114.50
18200155662	05/26/2018	PARRA,M	\$265.00	\$115.00	\$150.00	\$0.00	\$0.00	\$150.00	\$0.00
18200155662	05/26/2018	PARRA,M	\$265.00	\$115.00	\$150.00	\$0.00	\$0.00	\$150.00	\$0.00
18227183434	05/26/2018	PARRA,M	\$265.00	\$0.00	\$0.00	\$265.00	\$0.00	\$0.00	\$0.00
18227183434	05/26/2018	PARRA,M	\$265.00	\$0.00	\$0.00	\$265.00	\$0.00	\$0.00	\$0.00
18144188856	05/18/2018	REMSA	\$755.00	\$0.00	\$755.00	\$0.00	\$0.00	\$0.00	\$0.00
18144188856	05/18/2018	REMSA	\$132.00	\$0.00	\$132.00	\$0.00	\$0.00	\$0.00	\$0.00
18176015430	05/18/2018	RENO BEHAVIORAL HC	\$22,425.00	\$6,727.50	\$15,697.50	\$0.00	\$0.00	\$0.00	\$151.00
18153194837	05/17/2018	PAVLATOS,N	\$228.00	\$76.88	\$152.12	\$0.00	\$0.00	\$0.00	\$26.40
18151110007	05/14/2018	CHAHAL,G	\$168.00	\$57.96	\$110.04	\$0.00	\$0.00	\$0.00	\$30.42
18151110007	05/14/2018	CHAHAL,G	\$160.00	\$53.49	\$106.51	\$0.00	\$0.00	\$0.00	\$22.01
18151110007	05/14/2018	CHAHAL,G	\$160.00	\$53.49	\$106.51	\$0.00	\$0.00	\$0.00	\$21.30
18151110007	05/14/2018	CHAHAL,G	\$229.00	\$76.88	\$152.12	\$0.00	\$0.00	\$0.00	\$21.30
18151110007	05/14/2018	CHAHAL,G	\$435.00	\$144.61	\$290.39	\$0.00	\$0.00	\$0.00	\$30.42
18150109474	05/14/2018	PAVLATOS,N	\$510.00	\$162.67	\$347.33	\$0.00	\$0.00	\$0.00	\$58.08
18151109996	05/14/2018	KELLEY,F	\$28.00	\$7.00	\$21.00	\$0.00	\$0.00	\$0.00	\$65.43
18151162557	05/13/2018	KHUU,A	\$33.00	\$4.95	\$28.05	\$0.00	\$0.00	\$0.00	\$21.00
18151162557	05/13/2018	KHUU,A	\$227.00	\$126.73	\$100.27	\$0.00	\$0.00	\$0.00	\$5.61
18142172289	05/13/2018	REMSA	\$1,124.00	\$0.00	\$1,124.00	\$0.00	\$0.00	\$0.00	\$20.05
18142172289	05/13/2018	REMSA	\$65.00	\$0.00	\$65.00	\$0.00	\$0.00	\$0.00	\$224.80
18144218389	05/13/2018	RENEW REG MED CTR	\$219.50	\$0.00	\$219.50	\$0.00	\$0.00	\$0.00	\$13.20
18144218389	05/13/2018	RENEW REG MED CTR	\$65.75	\$0.00	\$65.75	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$1,515.00	\$0.00	\$1,515.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$240.00	\$0.00	\$240.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$5,848.00	\$0.00	\$5,848.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$650.00	\$0.00	\$650.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$379.00	\$0.00	\$379.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$2,540.00	\$0.00	\$2,540.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$3,755.00	\$0.00	\$3,755.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$190.00	\$0.00	\$190.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$301.25	\$0.00	\$301.25	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$918.00	\$0.00	\$918.00	\$0.00	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENEW REG MED CTR	\$242.59	\$0.00	\$242.59	\$0.00	\$0.00	\$0.00	\$0.00

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18144218389	05/13/2018	RENOWN REG MED CTR	\$8,103.00	\$0.00	\$5,961.69	\$2,141.31	\$0.00	\$5,961.69	\$0.00	\$0.00	\$0.00
18144218389	05/13/2018	RENOWN REG MED CTR	\$5,402.00	\$0.00	\$3,974.46	\$1,427.54	\$0.00	\$3,974.46	\$0.00	\$0.00	\$0.00
18122233266	04/30/2018	WALKER,J	\$138.00	\$70.56	\$32.44	\$35.00	\$0.00	\$32.44	\$0.00	\$35.00	\$35.00
18122233266	04/30/2018	WALKER,J	\$110.00	\$71.25	\$38.75	\$0.00	\$0.00	\$31.00	\$0.00	\$0.00	\$7.75
18115251010	04/23/2018	WELCH,M	\$118.00	\$46.53	\$36.47	\$35.00	\$0.00	\$36.47	\$35.00	\$35.00	\$55.00
18115251010	04/23/2018	WELCH,M	\$56.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18109128373	04/16/2018	WELCH,M	\$118.00	\$46.53	\$36.47	\$35.00	\$0.00	\$36.47	\$35.00	\$35.00	\$35.00
18109128373	04/16/2018	WELCH,M	\$56.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18109128373	04/16/2018	WELCH,M	\$24.00	\$8.58	\$15.42	\$0.00	\$0.00	\$15.42	\$0.00	\$0.00	\$0.00
18102195185	04/09/2018	WELCH,M	\$118.00	\$46.53	\$36.47	\$35.00	\$0.00	\$36.47	\$35.00	\$35.00	\$35.00
18102195185	04/09/2018	WELCH,M	\$56.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18101198806	04/06/2018	WELCH,M	\$118.00	\$46.53	\$36.47	\$35.00	\$0.00	\$36.47	\$35.00	\$35.00	\$35.00
18101198806	04/06/2018	WELCH,M	\$55.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18095199807	04/02/2018	WELCH,M	\$118.00	\$46.53	\$36.47	\$35.00	\$0.00	\$36.47	\$35.00	\$35.00	\$35.00
18095199807	04/02/2018	WELCH,M	\$55.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18094197194	03/30/2018	WELCH,M	\$118.00	\$46.53	\$36.47	\$35.00	\$0.00	\$36.47	\$35.00	\$35.00	\$35.00
18094197194	03/30/2018	WELCH,M	\$58.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18101109761	03/27/2018	HOGAN,B	\$222.00	\$129.46	\$42.54	\$50.00	\$0.00	\$42.54	\$50.00	\$50.00	\$50.00
18088238921	03/26/2018	WELCH,M	\$161.00	\$64.40	\$61.60	\$35.00	\$0.00	\$61.60	\$35.00	\$35.00	\$35.00
18088238921	03/26/2018	WELCH,M	\$59.00	\$23.27	\$35.73	\$0.00	\$0.00	\$35.73	\$0.00	\$0.00	\$0.00
18088238921	03/26/2018	WELCH,M	\$55.00	\$22.71	\$33.29	\$0.00	\$0.00	\$33.29	\$0.00	\$0.00	\$0.00
18079213580	03/19/2018	WALKER,J	\$224.00	\$89.60	\$134.40	\$0.00	\$0.00	\$107.52	\$0.00	\$0.00	\$26.88
18079213580	03/19/2018	WALKER,J	\$110.00	\$71.25	\$38.75	\$0.00	\$0.00	\$31.00	\$0.00	\$0.00	\$7.75
18152172641	03/19/2018	CENTENE MGMT CORP	\$83.00	\$33.42	\$14.58	\$35.00	\$0.00	\$14.58	\$35.00	\$35.00	\$35.00
18152172641	03/19/2018	CENTENE MGMT CORP	\$110.00	\$0.00	\$0.00	\$110.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18067203168	03/05/2018	WALKER,J	\$341.00	\$222.93	\$118.07	\$0.00	\$110.93	\$0.00	\$0.00	\$0.00	\$0.00
18067203168	03/05/2018	WALKER,J	\$138.00	\$70.56	\$32.44	\$35.00	\$0.00	\$32.44	\$35.00	\$35.00	\$35.00
18067203168	03/05/2018	WALKER,J	\$110.00	\$71.25	\$38.75	\$0.00	\$0.00	\$31.00	\$0.00	\$0.00	\$7.75
18099162675	03/05/2018	WALKER,J	\$21.00	\$0.00	\$21.00	\$0.00	\$0.00	\$16.80	\$0.00	\$0.00	\$4.20
18099162675	03/05/2018	WALKER,J	\$341.00	\$0.00	\$0.00	\$341.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18099162675	03/05/2018	WALKER,J	\$138.00	\$0.00	\$0.00	\$138.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18099162675	03/05/2018	WALKER,J	\$110.00	\$0.00	\$0.00	\$110.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18045241086	02/09/2018	SLIDER,C	\$341.00	\$222.93	\$118.07	\$0.00	\$118.07	\$0.00	\$0.00	\$0.00	\$0.00
18045241086	02/09/2018	SLIDER,C	\$206.00	\$100.31	\$80.69	\$25.00	\$0.00	\$80.69	\$25.00	\$25.00	\$25.00
18045241086	02/09/2018	SLIDER,C	\$21.00	\$0.00	\$21.00	\$0.00	\$21.00	\$0.00	\$0.00	\$0.00	\$21.00

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17319223743	10/04/2017	DIXON, SHERWOOD, MMD	\$334.00	\$251.47	\$82.53	\$0.00	\$0.00	\$82.53	\$0.00	\$0.00
17311253415	10/03/2017	REOWN S M MED CTR	\$354.00	\$70.80	\$283.20	\$0.00	\$0.00	\$259.61	\$0.00	\$23.59
17311253415	10/03/2017	REOWN S M MED CTR	\$248.00	\$49.60	\$198.40	\$0.00	\$0.00	\$198.40	\$0.00	\$0.00
17311253415	10/03/2017	REOWN S M MED CTR	\$290.00	\$58.00	\$232.00	\$0.00	\$0.00	\$232.00	\$0.00	\$0.00
17311253415	10/03/2017	REOWN S M MED CTR	\$290.00	\$58.00	\$232.00	\$0.00	\$0.00	\$232.00	\$0.00	\$0.00
17311253415	10/03/2017	REOWN S M MED CTR	\$248.00	\$49.60	\$198.40	\$0.00	\$0.00	\$198.40	\$0.00	\$0.00
17311253415	10/03/2017	REOWN S M MED CTR	\$290.00	\$58.00	\$232.00	\$0.00	\$0.00	\$232.00	\$0.00	\$0.00
17311253415	10/03/2017	REOWN S M MED CTR	\$124.00	\$24.80	\$99.20	\$0.00	\$0.00	\$99.20	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$435.00	\$87.00	\$348.00	\$0.00	\$0.00	\$348.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$354.00	\$0.00	\$0.00	\$354.00	\$0.00	\$0.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$248.00	\$0.00	\$0.00	\$248.00	\$0.00	\$0.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$248.00	\$0.00	\$0.00	\$248.00	\$0.00	\$0.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$124.00	\$0.00	\$0.00	\$124.00	\$0.00	\$0.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$290.00	\$0.00	\$0.00	\$290.00	\$0.00	\$0.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$290.00	\$0.00	\$0.00	\$290.00	\$0.00	\$0.00	\$0.00	\$0.00
18015022339	10/03/2017	REOWN S M MED CTR	\$435.00	\$0.00	\$0.00	\$435.00	\$0.00	\$0.00	\$0.00	\$0.00
17284473950	09/27/2017	REOWN S M MED CTR	\$124.00	\$37.20	\$86.80	\$0.00	\$0.00	\$86.80	\$0.00	\$0.00
17284473950	09/27/2017	REOWN S M MED CTR	\$145.00	\$43.50	\$101.50	\$0.00	\$0.00	\$101.50	\$0.00	\$0.00
17284473950	09/27/2017	REOWN S M MED CTR	\$332.00	\$99.60	\$232.40	\$0.00	\$0.00	\$232.40	\$0.00	\$0.00
17307213978	09/20/2017	REOWN S M MED CTR	\$354.00	\$106.20	\$247.80	\$0.00	\$0.00	\$247.80	\$0.00	\$0.00
17307213978	09/20/2017	REOWN S M MED CTR	\$124.00	\$37.20	\$86.80	\$0.00	\$0.00	\$86.80	\$0.00	\$0.00
17307213978	09/20/2017	REOWN S M MED CTR	\$145.00	\$43.50	\$101.50	\$0.00	\$0.00	\$101.50	\$0.00	\$0.00
17307213949	09/20/2017	REOWN S M MED CTR	\$308.00	\$92.40	\$215.60	\$0.00	\$0.00	\$215.60	\$0.00	\$0.00
17307213949	09/20/2017	REOWN S M MED CTR	\$306.00	\$92.40	\$215.60	\$0.00	\$0.00	\$215.60	\$0.00	\$0.00
17307213949	09/20/2017	REOWN S M MED CTR	\$193.00	\$57.90	\$135.10	\$0.00	\$0.00	\$135.10	\$0.00	\$0.00
17263314277	09/07/2017	CHAI, CHRISTOPHER, MD	\$222.00	\$67.56	\$154.44	\$0.00	\$0.00	\$154.44	\$0.00	\$0.00
17278008068	09/07/2017	MILLENNIUM LAB OF CA	\$124.00	\$0.00	\$0.00	\$124.00	\$0.00	\$0.00	\$0.00	\$0.00
17278008068	09/07/2017	MILLENNIUM LAB OF CA	\$725.93	\$0.00	\$0.00	\$725.93	\$0.00	\$0.00	\$0.00	\$0.00
17261021461	09/04/2017	REHAB W/O WALLS INC	\$4,830.00	\$724.50	\$4,105.50	\$0.00	\$0.00	\$4,105.50	\$0.00	\$725.93
17257000825	08/29/2017	REHAB W/O WALLS INC	\$4,520.00	\$693.00	\$3,827.00	\$0.00	\$0.00	\$3,827.00	\$0.00	\$0.00
17251000745	08/21/2017	REHAB W/O WALLS INC	\$4,830.00	\$724.50	\$4,105.50	\$0.00	\$0.00	\$4,105.50	\$0.00	\$0.00
17263313747	08/18/2017	PENG, YEN YI	\$1,050.00	\$732.96	\$317.04	\$0.00	\$0.00	\$317.04	\$0.00	\$0.00
17241001749	08/14/2017	REHAB W/O WALLS INC	\$4,620.00	\$693.00	\$3,927.00	\$0.00	\$0.00	\$3,927.00	\$0.00	\$0.00
17228311777	08/11/2017	PENG, YEN YI	\$374.00	\$167.33	\$206.67	\$0.00	\$0.00	\$206.67	\$0.00	\$0.00

[illegible]

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17214317820	06/13/2017	ELOVIC.E	\$160.00	\$53.49	\$106.51	\$0.00	\$0.00	\$106.51	\$0.00	\$0.00
17214317820	06/13/2017	ELOVIC.E	\$229.00	\$76.88	\$152.12	\$0.00	\$0.00	\$152.12	\$0.00	\$0.00
17214317820	06/13/2017	ELOVIC.E	\$160.00	\$53.49	\$106.51	\$0.00	\$0.00	\$106.51	\$0.00	\$0.00
17214317820	06/13/2017	ELOVIC.E	\$160.00	\$53.49	\$106.51	\$0.00	\$0.00	\$106.51	\$0.00	\$0.00
17214317820	06/13/2017	ELOVIC.E	\$435.00	\$144.61	\$290.39	\$0.00	\$0.00	\$290.39	\$0.00	\$0.00
17203359580	06/13/2017	RENOWN REHAB HOSP	\$119,750.25	\$0.00	\$0.00	\$119,750.25	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$1,109.00	\$1,109.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$1,339.25	\$1,339.25	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$96.00	\$96.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$490.00	\$490.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$184.00	\$184.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$13,200.00	\$13,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$318.00	\$318.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
17221326794	06/13/2017	RENOWN REHAB HOSP	\$13,749.00	\$13,749.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

No. CR18-1142
State of Nevada
vs.
Tyler Chase Nied
Ex. 1
Admitted: 1/16, 2018
JACQUELINE BRYANT, CLERK
By M. Conway
Deputy

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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 HONORABLE BARRY L. BRESLOW

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR18-1142

12 TYLER NIED,

Department No. 8

13 Defendant.

14 -----/

15 TRANSCRIPT OF PROCEEDINGS

Sentencing

16 January 16, 2019

17 APPEARANCES:

18 For the State:

Kevin Naughton
Deputy District Attorney
1 South Sierra Street
Reno, Nevada

19

20

For the Defendant:

Tom Viloria
Attorney at law
Reno, Nevada

21

22 For the Division of
Parole and Probation:

Steve Em

23

24 Reported by:

Isolde Zihn, CCR #87

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2 STATE'S WITNESSES: Direct Cross Redirect Recross

3 Marie Holt 54 57

4 Andria Holt 68

5 Patrick Holt 72

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7 EXHIBITS: For identification In evidence

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1 RENO, NEVADA, WEDNESDAY, JANUARY 16, 2019, 11:00 A.M.
2 THE COURT: Good morning, everyone.
3 Please be seated.
4 This is the time and place for the sentencing of
5 Mr. Tyler Chase Nied, case number CR18-1142.
6 Starting with the State, and then the Division, and
7 then defense counsel, please state your appearances.
8 MR. NAUGHTON: Good morning, Your Honor.
9 Kevin Naughton, for the State.
10 THE COURT: Hello, Mr. Naughton.
11 MR. EM: Good morning, Your Honor.
12 Steve Em, for the Division.
13 THE COURT: Good morning, Mr. Em.
14 MR. VILORIA: Good morning.
15 Tom Viloría.
16 Pleasure to be here before you, with Mr. Nied.
17 THE COURT: Thank you very much.
18 THE DEFENDANT: Good morning, Your Honor.
19 Tyler Nied.
20 THE COURT: Nice to see you.
21 You may have a seat.
22 Okay. Time and date for sentencing on what I think
23 everyone recognizes to be a very tragic situation. Because
24 before the Court stands -- or will stand shortly -- a

1 21-year-old young man who has no prior criminal history; who
2 was, as the Court understands it, one of two children, along
3 with an older brother, and raised primarily by his mother,
4 who divorced; who also, as a result of being a single mom,
5 moved about quite a bit, trying to find her way, which
6 obviously had an impact on her children: who they become,
7 who they've become.

8 The Court is aware that Mr. Nied became a student at
9 the University of Oregon, and in April of 2017 suffered some
10 type of mental health event, which resulted in illness to
11 himself, and treatment; obvious concern by his mother, who
12 flew up, apparently, to Eugene, to try to help get him
13 straightened out, which, after a modest amount of care and
14 treatment, appears to the Court to have led Mr. Nied to find
15 his balance again, to a certain level; followed, however,
16 fairly quickly, by the events in May, 2017, which bring us
17 here: the very unfortunate events of Mr. Nied driving his
18 vehicle recklessly under the influence of marijuana, if not
19 other substances -- well, I'm not aware of any -- and then
20 injuring two people; one seriously, and the other very, very
21 seriously.

22 Mr. Nied was charged with several crimes. As a
23 result of negotiations, the plea resulted in Mr. Nied, at
24 arraignment, pleading guilty to one count, serious count,

1 reckless driving resulting in death or substantial bodily
2 harm to another person, a charge which the Court accepted the
3 guilty plea; could invoke as a maximum potential sentence up
4 to six years in prison, eligible for parole not less than one
5 year. Being a Category B felony, any good-time credits, as
6 the Court understands, would come off the back end -- the six
7 years -- and not the front.

8 So if the Court, at the conclusion of this hearing,
9 felt it was fair and just to sentence Mr. Nied to adjudicate
10 him a felon, and then sentence him to the Nevada Department
11 of Corrections, any amount of time on the front end would
12 have to be served.

13 We also have questions with respect to the amount of
14 restitution due to the victim or victims here. And I'm
15 well-aware, even before I read the objection filed by the
16 defense to the amount embedded in the presentence
17 investigation report of the give-or-take \$550,000 number or
18 600,000, the Court was already wondering how that would be
19 approached at today's hearing. Because of the seriousness of
20 the injuries, the expense, the understandably considerable
21 expense of the medical care, of the relative lack of
22 documentation, the question of whether the Court should take
23 into account payments made by insurance; and, if so, if
24 that's proper under Nevada law. In other words, why should a

1 defendant in a case like this get the benefit of the mere
2 fact that the person that he or she hurt had health
3 insurance? Because if the person did not have any health
4 insurance, wouldn't they be on the hook for the entire
5 amount? Yes. So why should they get the benefit of the fact
6 that somebody saw fit to buy and pay for health insurance?
7 But we'll have that discussion in a few minutes. So we have
8 that issue, too, to talk about.

9 We also have the fact that the Court is aware that
10 the defendant has applied to, but been rejected, to Mental
11 Health Court as a possible approach to sentencing here on
12 account of, apparently, according to those that are
13 gatekeepers in the Mental Health Court, have determined,
14 based on the nature of the charges here, the defendant would
15 not be a suitable candidate.

16 The Court is also aware that the defense has
17 petitioned for diversion, which is a process well-known to
18 most of us here, where somebody in circumstances like this,
19 if the Court felt it was a fair and just response to what
20 happened, allow them the opportunity to continue their
21 sobriety, take positive steps in their life, and at some
22 point in time possibly work this off from your record, as
23 opposed to being adjudicated a felon.

24 The Court has reviewed in preparation for this

1 morning a lot of things.

2 I'm aware, for example, that the defendant is
3 currently engaged in counseling with counselor -- is it
4 Rubenstein?

5 MR. VILORIA: Yes, Your Honor.

6 THE COURT: Okay. That's ongoing, and appears to be
7 helpful.

8 The Court is aware of the year-ago substance abuse
9 evaluation that was prepared, the conclusions embedded in
10 that.

11 The Court is aware of the -- also about a year ago --
12 report done by Dr. Martha Mahaffey with respect to
13 psychological evaluation, her conclusions and
14 recommendations.

15 The Court has reviewed many letters in
16 mitigation: Mr. Nied's mother, Mr. Nied's brother, other
17 relatives, friends, employer, co-workers.

18 The Court is aware of Mr. Nied's status as a student
19 at UNR, the courses he's taking; that he's a slightly-above-B
20 student, at least in his first semester, and he's enrolled
21 for the spring semester.

22 The Court is aware that he completed -- and I don't
23 know -- the acronym, it looks like it's Boulevard -- the
24 Boulevard Program, seven months, and did well there.

1 The Court reviewed the defendant's written statement,
2 as well, about his thoughts on what happened here, and how
3 remorseful he is.

4 And then I read a very powerful statement from one of
5 the victims. And I'm not sure if that was -- because it
6 wasn't signed, so I'm hoping that person is here today, and
7 will address the Court, or at least the State can address
8 this. I don't know if that statement was from Mr. Holt or
9 from Mr. Nefga, if I'm pronouncing that right.

10 Do you know the answer to that?

11 MR. NAUGHTON: Yes, Your Honor.

12 That was provided by Mr. Holt.

13 THE COURT: Thank you.

14 I read that. The impact, the seriousness,
15 significant impact that the accident had on Mr. Holt: on his
16 life, on his enjoyment of everyday activities, ability to
17 work, provide for his family, relations with his wife. It's
18 affected, it's clear, almost every single aspect of his
19 existence.

20 I'm aware that the defendant is out on bail. I'm
21 aware that he's performed well out on bail.

22 I'm unaware that there have been any transgressions,
23 slip-ups, new charges, positive tests, anything like that.

24 I'm aware you're working over at Eclipse Pizza. I

1 know that they like you over there, and you're doing a good
2 job.

3 So in a moment I'll entertain argument from both.
4 sides, and I'll hear from the defendant, and I'll hear,
5 lastly, from the victims on how -- if they want to address
6 the Court, on how this impacted them, and what they believe a
7 fair and just sentence is, and I will make a determination on
8 a very difficult case. Because make no mistake about it.
9 This is an extremely serious set of circumstances and
10 criminal activity.

11 Having said that, equally clear to the Court is that
12 sitting over here, whether he's adjudicated a felon this
13 morning or not, is not a criminal. It's a young man who may
14 have -- or not may have -- who committed a crime, for which
15 he'll be punished.

16 But as I said during the arraignment, however this
17 shakes out, there will be some finality on the criminal
18 justice piece. However this shakes out. It's for everyone's
19 determination to whether this continues to influence who they
20 are for the next 50 or 60 years, or they're able to keep that
21 a part of their -- the fabric of their soul, but move past
22 it. Of course, that's a different analysis for a criminal
23 defendant or a victim of crime. But the Court knows the
24 difference between somebody who commits a criminal act and

1 someone who has an impure heart, who, indeed, is a criminal.

2 And that's a different evaluation on what is fair and just.

3 So, with that, let's start with argument, please,

4 from the defense. You can address anything you'd like,

5 Mr. Viloria. But at some point please address the

6 presentence investigation report. If there are any changes,

7 corrections, edits, or modifications, please bring those to

8 the Court's attention.

9 MR. VILORIA: Thank you, Your Honor.

10 Your Honor, I've spoken -- preliminarily, we're going

11 to object to the PSR or the PSI, or the PSP in its entirety

12 as it relates to the PSP factors.

13 In particular, Your Honor, if you take a look at the

14 scoring matrix that they have, dated December 12th, that

15 scoring matrix -- and I know Your Honor is familiar with it,

16 the Probation Success Probability -- PSP -- scores. And this

17 is predicated -- and there was a lengthy discussion in the

18 Supreme Court in 2016, under Blankenship. I know Your Honor

19 is familiar with that case.

20 And last evening, in reviewing the scoring matrix, if

21 that's what I can call it, looking at it, I was prepared to

22 come before Your Honor and make a Blankenship argument;

23 namely, they failed to account -- as you note, if you take a

24 look at the last page of the PSI, they failed to check the

1 box "Mental health issues," and they failed to do a downward
2 deviation.

3 Blankenship addressed that issue. The Supreme Court
4 said that the Division is required to do a downward deviation
5 based on mental health. Ironically, bipolar, the same thing
6 is suggested by Dr. Mahaffey in this case.

7 And in preparing for that Blankenship argument, Your
8 Honor, I began to look at the statutory framework, as well as
9 the administrative framework. And it was troubling.

10 Blankenship discusses what were formerly the 27
11 objective factors that were set forth in Nevada
12 Administrative Code, Section 213.590, and indicated that none
13 of these objective factors addressed mental health issues;
14 and then went on to conclude that the Court was required to
15 be advised of that by the Division in their downward
16 departure; in fact, would have altered the "Borderline"
17 recommendation to a "Probation" recommendation, just like I
18 believe here.

19 But the real problem, Your Honor, in looking -- so I
20 went to look at the objective factors, so that I could look
21 at the scoring sheet, and actually analyze the breakdown, so
22 I could put together a coherent argument this morning.

23 So if you start with the predicate statute, which is
24 NRS 213.10988, it says, "The Chief Parole and Probation

1 officer" -- that's the director -- "shall adopt" -- shall;
2 mandatory -- "adopt regulation standards to assist him or her
3 in formulating recommendations regarding the granting of
4 probation."

5 And then it goes on to read, "The standards must" --
6 must -- "be based on objective criteria for determining the
7 person's probability of success."

8 That's the PSP -- Probation Success Probability --
9 matrix that they rely upon.

10 And then it says, when the Chief adopts these
11 regulations that set forth the objective criteria for us all
12 to consider -- namely, the Division, in their
13 recommendation -- they have to do so in compliance with
14 233-B, which, as Your Honor knows, is the Administrative
15 Procedures Act.

16 So these objective criteria that they're scoring
17 defendants upon must be set forth in the Administrative Code.
18 And they have been, for years.

19 So last evening I'm trying to score this out, and I
20 go to the Administrative Codes -- namely, 213.590 and
21 213.610 -- or 600, and, lo and behold, they've been
22 withdrawn.

23 So as we sit here today -- and they were withdrawn in
24 December of last year. So as we sit here today, Your Honor,

1 the Division is not in compliance.

2 They are required by the NRS to have objective
3 criteria and factors to determine a person's success on
4 probation.

5 And it's interesting, if you look at Footnote 5 in
6 Blankenship -- and that is a 2016 opinion -- it says, "NAC
7 213.590 and its companion, NAC 213.600, are under review, and
8 may be deleted from the Administrative Code."

9 Well, they were deleted. Sometime in December, I
10 placed a call to Chief Wood, Natalie Wood, to find out the
11 exact date.

12 Now, why is this problematic? Because it is the
13 objective criteria that was previously set forth in 213 that
14 formulates the basis they apply that to their scoring sheet.

15 If I could read from a relevant section, beginning at
16 412. That's 375 Pacific 3d 412, on Blankenship.
17 "PSPs are separated into four broad categories: prior
18 criminal history, present offenses, social history, and
19 community impact. These four categories include a total of
20 35 independent considerations, which are based upon Nevada
21 Administrative Code 213.590's 27 objective factors."

22 And that's because the Division must use objective factors.

23 "Notably, none of the 35 considerations or the 27
24 factors take into account a defendant's mental disabilities.

1 The 35 considerations are independently scored in the PSP,
2 using a separate form to guide the Division when assigning
3 points: the scoring sheet."

4 We don't have a scoring sheet. What we have is their
5 point system.

6 "The points assigned to all 35 considerations are
7 then added, to arrive at an overall PSP score. Overall
8 scores below 55 result in automatic prison recommendation.
9 Scores ranging between 55 and 64 are considered borderline.
10 And scores above 64 allow for a recommendation of probation.

11 "When an overall PSP score warrants a recommendation
12 of prison, or when the Division decides to recommend prison
13 for a borderline candidate --" which is what we have here.
14 They've classified him as a borderline candidate,
15 recommending prison.

16 THE COURT: Twelve to 36.

17 MR. VILORIA: That's correct, Your Honor.

18 It says, "A raw score is computed consisting of the
19 scores for the consideration of the prior criminal history,
20 present offense categories. The raw score is then translated
21 into a sentencing range, using the sentencing scale as
22 articulated in 213.600."

23 It doesn't exist anymore.

24 So, as we know, in accord with Sasser and Stockmeier,

1 the time is now. So I move to strike the entirety of the
2 Division's -- Parole and Probation -- PSP score, and ask that
3 the Court disregard it because it's not based on objective
4 criteria. There are none in place.

5 The Division right now, virtually every sentence that
6 comes before the Court when the Court considers this now, is
7 problematic, if there's an objection. Because, for whatever
8 reason, they withdrew the provisions. Even though the state
9 law requires there be objective criteria, there are none.

10 Now, if the Court is not inclined to grant my motion
11 to strike, and does want to consider -- and, of course, the
12 cleaner thing would be for the Court to simply say, "I
13 understand the argument, and I'm disregarding that, and I'm
14 going to rule on other factors," then there's no issue
15 post-judgment.

16 However, if you look at this, just like Blankenship,
17 the "Prior criminal history" category, "Present Offense"
18 categories, they did not weight anything with his mental
19 disabilities and the suffering that this young man has gone
20 through.

21 Please. I know Mr. Holt is here. Not to minimize
22 the victim. I mean, this man, the victim, has suffered
23 tremendously, as well. I don't mean to offend him or
24 minimize that impact at all, Your Honor.

1. But if you take what should have been allocated
2 there, that's a 3. That takes his raw score from a 29, you
3 multiply -- to a 32. You multiply the raw score times 1.2,
4 it takes it from a 34.8, which the Division rounded up to a
5 35, it takes it to a 38.

6 And then, just like in Blankenship, they deducted two
7 points on his employment for mental health. You can't. That
8 was the sole issue in Blankenship. They deducted a full 6.
9 This young man has been continuously employed, save and
10 except for those periods when he's been inpatient care or
11 incarcerated. He's worked, always worked.

12 So that score, that should have been a full 6.
13 That's another two points.

14 So if you take 38 plus 28, that places him, by the --
15 if the Court wanted to contemplate it, it's a 66. It's no
16 longer a borderline-probation case. It is a probation case,
17 by their own guidelines.

18 So, number one, my motion is, Your Honor, I object to
19 the PSI's calculation of the former 213.590 and 600 factors
20 because they've been withdrawn and don't exist. So we're in
21 no man's land as we sit here today. And so that should be
22 stricken or disregarded by the Court.

23 If the Court is inclined, then the Court should make
24 the Blankenship adjustment and say, "Yes, I'm going to add --

1 I'm not going to penalize" -- just like they did in
2 Blankenship -- "and deduct points on employment, and take
3 away." And, in fact, that bump takes him into the
4 "Probation" category.

5 Having said that, Your Honor, and made the record
6 with respect to this young man --

7 THE COURT: Let's do this. Because at some point I'm
8 going to have -- hear the State's response. But I don't want
9 to hear it just yet.

10 If you would please proceed to argument, under the
11 assumption that the Court, for one reason or the other, is
12 going to proceed with sentence this morning.

13 MR. VILORIA: Perfect, Your Honor. That's where I'm
14 heading next.

15 THE COURT: Thank you.

16 MR. VILORIA: This young man, Your Honor, the Court
17 ought to know, initially, upon contacting me, his whole
18 concern was for the welfare of these people. He wanted to
19 reach out to them, apologize, talk to them.

20 I said, "You know, that's against my advice. It may
21 or may not be received well by Mr. Holt and the other victim.
22 Certainly we don't know what the status of the case will be,
23 and you don't want to be making statements that can harm you,
24 or engaging in conduct. Maybe Mr. Holt doesn't ever want to

1 look at you. And that's understandable."

2 But from day one this young man has been greatly
3 concerned about the welfare of these people, greatly
4 troubled, filled with guilt and remorse and sorrow.

5 And, you know, a measure of character is not this
6 event. It's what this young man has done to respond to it.
7 And in that regard, we're going to ask that the Court grant
8 our 458 petition.

9 And the reasons for that are set forth in -- I should
10 note that there was no formal opposition, which is the normal
11 course. Oftentimes the prosecutors don't file written
12 oppositions. But sometimes they do. There was no formal
13 opposition. Theoretically, the law is, if it's not opposed,
14 it's meritorious, and should be granted.

15 Miss Willingham indicates that he qualifies. The
16 Court knows the standard. On the use, he scored 11 out of
17 11, meeting the definition at that time of an addict
18 qualifying. Between the age of 18 and 19, he was using
19 cannabis daily.

20 I want to speak to one issue, Your Honor. The lab
21 results in this case, he was not under the influence at the
22 time of this event. I think that's an important distinction.
23 He had no active THC metabolite. So that means it processed
24 through his body, it's no longer psychoactive, meaning no

1 longer impaired him. But he had used in the day prior and
2 hours prior. 6.9 -- if my memory serves me correct --
3 nanograms per milliliter of metabolite. No active THC was
4 found, no other drugs. I mean, it's important.

5 I anticipate that the State is going to argue the
6 nature and gravity and the seriousness of the offense. It's
7 not to minimize it. But the Legislature took that into
8 account. And the Legislature delineated what types of
9 offenses are diversion-eligible.

10 Of course, Your Honor knows 200 offenses are not.
11 Sexual assault is not eligible.. Attempted murder is not
12 eligible. Robbery is not eligible.

13 The Legislature has already defined and looked at the
14 nature and quality and content and character of the offense
15 and determined: Yes, reckless driving causing bodily harm is
16 a serious offense, but is still diversion-eligible for the
17 proper candidate.

18 Mr. Nied is a proper candidate.

19 He did his intensive treatment, as the Court has
20 identified, for almost eight months.

21 He's been doing substance abuse counseling -- 25
22 sessions -- since his return, with Gary Rubenstein.

23 As the Court has noted, he is enrolled; but not only
24 that, he's doing well.

1 That 45-day residential program, I want to just
2 highlight some of the things.

3 Why is he different? Well, not only did he complete
4 the program, but, as noted, he was stellar. B-l-v-d --
5 Boulevard -- noted in their report that he was a stellar
6 client, one of the few who progressed into their alumni
7 program. So he didn't just do the program; he did it at a
8 high level.

9 The Court has seen the letters in mitigation. And I
10 think it's important for the record to articulate some of
11 those things.

12 Of course, every mother ought to speak highly of
13 their child. And Miss Stoevers does. You wouldn't expect
14 anything less. I won't address it.

15 Dave Fish, owner of Eclipse, who he works for, who
16 his older brother, Brandon, previously worked for, he
17 describes him as a solid, exemplary employee; good human
18 being.

19 Robert Hasler: Amazing character. He's responsible,
20 kind, respectful, goodhearted, and he has amazing potential.

21 Carrie and Marc Paulus: He's a good moral person.

22 Ed Himmelberg pleads, urged the Court for leniency,
23 having known the kind of character this young man has.

24 Richard Nevis: This time frame was out of character.

1 He has a better purpose in life than prison.

2 Matthew Freeman: He's a fine and responsible man.

3 Christopher Capurro: Significant in that this is
4 Ridge House, Life Recovery. That's what he does. He's met
5 multiple times, counseled, discussed. The period of time
6 that Tyler was there, resided in that residence in March,
7 2016, he says, "I can tell you, Your Honor, that he has
8 genuine remorse." Genuine. And he says he is a prime
9 candidate for diversion.

10 And not to minimize -- and I know Mr. Holt is here --
11 I would just, you know, hope that he understands my role.
12 And I sympathize and empathize, and I know that he's
13 suffered, and his family has suffered. It's not a good thing
14 for him. And I appreciate that. And so does Mr. Nied.

15 Andria Nied: It's out of character. He's got a
16 bright future. He's honest, genuine; big heart.

17 Brandon, his brother: Seen a great level of
18 determination and growth since this; that he's a benefit to
19 society. That's what his brother is saying.

20 Well, if you look at the history, Judge -- and, you
21 know, so many times the defendant comes before you after the
22 fact in an effort to kind of create or elicit or manufacture
23 or manifest mental problems that justify the conduct in the
24 case. There's no prior event, and then, all of a sudden, on

1 the commission of the crime, "Gee, I was under a mental lapse
2 that night. You know, I was under some defective mind or
3 reason. And look at now. I've been in therapy and
4 treatment."

5 I understand that. But that's not what you have
6 here.

7 This young man's troubles began in Christmas of 2016.
8 He graduated from Reno High, 2016. He goes up to Oregon.
9 Christmastime he is starting to exhibit emotional
10 difficulties and erratic and bizarre behavior. It's called
11 to his mom's attention.

12 By April, Your Honor, he hits his head on a slag
13 line --

14 THE COURT: -- and falls off, hits his head on a
15 tree, or on the ground.

16 MR. VILORIA: And, secondly, on a headboard. I don't
17 know the magnitude of that.

18 But that, coupled with his use -- and those are
19 decisions he made to use. He understands that. He had a
20 marijuana card, so he did it right. He had a license to use
21 marijuana because of his ongoing issues that he's had his
22 entire adult life of insomnia. He was using that in an
23 effort to try to sleep. That's why he had the card.

24 And as many young college kids do, he had three

1 occasions in that spring of 2017 where he experimented with
2 LSD.

3 Dr. Mahaffey -- and I know Your Honor read the
4 report -- talks about it's very difficult to discern with
5 complete accuracy whether this was a drug-induced psychotic
6 state, or whether it was an induced bipolar state as a
7 result.

8 THE COURT: She said she couldn't determine that.

9 MR. VILORIA: That's right. That's right.

10 But the manifestations of his sickness and his mental
11 difficulties were there as early as December, and then came
12 to light in April.

13 He was found April 22nd. This guy is mentally ill.
14 His roommates called Oregon Police Department. They admitted
15 him to Sacred Heart on April 22nd. The diagnosis at that
16 time was altered mental state. He was walking in and out of
17 vehicle traffic, in the roadways, in Eugene, wandering
18 throughout, had been wandering for several days in Eugene.
19 Abandoned some of his personal belongings and shoes at the
20 river. Wasn't going to school. Was walking around Eugene,
21 hearing voices, thinking that -- in fact, one of the records
22 notes that he thought he was actually in Reno. And he's in
23 Eugene, Oregon.

24 He was confused. At that time, he had no

1 recollection of what he had been doing for days. That's
2 April 22nd.

3 He then was admitted again to Sacred Heart on the
4 23rd, exhibiting bizarre behavior. He was trying to get in a
5 car so he could sleep, and he was laying next to cars.

6 This young man, who has done well in high school,
7 admitted to Oregon, and now wandering about a campus,
8 exhibiting bizarre behaviors. Unable to answer questions at
9 Sacred Heart. They said, again, this young man, some sort of
10 altered mental state. He got out.

11 The 24th of April he was re-admitted to Sacred Heart,
12 in Springfield this time; not in Eugene, but in Springfield.
13 They noted that his mental health waxed and waned throughout;
14 he was confused, distraught, and withdrawn.

15 By the way, all of these records were provided to
16 Rene Biondo, who is the case manager for Mental Health. I
17 can't imagine a more appropriate candidate for Mental Health.
18 I wasn't aware there's a statutory prohibition. To my
19 knowledge, there isn't for this offense. But for whatever
20 reason, they declined him. If there's ever a calling-out for
21 mental health, this is it.

22 May 12th, '17. He's two days there. He travels
23 back.

24 And what happens, Your Honor, the days prior -- I've

1 got to go through my notes -- four days before -- so what
2 happens is, his mom goes to Oregon, withdraws him. The game
3 plan is, he's supposed to be in Utah, with his father.

4 His mother described him as he didn't even recognize
5 her and know who she was, upon first contact.

6 That's how out-of-it this young man was. Whether it
7 was a combination of hitting his head, psychotropic drug use,
8 combined with marijuana, who knows? As Dr. Mahaffey -- I
9 mean, I've got to defer to her report, her expertise.

10 We do know, though, that this is not manipulated or
11 calculated solely for purposes of sentencing. It's
12 pre-existing.

13 On the 9th, four days prior to this tragic event, he
14 took a train from Utah to Reno. As articulated, he was
15 hearing things there. He felt that he wasn't wanted there.
16 He actually thought that he saw his stepmother blowing --
17 using, smoking. Felt that he was an outsider, and that he
18 needed to leave.

19 On the 10th, he began to hear the same voices that he
20 had seen -- heard before.

21 On the 11th, based upon some of the comments that
22 occurred in the dorm room here, he felt that he wasn't wanted
23 here, as well. He was paranoid, delusional. So he thought
24 he'll head back to Utah. So, on the 11th, he drove back to

1 Utah.

2 He saw a UPS man, confronted the UPS man, believing
3 that the UPS man, who was walking in Utah, was there to
4 deliver him his personal belongings that he had abandoned in
5 Utah -- or, excuse me -- in Oregon. That's how deranged he
6 was.

7 On the 12th, he became extremely paranoid there. He
8 was hearing voices. Left for Reno, for good. He drove
9 around Reno, didn't sleep for days.

10 On the 13th, this tragic event transpires. He hadn't
11 slept in days.

12 Interestingly, in retrospect, he had to keep moving.
13 I think the Court knows, when you read it, he felt that he
14 had to keep going, he couldn't stop, he had to move, or he
15 was dead. This was his thoughts.

16 He thought that he had to drive fast. He was low on
17 gasoline, and believed that he needed to drive extremely
18 fast, because the faster he drove, the more gas would come
19 back into his tank. That's the thought process.

20 Heard voices at this time so loud that as if a
21 speaker had been turned on and amplified.

22 No doubt suffering from a drug-induced psychosis
23 and/or bipolar, with psychotic affect, as Dr. Mahaffey
24 indicates.

1 Now, why is this significant?

2 The Division is recommending prison. And in all due
3 respect to the officer in the court -- I know it's not his
4 work -- in my opinion, it has to be one of the most
5 unenlightened reports I've seen in a long time. It fails,
6 under Blankenship, to take anything into account and deviate
7 down, as they're required to.

8 Look, it's a tragic event. And the only thing that
9 Mr. Nied can do is to continue to educate himself, advance
10 himself socially, economically, financially, and do the best
11 he can to make it right for Mr. Holt, pay Mr. Holt every dime
12 he's entitled to.

13 I disagree. I know many of the courts say they don't
14 believe wages is a compensable item on victim restitution.
15 I've told the prosecutor I disagree.

16 Martinez doesn't preclude it. Rowe doesn't preclude
17 it. Major doesn't preclude it. Norwood doesn't preclude it.
18 It says you're entitled to be compensated for your injuries.

19 Well, so, too, does the parallel world. In a PI
20 case, injuries includes special, general damages.

21 Mr. Holt should be made whole for his wages and lost
22 wages. That's the right thing. Mr. Nied wants to do that.
23 That's the right thing to do. This man suffered and couldn't
24 work because of this event. He understands that. He

1 understands that the only way he can atone and make it right
2 and be fully accountable is to continue on the path he's
3 been, be better, and make it right to Mr. Holt to the extent
4 that he can.

5 Now, there's some things he can never make right. We
6 understand that and acknowledge that. Some things, Mr. Holt,
7 that we will never understand or experience because we don't
8 stand in his shoes. All we can do is say, "Hey, look, he's
9 going to do his best to pay you every dime over the course of
10 his life that he can, to make you whole for the damage he
11 caused." That's all the law allows.

12 So when we look at the justifications in our system
13 for sentencing, the Court knows that we have specific
14 deterrence. Obviously, if Mr. Nied is incarcerated, he can't
15 commit crime.

16 The notion that there's a general deterrent effect
17 makes no sense. And, in fact, there's no empirical data.
18 When defendants commit crimes, they don't first
19 think, "Ah, gee. If I go burglarize that house, I'm looking
20 at some prison. If I go commit a robbery, I'm looking at two
21 to 15 years." That's not the process. In fact, the modern
22 studies are, there is no general deterrent effect.

23 So then we have pure punitive: an eye for an eye,
24 pound of flesh. He needs to go to prison to be punished.

1 Well, this young man has demonstrated throughout all this
2 material, punishes himself daily, suffers tremendous guilt,
3 is remorseful.

4 And from day one that was his concern. "How is
5 Mr. Holt? How is the other victim doing?"

6 Same thing from his mom. That's all I would hear
7 from them.

8 "I don't know. I don't have any medical records yet.
9 I haven't heard anything." That was my response to them. "I
10 haven't got the med records. I don't know. As soon as I
11 hear something, I'll let you know."

12 Never any concern about their own welfare. Never any
13 concern. It's always about Mr. Holt and the other victim.

14 Finally, the last prong of why the penal system
15 sentences is rehabilitation. Rehabilitation is one of the
16 four core values of our criminal justice system and what we
17 do. People ought to be given the opportunity of
18 rehabilitation.

19 Over the past 19 months -- it's been a long time --
20 but I can't recall a client that's worked harder, longer,
21 more dedicated, to making amends and making it right, than
22 Mr. Nied.

23 This young man is deserving of diversion.

24 Without any disrespect to Mr. Holt, is society better

1 off when you take this young man and make him a felon? I
2 would implore this Court, no. Because now we know one thing.
3 He's relegated to low-earning jobs, unless he becomes his own
4 business owner. And that's the only way. You put the
5 "felony" label, it's difficult to be gainfully employed.
6 Nobody wants to hire you. Nobody wants to touch you. You
7 have the scarlet "F." What benefit is it to our community?
8 Plus, the likelihood of him ever being able to make
9 meaningful contributions towards the restitution to make Mr.
10 Holt and the other victim whole is greatly diminished.
11 He's doing well. He's back on track. Nineteen
12 months, not a single issue. That's not someone that we need
13 to incarcerate.
14 The prison system is an epic fail. We know that.
15 Highest per-capita prison sentence in the world. Over 2.4
16 million inmates in America, in prisons, failing epically.
17 This is not a young man who belongs in prison. He's a young
18 man who belongs in diversion.
19 And if this Court -- and you could rightfully say
20 it -- if this Court said, "You know, he does need to have
21 pure retribution, eye for an eye, pound for pound, flesh for
22 flesh, punishment," the Court has the authority to mete that,
23 and still not make this young man a felon.
24 Your Honor could say, "You know what I'm going to do?

1 I'm going to place Mr. Nied in the Regimental Discipline
2 Program, 190-day Boot Camp."

3 Pursuant to 176A.770, Your Honor has the authority.
4 We don't believe it's needed. But you could.

5 I asked Mr. Nied yesterday, "Do you want me to make
6 that sort of an alternative position?"

7 "Yes. Anything, anything and everything I can, I
8 would do it to avoid having that felony, and to making things
9 right for Mr. Holt." That's his response. "I'm prepared,
10 Tom, for whatever the judge does."

11 Speaks highly. A lot of young men would say, "No. I
12 won't even consider that.

13 I don't much have more to add, Your Honor.

14 THE COURT: Let me ask you this: Is there a
15 restitution number the defense is suggesting or would
16 stipulate to in the event the State --

17 MR. VILORIA: Well, I sort of disagree with --
18 apparently, most of the judges and some of the prosecutors
19 believe that lost wages should not be included.

20 I told Mr. Naughton, "I believe it ought to be."

21 THE COURT: Well, give the Court --

22 MR. VILORIA: We don't know, Your Honor. I was just
23 provided, about 45 minutes ago, with an update. It appears
24 to be a printout from his civil lawyers, Bradley, Drendel.

1 It's just a printout of the ledgers. There's no underlying
2 bills.

3 And I don't know what the -- the out-of-pocket
4 expense, according to this document that they gave me, if I
5 understand it correctly -- and, again, no disrespect to
6 Mr. Holt. And, of course, he can explain it, if I'm
7 misreading it. He says that his out-of-pocket expense is
8 30,152.62. 30,152.62. And it does not address any lost
9 wages.

10 But I've set forth the reasons why in my brief this
11 morning as to why this Court ought not award the
12 half-a-million-plus.

13 And I think the precedent is there in Major, because
14 they allow the District Court to depart and allocate and take
15 into account collateral payments made in that case.

16 It seems fundamentally wrong that, if insurance has
17 paid for it, that Mr. Nied ought to again pay for that. I
18 agree to make the victim whole out-of-pocket, whatever that
19 number is. I'm assuming Mr. Holt will tell us what his lost
20 wages were, and if that number I just quoted -- the
21 30,152.62 -- is the other out-of-pocket.

22 Whatever his lost wages were, in that amount we have
23 no problem. Absolutely none. And Mr. Nied wants to pay that
24 back. Understands that. That's not only a legal obligation,

1 as he discussed with me. He gets it. It's a moral
2 obligation. He understands.

3 He really is a fine man, Your Honor, and a pleasure
4 to represent.

5 So, having said that, whatever Mr. Holt tells us on
6 those numbers, then I can advise the Court as to the amount.
7 We just don't know.

8 And there's still no wage loss. I understand the
9 State's position is, because it's generally discounted or not
10 approved by the courts, they don't procure it. I disagree.
11 I think it ought to be in the calculus. I'm not aware of any
12 statutory prohibition or case law that says it can't be.

13 Thank you, Judge.

14 THE COURT: Thank you very much.

15 Just a minute, Mr. Naughton.

16 Mr. Nied, if you would please stand up for a moment.
17 Now is your opportunity to address the Court, tell me
18 anything you'd like considered before sentence is pronounced,
19 after which I'll hear from the State.

20 THE DEFENDANT: I'd like to speak directly to
21 Mr. Holt, if that is possible.

22 I'm so sorry. I think about that event every day. I
23 try to think where I could have changed something, anything,
24 so that wouldn't happen. I will do everything in my power to

1 make it right. I'm terribly sorry.

2 MR. HOLT: Thank you.

3 THE DEFENDANT: Thank you.

4 THE COURT: All right. Thank you very much.

5 Mr. Naughton, please proceed with the State's
6 argument.

7 MR. NAUGHTON: Yes, Your Honor.

8 THE COURT: Also, if you would, make sure you address
9 the restitution.

10 MR. NAUGHTON: Yes, Your Honor.

11 First I'd like to address the Blankenship argument
12 that's been raised today.

13 THE COURT: Go right ahead.

14 MR. NAUGHTON: In looking at the Blankenship case,
15 that case dealt with an individual who was unemployable as a
16 result of his mental health history.

17 The Court in that case held that the Division had
18 effectively negatively counted his mental health disability
19 against him in determining his success likelihood on
20 probation. That's not the situation that we have here today.

21 When you look at the scoring sheet that's attached to
22 the PSI by the Division of Parole and Probation, in the
23 bottom half of that scoring sheet, under "Employment/
24 Program," he scores 4, for "Continuous/housewife/mental

1 health." So he's getting credit for the fact that he has
2 been fully employed when he is capable. And he's also
3 alternatively getting credit for the fact there's a mental
4 health issue here which may impact his ability to be
5 employed. He is getting the full points to which he's
6 entitled as a result of that.

7 Under "Employability," the defendant scores 2 for
8 "Readily/not needed/mental health."

9 Again, the Division is recognizing that he is readily
10 employable and/or he has a mental health issue which may
11 impact his employability. He is getting the credit which
12 Mr. Blankenship did not get. And, therefore, that argument,
13 I think, is -- it should be disregarded. It's absolutely
14 different from the situation that appeared in
15 Mr. Blankenship's scoring situation.

16 Regarding the objective criteria, here they are, Your
17 Honor, in black-and-white. They're not in the Nevada
18 Administrative Code. They were repealed. The Supreme Court
19 recognized that they may be repealed in that Blankenship
20 case. However, they're set out here, with the scores
21 indicated by the Division when they calculated his likelihood
22 to be successful on parole -- excuse me -- on probation.

23 THE COURT: On probation.

24 MR. NAUGHTON: And they are set forth so that

1 everybody can take a look at them.

2 If Mr. Vilorio had questions about the scorings of
3 those items, it is not uncommon that we see folks subpoena
4 those and request those so they can actually look at the
5 individual matrix for each one of those questions and have
6 those available. However, the objective criteria themselves
7 are set forth, and the Division did rely on objective
8 criteria here in coming up with their recommendation.

9 So I would ask that the Court not strike the scoring
10 sheets, not strike the recommendation from the Division,
11 recognize that there were objective criteria used in this
12 case, and go forward with the presentence investigation
13 report as otherwise written.

14 THE COURT: Okay.

15 MR. NAUGHTON: Regarding the restitution figure in
16 this case, Your Honor, the State believes that, based upon
17 the information provided in the presentence investigation
18 report, that the proper amount of restitution in this case is
19 \$463,825.59.

20 And that comes from the medical bill summary that is
21 referenced under "Victim number 2," totaling \$459,147.26.

22 And then the additional note that there was a vehicle
23 physical damage payout of \$4,678.33.

24 Your Honor --

1 THE COURT: What about the legal issue that the
2 defense appears to be making to the Court that, if the
3 bucket -- the largest bucket of this amount is being paid for
4 by medical insurance, then why should the defendant have to
5 suffer the consequences of paying for something that the
6 victim didn't -- he or she herself -- have to come
7 out-of-pocket on?

8 MR. NAUGHTON: And I think Your Honor touched on this
9 earlier.

10 Martinez versus State talks about that the defendant
11 effectively cannot benefit, does not reap the benefit of the
12 fact that the victim was insured and was able to mitigate
13 their loss.

14 In Martinez, the Court specifically held, "A
15 defendant's obligation to pay restitution to the victim may
16 not, of course, be reduced because a victim is reimbursed by
17 insurance proceeds."

18 Any loss attributable to the criminal conduct is
19 recompensable as restitution. The fact that the victim in
20 this case, Mr. Holt, had health insurance to cover those
21 items, that's great Mr. Holt was not out-of-pocket for those
22 expenses. But those were still expenses accrued on his
23 behalf as a result of the criminal act in this case.

24 And Martinez and all of the other statutes and case

1 law in this state say that those amounts are recompensable as
2 restitution.

3 In the Martinez case, in particular, the Court
4 vacated the portion of the judgment that ordered that the
5 restitution be paid to Humana Insurance Company, but held
6 that the amount was not inappropriate if ordered to be paid
7 to the victim.

8 So the Court considered whether or not the Court
9 should offset the restitution by the amount that had been put
10 forth by the insurance company, and decided that the amount
11 was not incorrect; that the payee was incorrect.

12 So, in this case, Your Honor, based upon the total
13 amount that has been paid on behalf of Mr. Holt, the State
14 believes that that is appropriate. The Court directly
15 considered that in Martinez. And would ask that the Court
16 impose that full amount of the restitution.

17 THE COURT: Thank you.

18 What's a fair and just sentence, then, under the
19 circumstances?

20 MR. NAUGHTON: Thank you, Your Honor.

21 The State is recommending 12 to 36 months in prison
22 for this defendant.

23 That's in line with what the Division recommends.
24 That's also what the victims -- it's my understanding -- are

1 going to be asking for when they have an opportunity to
2 address this Court.

3 I want to touch upon some of the things that have
4 been brought up today and, in particular, the petition for
5 diversion in this case.

6 It's the State's position that this defendant is not
7 an addict as he stands before this court today. This was not
8 a substance-abuse-related crime, in as much as he's not
9 charged with DUI.

10 Mr. Vilorio is absolutely correct. The defendant had
11 THC metabolite in his system on the date of this offense.
12 6.4 nanograms, I absolutely agree with Mr. Vilorio that that
13 was not an active psycho -- or it was not an active drug
14 impacting the defendant's ability to perceive and react.

15 THE COURT: It's evidence of prior, fairly-recent
16 use.

17 MR. NAUGHTON: That's correct, Your Honor.

18 And I would also note that, pursuant to -- I believe
19 it's Dr. Mahaffey's report -- it was entirely out of his
20 system by the time he underwent a screening at Carson-Tahoe
21 Behavioral Health on May 21st. And so all those substances'
22 metabolite actives, what have you, were out of his system
23 within days.

24 Per the defendant's own report, he had stopped

1 smoking marijuana. He had last smoked marijuana in the days
2 or hours leading up to the crash in this case. And he has
3 had almost two years of sobriety leading up to today's date.

4 He has already gone through a 45-day inpatient
5 program, and he has undergone ongoing outpatient treatment,
6 as well.

7 His intake evaluation at -- I'm going to call it the
8 Boulevard Treatment Center, for the sake of going forward
9 today -- his intake evaluation there recommended intensive
10 outpatient for three to five days, for a minimum of 20 weeks.
11 That was done -- that evaluation was done in August of 2017.
12 More than -- we're coming up on a year and a half since that
13 happened, 20 weeks. That's all they recommended.

14 Per Dr. Mahaffey's report, at page 11, "Due to his
15 success in achieving sobriety, he" -- referring to the
16 defendant in this case -- "does not feel that he is mentally
17 or physically dependent on drugs. He will complete his
18 current treatment program at Boulevard in November or
19 December of 2017." We know that he actually completed that
20 in March of 2018.

21 So, at the time a year ago, more than a year ago,
22 that he was meeting with Dr. Mahaffey, he did not believe
23 that he had an addiction issue going forward because he had
24 successfully maintained his sobriety.

1 On page 15, Dr. Mahaffey's conversation with the
2 defendant's treatment provider at The Boulevard, Miss Brooks.
3 "Miss Brooks described that, in the presence of clean drug
4 testing, Miss Brooks does not feel that Tyler has a primary
5 psychiatric disorder or substance-related disorder."

6 So, again, a year ago, in the absence of ongoing
7 dirty tests or positive tests, his own treatment provider at
8 The Boulevard did not feel that he had an ongoing
9 substance-use disorder.

10 Dr. Mahaffey's ultimate recommendation, written more
11 than a year ago, was for six more months of follow-up
12 counseling, at a lower level of care.

13 That was written in December of 2017. We know he's
14 continued to engage in treatment since that time.

15 The State does not believe that this defendant is
16 currently an addict, and would not benefit from the type of
17 supervision that the Court's diversion program provides.

18 The statute reflects individuals who would benefit,
19 who are rehabilitatable. It's the State's position this
20 defendant is already rehabilitated to the extent he had a
21 substance abuse disorder, and, therefore, does not qualify,
22 would not benefit from that program, going forward.

23 THE COURT: Let me hit the pause button. I want to
24 play devil's advocate for a minute.

1 The defendant is in a bit of catch-22 because,
2 according to the argument of defense counsel and the records
3 that are before the Court, Mr. Nied has done everything in
4 his power to change his ways, get help that he needs, and try
5 to make some level of amends, and take steps to prevent
6 something like this from ever happening again.

7 So, on the one hand, those are all positive changes.
8 Positive for him, positive for this community. Hopefully,
9 the victim believes those are steps in the right direction.

10 But now they, according to the State, should be used
11 as consideration or informative to the Court why diversion
12 really isn't an option, because there's nothing to divert.
13 There's nothing -- there's no level of treatment oversight or
14 structure that the people downstairs can provide that he, Mr.
15 Nied, doesn't already have or has had access to.

16 So rather than, if he hadn't taken these positive
17 steps, and he came here, and he still hadn't started the
18 process of getting on top of the issues that he clearly had
19 at the time of this event, he would be able to take advantage
20 of the diversion.

21 So how is the defense supposed to handle it if the
22 State is going to say, "Look, you're well enough, so that
23 shouldn't even be an option"?

24 MR. NAUGHTON: Not make the application, Your Honor.

1 If you don't qualify, you don't qualify. You can't make that
2 application.

3 It's my understanding that the defense position is
4 that, because he has that evaluation from -- I believe it's
5 Nieda Willingham in this case -- that he does qualify, and
6 that the application is appropriate.

7 It's the State's position that that recommendation is
8 over a year old, and it is no longer applicable, based upon
9 the work that he has done.

10 THE COURT: So the State says, "The best the defense
11 can argue for under such circumstances is a suspended
12 sentence -- is a prison sentence, but run it suspended, place
13 the defendant on probation. That's the best the defense can
14 argue for, under these circumstances."

15 MR. NAUGHTON: Your Honor, under the circumstances,
16 he has a qualifying evaluation. And so I don't think that
17 the defense is incapable of making that argument.

18 THE COURT: You're saying that the Court should not
19 exercise its discretion to go along with it.

20 MR. NAUGHTON: That's correct.

21 THE COURT: All right. Thank you.

22 MR. NAUGHTON: Your Honor, Mr. Vilorio talked about
23 the scale of offenses, and how we should look at those. And
24 we talked about diversion, and that there are some offenses

1 which are not eligible for diversion, and there's others that
2 are.

3 I think, when you look at the scale of offenses, I
4 think that's an absolutely appropriate way to look at any
5 type of case; this case in particular.

6 This is on the serious end of offenses which are
7 diversion-eligible. And as we know, not everybody who is
8 diversion-eligible gets diversion as a result of the
9 circumstances of their case, or for any other reason.

10 We have folks who get diversion for possessing less
11 than a gram of methamphetamine, and folks are eligible for
12 diversion all the way up to cases like this. And this is one
13 of the serious offenses that I think deserves a closer look
14 than the folks who are here for much less serious offenses.

15 I think it also -- the scale of offenses also applies
16 to the range of sentences that the Legislature has set forth
17 for each individual crime. In this case, it's
18 diversion-eligible, it's probation-eligible, and it can be
19 punished by a maximum of six years in prison.

20 THE COURT: Quite a range there.

21 MR. NAUGHTON: Absolutely, Your Honor.

22 And I think, when you look at reckless driving
23 resulting in death or substantial bodily harm, automatically,
24 if you're thinking about the maximum end, you start thinking

1 about a death case. Obviously, somebody who, the victim is
2 not here, they have been removed from their family and
3 everything else, and that cries out for the maximum sentence.
4 That's not what we're dealing with here today. That's why
5 the State is not requesting a maximum sentence. But it's
6 also the reason that the State is not -- opposing diversion
7 and not recommending probation in this case.

8 Substantial bodily harm covers an entire range of
9 injuries in this state. It's pain lasting longer than the
10 moment of impact. Substantial bodily harm can be as serious
11 as the injuries that Mr. Holt suffered in this case. It can
12 be something like a broken bone in a foot. It can be a
13 broken collar bone.

14 The State would submit that the injuries that
15 Mr. Holt suffered in this case, the ongoing impact that this
16 has had on him and his family, warrants more consideration, a
17 greater penalty within that range of reckless driving
18 resulting in substantial bodily harm, than a lesser type of
19 injury would cover.

20 And the State believes that prison is an appropriate
21 sanction for the type of injury that was inflicted on
22 Mr. Holt in this case.

23 At several points in the presentence investigation
24 report, I believe, in his written statement, the defendant

1 stated that the events of that night were like a dream. And
2 in his statement that was reported by the Division, he
3 reported that it felt like a video game; that none of this
4 felt real to him.

5 I think diversion would only reinforce that idea for
6 this defendant in this case that this was not real, that the
7 consequences are not real. "Go, continue to do what you've
8 been doing, and you will have a restitution amount hanging
9 over your head, but there's not going to be any additional
10 punishment going forward." I just don't think that's an
11 appropriate outcome in this case.

12 In listening to and reading the mitigation letters
13 provided by the defense, it struck me that this defendant,
14 like many defendants that we have coming into the system, has
15 used this as an opportunity to really change his life, and
16 change his life for the better.

17 You hear the report of his brother, of his family
18 members, of his employers, that he's on an upward track, he's
19 taking it seriously, that he has gotten himself on the right
20 track, and he intends to continue that way in the future.

21 And I have to think about the parallel track that
22 Mr. Holt has been on. This has been a forced change for
23 Mr. Holt.

24 The defendant, in his written statement in the PSI,

1 wrote that, "This whole event never should have taken place."
2 If he hadn't made some of the decisions that he had made that
3 night, we would not be here today.

4 The only thing that Mr. Holt did that night was get
5 behind the wheel of his minivan. That's the only poor
6 decision he made, was to be in the same location as this
7 defendant on a night when he was undergoing the mental health
8 issues that he was, running from the police, driving --
9 according to his own report, I believe, according to Dr.
10 Mahaffey -- at over 100 miles an hour because he felt the
11 compulsion to do so.

12 Those are the choices that he made. And he has used
13 this event to examine himself and put himself on a better
14 track.

15 However, Mr. Holt has been on a completely separate
16 track. When you read his written statement, you see and you
17 can feel the impact that this had --

18 THE COURT: Kind of like a dream for him, too, but,
19 unfortunately, it's been like a nightmare, like an
20 out-of-body-experience-type dream.

21 MR. NAUGHTON: Absolutely, Your Honor.

22 The reality for him is, every day he has to wake up
23 with this. With paralysis and weakness on the right side of
24 his body; unable to work to the same extent that he was able

1 to do so before; deal with the bills and the insurance
2 companies; deal with his house possibly being foreclosed upon
3 at one point in time. These are everyday challenges that
4 this defendant -- excuse me -- that Mr. Holt faces as a
5 result of this defendant's actions.

6 If Mr. Holt hadn't come into contact with the
7 defendant that night, none of this would have happened.

8 And those choices were the defendant's fault, and not
9 Mr. Holt's. But he's the one having to deal with the
10 consequences of this.

11 When the defendant's vehicle struck Mr. Holt's, a
12 bomb went off, and the fallout is still happening to
13 Mr. Holt.

14 The defendant talks about wanting to take
15 responsibility, to be able to work, to improve himself. He
16 can do all of those things after a prison term in this case.
17 There's nothing precluding him from doing that.

18 If he does well on parole, if he completes a prison
19 term and the parole obligation that would follow that, after
20 a certain period of time he can petition to have the records
21 sealed, and he wouldn't have that scarlet "F" attached to his
22 name going forward. He would be able to put this behind him
23 and continue to move forward.

24 The State believes that punishment works when choices

1 are taken away from an individual. The defendant -- excuse
2 me -- Mr. Vilorio talks about the defendant punishing himself
3 every day, thinking about this. That's self-imposed. He
4 still gets to decide where he wants to go every day, what he
5 wants to do, what majors he wants to major in. He considers
6 whether he wants to move to L.A. to start a rap group with
7 two of his friends.

8 Mr. Holt doesn't have those options. Mr. Holt is
9 left dealing with the fallout of this on a much more tangible
10 basis every single day, on a physical basis that he feels
11 every single day.

12 I think true punishment takes those options that the
13 defendant has out of his hands for a certain period of time,
14 makes him take responsibility, limit the things he is able to
15 do in his life going forward for at least a period of time,
16 and allow him an opportunity to continue to fix and repair
17 himself while he's in custody, and then while he's on parole
18 afterwards.

19 Your Honor, I don't think that I can speak to the
20 effect this has had on Mr. Holt any more eloquently than he
21 did in his victim-impact letter, as I am sure he and his
22 family members are going to do here this morning. So at this
23 point I would turn it over to them.

24 I know that his mother, Marie Holt, is the person who

1 has calculated the restitution figures in this case. I would
2 request to call her first.

3 Mr. Holt's wife, Andria, is here, as well, and would
4 like to speak.

5 And then Mr. Holt I would request to speak last.

6 Pursuant to the NRS on sentencing cases, victims are
7 folks who are directly impacted by the crime and their
8 immediate family members. And then, after Marsy's Law passed
9 last year, our Constitution has been amended to recognize
10 those folks are victims, as well as anybody who has been
11 proximately harmed.

12 I would submit to this Court that it couldn't be any
13 more apparent that Mr. Holt's wife and mother have been
14 proximately harmed by this event, and they are the proper
15 persons to give victim-impact statements.

16 THE COURT: Hold that thought.

17 I see Mr. Viloría wants to address the Court.

18 MR. VILORIA: Your Honor, I would concur with the
19 last remarks of counsel: that they are included victims. I
20 have no problem with them speaking. That's their right to do
21 so.

22 If I may, just because they get to go last, two
23 issues.

24 Martínez is a reimbursement case, Your Honor. It's

1 distinguishable.

2 And Major allows this Court -- it's implied there the
3 authority to offset on the insurance paying.

4 Martinez dealt with reimbursement. This is not a
5 case of reimbursement, getting reimbursed from an insurance
6 company, and a payee, being the insurance company,
7 reimbursing Mr. Holt. That's already been paid by the
8 insurance directly.

9 And then, lastly, 458 doesn't require -- I mean,
10 that's -- I appreciate the argument of counsel, and that he's
11 got a task to do, just like I do. But to argue before the
12 Court you have got to be an addict at the time of sentencing
13 in order to qualify for 458, that's not what the statutory
14 framework requires. That's nonsensical. So, in that case,
15 every defendant ought to continue to use and come before Your
16 Honor --

17 THE COURT: You heard my question.

18 MR. VILORIA: Yes.

19 THE COURT: I said, you know, it's a catch-22, if
20 that's the way --

21 MR. VILORIA: I just want the Court to know that's
22 not the standard, that's not what the statute requires.

23 Thank you, Judge.

24 THE COURT: So you can address your response to those

1 two comments now, Mr. Naughton, or you can wait until after
2 the Court hears from the victims. Which would you rather do?

3 MR. NAUGHTON: If I can address those now, and then
4 let the victims have the final word.

5 THE COURT: Of course.

6 MR. NAUGHTON: As to the restitution argument, Your
7 Honor, I disagree with Mr. Viloria's reading of Martinez.

8 It is a reimbursement case in the sense that it's
9 reimbursement for the expenses that were incurred on behalf
10 of the victim in that case. It dealt with unpaid medical
11 bills that were debts owed by the victim in that case. So
12 these were amounts that were paid by the insurance companies
13 on behalf of the victim.

14 I think that's what we're dealing with here in this
15 case, as well. The amounts reflected in the PSI are amounts
16 that the insurance company has paid on behalf of Mr. Holt to
17 receive the medical treatment and rehabilitative care he has
18 received at that time.

19 THE COURT: Got it.

20 MR. NAUGHTON: As far as Major goes, it was an offset
21 case inasmuch as it was a competing District Court order by a
22 Family Court judge as to child support. And so the holding
23 in Major was that where there was another judicially-imposed
24 obligation that can be offset in the calculation of the

1 restitution. And the Court viewed what Judge Steinheimer did
2 in that case by doing that offset favorably.

3 Here there's no other judgment in place by a Family
4 Court judge or any other judge. This is the only payment
5 that we're discussing here today. And so I think Major is
6 the initial one in that sense.

7 As to the addict portion of it, Your Honor, I think
8 458 is clear on its face. The diversion portion of it is to
9 treat addicts. You are an addict on an ongoing basis;
10 however, at a certain point, folks can change that and put it
11 behind them. I think it's very clear that the language of
12 the diversion program contemplates folks who may need
13 supervision and support. And this defendant doesn't need
14 that.

15 I don't think they're precluded from making that
16 argument. I don't think he's precluded from being in that
17 program. It's the State's position he does not need that
18 program on an ongoing basis, and, effectively, the
19 supervision that program offers would be wasted on this
20 defendant, based upon the work that he's already done.

21 THE COURT: Thank you.

22 Please call Marie Holt.

23 MR. NAUGHTON: Thank you, Your Honor.

24 (Witness sworn.)

1 THE COURT: Good afternoon, ma'am.

2 THE WITNESS: Good afternoon, Your Honor.

3 THE COURT: Please make yourself comfortable, slide
4 in.

5 THE WITNESS: Thank you.

6 THE COURT: Feel free to adjust the microphone, speak
7 into that.

8 First things first. If you would please state your
9 name.

10 THE WITNESS: My name is Marie Holt.

11 THE COURT: Thank you very much.
12 Please proceed, Mr. Naughton.

13 MR. NAUGHTON: Thank you, Your Honor.

14 MARIE HOLT,
15 called as a witness on behalf of the State,
16 first having been duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. NAUGHTON:

20 Q. Miss Holt, can you describe your relationship to
21 Patrick Holt?

22 A. I am Patrick's mother.

23 Q. It's my understanding you've been involved in dealing
24 with the insurance payments regarding this event. Is that

1 accurate?

2 A. That's correct.

3 Q. And are you the individual who provided the
4 information to the Division when they requested restitution
5 information?

6 A. Yes, I am.

7 Q. Can you describe for us where the amounts that you've
8 provided to the Division came from.

9 A. Yes.

10 As mentioned by the defendant's legal counsel, he was
11 concerned that all of the medical billing was not attached.
12 And the reason why I felt it was not necessary is because I
13 actually reached out to the health insurance provider and
14 asked them to provide me with a statement of all of their
15 expenses that began since the date of the accident.
16 Unfortunately, they did not provide me with an Excel
17 document, but only with a PDF.

18 So I went through the statement which they provided,
19 which is attached, and pulled out those dollar amounts that
20 were actually out-of-pocket expenses, either through the
21 deductible or that were co-payments.

22 And then I also asked the attorney that we had sought
23 to provide me with a listing of the expenses and the
24 compilations that they had put together from the insurance

1 companies and such. And so I tried to integrate those two
2 values into that statement -- or that spreadsheet.

3 MR. NAUGHTON: Your Honor, may I approach?

4 THE COURT: You may.

5 BY MR. NAUGHTON:

6 Q. Miss Holt, I'm handing you the presentence
7 investigation report. This was attached to the back of the
8 victim-impact statement.

9 Are you familiar with that page?

10 A. Actually, I did not see this page, so I do not know.
11 where that came from. But I know that I provided all of the
12 information to Andrew Rico of Parole and Probation, and so he
13 may have been able to pull that information from that data.

14 Q. Are you familiar with the amounts reflected on that
15 page?

16 A. Yes, I am.

17 Q. And can you describe what those amounts generally
18 refer to?

19 A. They were related to when Patrick was first placed
20 into the hospital, and the ongoing rehabilitation care that
21 he received as a result of the injuries that he sustained.

22 Q. Are those amounts reflective of payments made to
23 hospitals, doctors, rehabilitation providers?

24 A. Yes, they are.

1 Q. Thank you.

2 MR. NAUGHTON: Your Honor, I have no further
3 questions at this time.

4 THE COURT: Thank you.

5 Mr. Vilorio, do you have any questions for Ms. Holt?

6 MR. VILORIA: Just briefly.

7 CROSS-EXAMINATION

8 BY MR. VILORIA:

9 Q. Ma'am, I'm sorry. I'm just trying to do the best I
10 can to discern --

11 MR. VILORIA: May I approach, Your Honor?

12 THE COURT: You may.

13 BY MR. VILORIA:

14 Q. Miss Holt, I was provided about 45 minutes before the
15 sentencing this spreadsheet. Is that the one you prepared?

16 A. Yes. The only thing that's missing is, I did
17 highlight some of the totals, which allowed me to come up
18 with that total amount. Unfortunately, when it was copied,
19 that highlighting did not transfer over. But there's no
20 difference in the numbers itself.

21 Q. Okay. I'm just going to take some quick notes.

22 Okay. So is this, then -- is this a summary that you
23 got or obtained from the health-care provider in terms of the
24 amount billed, the amount allowed, the amount paid, the

1 out-of-pocket, the deductible, and then this breaks --

2 A. -- came from that. Yes. What I did, if you look at
3 the attached pages --

4 Q. Yes.

5 A. -- I totaled up each of the line items, because they
6 did not provide totals.

7 And then, if you look at the spreadsheet itself, it
8 shows you page number 1. And if you go to the attached
9 document, page number 1, those totals are the result of what
10 the amounts are shown on page 1.

11 Q. Okay. And this other document that the State showed
12 you --

13 A. Yes.

14 Q. -- that's just -- you've never seen the document, and
15 you're not quite sure what it is?

16 A. No, I know what it is. I've never seen the document.

17 So, there were a number of providers that Patrick was
18 treated by. And so these are a compilation, if you will, of
19 those expenses that were actually incurred by each of those
20 facilities.

21 Q. When I look at that -- I do a little plaintiffs' work
22 myself, injury work.

23 A. Uh-huh.

24 Q. So, to me, this looks like our medical bill treatment

1 summary that we would prepare in the course of a civil case.
2 A. Right.
3 Q. Which is the total amounts billed; correct?
4 A. Correct.
5 Q. And that number was 459,147.26, as I understand it,
6 but may not have included the second hospitalization that
7 occurred later as a result of the depression; correct?
8 A. Right. Attempted suicide.
9 Q. Yes. Okay. So if we can go through your
10 spreadsheet --
11 A. And, actually, if I may just back up a little to your
12 statement.
13 Q. Sure.
14 A. I believe these are the total amounts that the
15 providers actually received, rather than what they billed.
16 So these are the amounts paid by the provider. Okay. A
17 little bit different.
18 Q. Right. That's because all of us, our insurance
19 companies, they all have agreements or contracts.
20 A. Yes.
21 Q. And if you're billed a hundred thousand dollars --
22 A. Right.
23 Q. -- the insurance only pays 40.
24 A. Correct.

1 Q. And that bill is satisfied in its entirety.
2 A. Yes.
3 Q. So if I'm reading -- you have your chart that you
4 prepared. I think it's probably a good thing that at some
5 point we will mark it and admit it for the record. Okay?
6 A. Okay.
7 Q. But while you have it, I just want to understand it.
8 So the lower totals that are identified as "UMR
9 claims report," that's hospitalization directly attributable
10 to this accident; correct?
11 A. Actually, if you look at the second -- so, there's
12 two sections on the --
13 Q. Yes.
14 A. -- on the spreadsheet.
15 Q. Yes. And I'm referring to the second section.
16 A. Yes, that's the result of the accident.
17 Q. Okay. So what I have is a total billed amount of
18 277,503.43. Am I reading --
19 A. Right.
20 Q. So Mr. Holt was billed 277,503.43. He got a
21 discount --
22 A. Right.
23 Q. -- because of his plan provider, participant
24 discount, of 51,494. And then, as these insurance companies

1 do, not only do they not pay dollar for dollar, they say,
2 "We're not going to allow certain forms of treatment."
3 A. Correct.
4 Q. So then they disallowed almost -- well, 90,555.83.
5 So those are billing write-downs; correct?
6 A. Actually, I think that the write-down is the
7 135,717.
8 Q. Yes. I misspoke. Yes.
9 A. Okay.
10 Q. So they wrote down 135,717.85, saying that Renown --
11 your bill is -- you're billed for an MRI at 10 grand. "No.
12 We only pay 2,400." Whatever that is, that's exempt.
13 A. They have negotiated rates on file with the Insurance
14 Commissioner, and they pay based on that.
15 Q. Yeah, I know. I understand it.
16 So the allowed bills, then, were 90,555.83.
17 A. Yes.
18 Q. And the deductible was 900; correct?
19 A. Per year?
20 Q. I don't know. You have it there as 900.
21 A. Let me look over here.
22 Q. And 650 of that, it looks like it's attributable to
23 the second one.
24 A. Correct.

1 Q. So the deductible arising out of the accident is 250?
2 A. Yes.
3 Q. And then you have amount paid was 50,076.29, against
4 the amount allowed, was 51,000, leaving a co-pay
5 responsibility of \$425, plus Mr. Holt's portion of 2,521.80;
6 is that right?
7 A. Yes.
8 Q. So his out-of-pocket expense for the treatment
9 related to the accident was \$425 co-pay, and then the balance
10 due of 2,521.80.
11 A. Yes.
12 Q. Okay. He was hospitalized about a year and a half
13 later; right? September?
14 A. Actually, a year, almost, to the day.
15 Q. Was it on the date? Okay.
16 A. Uh-huh.
17 Q. And that was depression resulting from this, and then
18 Mr. Holt tried to take his life, tragically.
19 A. He was struggling that first year. It was very
20 difficult for him.
21 Q. Okay. And same analysis here. The amount billed was
22 56,517.50. The discount was 7,926. The allowed billed
23 amount was 39,232.57. Not payable was 9,649.67. His
24 deductible for this second hospitalization a year later was

1 \$650.

2 A. Correct.

3 Q. And paid was 37,166.50. That's the amount the
4 insurance paid. The only allowed bills was 39. So his
5 non-reimbursed portion was the 650 deductible and the
6 2,206.07; correct?

7 A. Yes.

8 Q. Assuming the Court -- and I don't know that the Court
9 will -- there's a whole separate analysis and issue as to
10 whether the secondary hospitalization applies or not. I
11 don't know. I don't think there's a Nevada case that speaks
12 to that. We're kind of in no man's land, if you will.

13 A. Uh-huh.

14 Q. But, as I read this, totally, then, from the
15 accident-related treatment, and the secondary depression and
16 tragic attempt at his life, the out-of-pocket is 4,727.87, in
17 an amount he still owes, or owed, and then his co-pay is 425.
18 Am I reading that right?

19 A. Correct. Yes.

20 Q. So you would add 4,787.27, plus 425. Okay. And then
21 you're also adding back in the civil PI lawyer fees of a
22 third, and then asking for total out-of-pocket of 30,152.

23 A. That's correct.

24 Q. So 24,999.75, for the lawyer fees.

1 A. Yes.

2 Q. And as I understand it, there was 50,000 recovered
3 from Mr. Nied's insurance.

4 A. That's correct.

5 Q. And then 25 on the UIM portion.

6 A. Yes. Under-insured motorist.

7 MR. VILORIA: Your Honor, could we --

8 THE COURT: Any objection, Mr. Naughton, to marking
9 and moving into evidence what we'll call Exhibit 1?

10 MR. NAUGHTON: No, Your Honor.

11 THE COURT: All right. Then it will be so marked and
12 admitted.

13 (Exhibit 1 was marked for
14 identification and admitted into
15 evidence.)

16 MR. VILORIA: It looks exactly the same.

17 No objection, Your Honor.

18 THE COURT: Please approach the clerk.

19 MR. VILORIA: Ma'am, that's all I have. And thank
20 you.

21 And I'm sorry for your pain and your suffering.

22 THE WITNESS: Thank you.

23 If I may make an additional comment?

24 THE COURT: Well, let Mr. Naughton ask a question.

1 THE WITNESS: Okay.

2 THE COURT: If there's anything in response to what
3 you just heard.

4 MR. NAUGHTON: No, Your Honor.

5 THE COURT: All right. Since, Mrs. Holt, the
6 Court -- you're classified as a victim, being a parent of
7 somebody injured, so you can tell the Court how this crime
8 affected you, if that's what you wanted to address.

9 THE WITNESS: Well, I wanted to speak to the fact
10 that there was discussion with regard to the lost wages.

11 And the reason why that was not noted is because
12 Patrick's employer was very supportive, and continued to pay
13 him wages during the incident and while he was unable to
14 work. So that's why that was not noted there.

15 I would also ask for consideration for the ongoing
16 medical treatment that is necessary for those out-of-network
17 providers that he has to see.

18 He is dealing with a number of neurological issues at
19 this time, and we're trying to help him be able to deal with
20 that so that he functions in a more normal state.

21 THE COURT: Okay. Thank you, ma'am.

22 THE WITNESS: Okay. And then to address the fact of
23 what has happened.

24 First of all, I want to say how grateful I am for

1 Tyler's apology.

2 I can't imagine what you're feeling, and my heart
3 goes out to you, too.

4 The thing I have a problem with, Tyler, is that you
5 left the scene of the accident. I don't know why you did
6 that. My son could have died.

7 But, again, I've made mistakes in my life, and I'm so
8 thankful that I've learned from them. And it's almost as if
9 there is a silver lining in this cloud. And I'm thankful to
10 see you're getting your life together. And that's my desire
11 for you.

12 But I also want you to understand, Tyler, we all have
13 to face consequences for our actions. And know that I'm
14 going to pray for you.

15 You know, it's been difficult for my son, for my
16 daughter-in-law, and his three children. They ended up
17 losing their home that they were living in. There's been a
18 lot of financial setback.

19 But through it all, you know, Patrick maintains a
20 very positive attitude. He has days when he's not. But we
21 all try to deal with that, and encourage him to remember,
22 "Hey, you're still alive."

23 Even though, when we were at the hospital, the trauma
24 surgeon gave us an indication that there was no hope for him.

1 And that was while he was still in the coma. And that was
2 not going to be accepted. So we worked through this together
3 as a family. And with the help of the support through the
4 State, through the police, through the Victims of Crime,
5 we've been able to overcome, step by step.

6 And I'm not going to speak to what Patrick is going
7 through, because he is going to speak to that. But he still
8 has issues that he's trying to deal with. And I know we're
9 going to make it.

10 So I thank you for today, and allowing this matter to
11 be heard.

12 THE COURT: Thank you, ma'am. You may step down.

13 (Witness excused.)

14 THE COURT: All right. Mr. Naughton, we're going to
15 be taking a comfort-break recess here in a little while, but
16 let's please let the Court hear from Patrick's wife,
17 apparently Andria Holt.

18 MR. NAUGHTON: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (Witness sworn.)

21 THE COURT: Good afternoon, Mrs. Holt.

22 THE WITNESS: Good afternoon.

23 THE COURT: You heard what I stated to your
24 mother-in-law. Please make yourself comfortable, speak into

1 the microphone, and state your name.

2 THE WITNESS: My name is Andria Holt.

3 THE COURT: Mr. Naughton, please proceed.

4 MR. NAUGHTON: Thank you.

5 ANDRIA HOLT,

6 called as a witness on behalf of the State,

7 first having been duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. NAUGHTON:

11 Q. Mrs. Holt, could I also have you please spell your

12 name.

13 A. A-n-d-r-i-a. Last name is H-o-l-t.

14 Q. Thank you.

15 Can you please describe your relationship to Patrick

16 Holt.

17 A. I am Patrick's wife. We will celebrate almost 20

18 years together in July, coming up.

19 Q. Can you please describe to the Court how this crime

20 has affected you and your family.

21 A. I'm not really sure where to start with that.

22 This has been ever-life-changing for us.

23 I've lost my best friend. He is still here with me,

24 but he is very different.

1 You'll see when you speak with Patrick in a few
2 minutes he has a severe brain injury, so his speech is very
3 slurred, on top of the neurological problems he has, and the
4 numbness and tingling. He's very different.

5 We still love each other very much. We were -- the
6 conversation that Marie just had, when we were getting told
7 of the future problems that he was going to have, at one
8 point we were told I was going to have to teach him his
9 alphabet, how to read and write and speak again. And I
10 refused to accept that at the time. There was never any
11 preparation to us as a family, really, as to what it was
12 really going to be like.

13 Patrick came home knowing that I was his wife because
14 he had pictures in his room. But he did not know our
15 feelings for each other.

16 I'm sorry.

17 Let me just take a breath.

18 THE COURT: Take your time.

19 THE WITNESS: Patrick still has a hard time with
20 emotion. With that brain injury in the frontal lobe where it
21 is, he can't make connections with people. He doesn't
22 feel -- the only emotion he can feel right off the bat was
23 anger. Like, he had a conversation, and then he had anger.
24 That was literally the only thing that his mind and his body

1 would allow him to feel.

2 He still to this day cannot shed a tear. His body
3 won't allow him to.

4 I don't mean to get personal, but we still can't be
5 intimate with each other. Nothing works psychologically or
6 physically. The connection of love is not there because he
7 can't feel those emotions.

8 He did look at his children very blankly for a very
9 long time, not knowing who they were, and myself. We're
10 working really hard to overcome that.

11 We're, at this point, unable to get the proper
12 counseling that we need because they don't take our
13 insurance, or we can't find providers that are taking new
14 people. So Patrick still is unable to get proper care for
15 things that he needs.

16 We were told a couple months ago that we may actually
17 have to go to California to get some things taken care of.

18 Our oldest daughter will be 18. She had to spend
19 about a week in West Hills because it was too much for her.

20 On Mother's Day of last year, which was the one-year
21 anniversary of the accident, it was too much for Patrick, and
22 he attempted to take his life.

23 He then spent about another month, maybe close to a
24 month and a half, in another institution, trying to get some

1 more help.

2 We lost our home in July. We are now staying with
3 Pat's mom, so we can get stronger and learn to be a family
4 again.

5 I would like to address Tyler for just a minute.

6 I want to thank you for your apology.

7 I'm so sorry that we are sitting here today.

8 Accidents happen every day. My heart hurts for your mother,
9 because I can't imagine how I would feel if it was my
10 children, as well.

11 But I want you to know that I'm not angry. I forgive
12 you. I hope that you get the help that you need.

13 I'm sorry.

14 This could have turned out much -- I've never been
15 angry. I've been hurt, very hurt. But I can look at you and
16 tell you I forgive you. Not a lot of people could do that.
17 I just hope that you get the help that you need.

18 I understand the mental. I grew up with that kind of
19 thing. And I understand addiction. I've celebrated 10 years
20 clean. So you're in the right direction. But you still --
21 we can never take this away. It's going to be in our lives
22 forever; ourselves, and you included.

23 I can't speak out loud what I would like to see
24 happen today, because I'm just not there mentally.

1 I'm excited for some closure.
2 I'm sorry. I'm shaking so bad.
3 I just -- I don't understand if you -- why, if you're
4 in that mental state, why you got behind the wheel that
5 night. But we can't take that back, and we can't -- there's
6 no understanding for that. I just hope that you get the help
7 that you need.
8 And I thank you for the opportunity to speak today.
9 THE COURT: Thank you, Mrs. Holt.
10 THE WITNESS: Thank you.
11 THE COURT: You can step down.
12 (Witness excused.)
13 THE COURT: All right. The Court will hear from
14 Patrick Holt now, please.
15 (Witness sworn.)
16 THE COURT: Good afternoon, sir.
17 THE WITNESS: I just want to say, Tyler, thank you
18 for your apology. I hope you get the help you need.
19 I'm sorry this even -- why I'm up here, you know.
20 But I want to say my life these last 19 months has been
21 extremely hard, you know. I have -- I see double. And I am
22 totally numb on the right side of my body. That's the least
23 of my problems, you know.
24 But I just wanted to let you know. I'm sorry.

1 That's all I have.

2 PATRICK HOLT,

3 called as a witness on behalf of the State,

4 first having been duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. NAUGHTON:

8 Q. Do you have any opinion on what you believe a fair

9 sentence would be in this case?

10 A. It's hard to say right now. I believe the

11 one-to-three is a fair sentence. I'm sorry, but, yeah, this

12 shouldn't be gone un -- un -- I have a hard time thinking of

13 the words, you know.

14 THE COURT: You want to say "unpunished."

15 THE WITNESS: Yeah.

16 THE COURT: At least that's the Court's

17 understanding.

18 THE WITNESS: Yeah.

19 THE COURT: All right, Mr. Holt. Thank you very

20 much.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 THE COURT: All right. Here's what we're going to

24 do. We're going to take a recess. The Court is going to

1 give this matter further thought.

2 I'd like to take Exhibit 1 with me, so I can review
3 that, as well.

4 I'll come out at approximately 1:00 o'clock, in about
5 20 minutes. And Mr. Nied will be -- the decision of the
6 Court will be rendered.

7 We'll be in recess until 1:00 o'clock.

8 (Recess.)

9 THE COURT: Thank you.

10 Please be seated.

11 I forgot something.

12 Please stay seated.

13 (Judge Breslow left the bench,
14 and then returned.)

15 THE COURT: All right. We're back on the record.

16 The record should reflect the presence of counsel,
17 the Division, and the defendant.

18 First, a few preliminary comments, and then the Court
19 will pronounce its decision here.

20 As I stated when I first took the bench this morning,
21 the events here are tragic. Everyone agrees that, if we
22 could go back in time and rewind, well, things would be a lot
23 different. But that's not the world we live in, and,
24 unfortunately, we have to deal with the facts as they are.

1 Addressing the Holt family first of all, both the
2 victim himself, Mr. Holt, his wife, and his mother.

3 As to Patrick Holt, no one should have this happen to
4 them. It's physically painful. It's emotionally
5 distressing. And I'm very sorry that it affected you in such
6 profound ways that you wanted to hurt yourself. So I hope,
7 whatever comes of this, that you have a level of closure
8 today such that, on this continuing difficult journey that
9 clearly you have embarked on -- or you were placed on, that
10 you find some way to find enjoyment in life, and try to
11 continue to follow the light.

12 I'll say this, as well. It shouldn't happen to
13 anybody. But if it's going to happen to you, I want those
14 two ladies in my corner if anything like this ever happens.
15 Because it's absolutely remarkable the courage and the
16 strength and the perseverance that they have found in
17 themselves to help you and their family and themselves as
18 they all collectively battle this challenge.

19 So as to Andria and Maria, thank you for doing what
20 you're doing to help your family.

21 Also, thank you for your comments about your
22 forgiveness of this young man here for what he did.

23 But just remember to take care of yourselves, too,
24 because you can't help Patrick and you can't help Patrick and

1 Andria's children unless you yourself are healthy and strong.

2 So don't neglect yourselves just to help others.

3 As to the defendant, he truly has done just about
4 everything right these past 19 months. He has stayed clean
5 and sober, from all accounts. He has received counseling
6 from mental health professionals. He has addressed the
7 issues that apparently caused him to seek to -- I'm not sure
8 if "self-medicate" is the right word, but use substances to
9 mask, perhaps, some of the pain, challenges, realities of
10 young adulthood at a very impressionable time in his life.

11 Now, in former times, mental health issues were not
12 spoken of, and they were deemed to be not as serious or
13 significant or important, as physical, as objective, as
14 obvious infirmity or illness.

15 But those days are over. When somebody has mental
16 health challenges, they need to get help. They didn't ask
17 for them; they don't want them; they wish they didn't have
18 the same type of thoughts and types of concerns and inability
19 to sleep or process information or deal with life's
20 inevitable stressors. But masking that and neglecting that
21 leads to bad things, which is, in the Court's estimation, a
22 lot of what went on here.

23 But, by the same token, Mr. Nied, by all accounts,
24 you are well-ahead of the game. You're doing all the right

1 things. The people that know you and care about you, they
2 see the greatness and the potential for further greatness.
3 And that's not lost on the Court at all.

4 So what I have here is, I have to balance.

5 On the one hand, I have a very, very serious crime.
6 The Legislature has stated somebody can get up to six years
7 in prison, Category B.

8 On the other hand, the Legislative branch has
9 similarly said that, even with a crime this serious, proven
10 or admitted to, diversion is at least an option for the
11 Court.

12 And then we have the in-between, which is a suspended
13 sentence, a prison sentence less than the maximum, or some
14 combination.

15 So, balancing all the factors -- the seriousness of
16 the crime, the effect on the victim, the goals of the
17 criminal justice system -- which truly are, protect the
18 community, number one, and always. Number two, let's
19 rehabilitate people that commit crimes. Number three,
20 compensate the victim. Four, punish the defendant. Five,
21 deter. Deter this type of conduct, specific and general.
22 "Specific" means as to that person. Don't do this again.
23 "General," the Court tends to agree with Mr. Vilorio. The
24 idea is that general deterrence means, if the word gets out

1 that Judge So-and-So sentenced Defendant So-and-So to this or
2 that, well, if you're inclined to criminal activity, you
3 might think twice. So the sentence, in theory, affects the
4 general population, or the potential bucket of wrongdoers.

5 But the studies suggest otherwise. The studies
6 suggest that it's the very rare, exceptional case that
7 somebody who is inclined to criminal activity stops to think
8 for a minute about what the legal consequences of this act at
9 this time in this jurisdiction would be. The studies don't
10 show that.

11 They show they act on impulse, they act on all kinds
12 of factors and criteria, virtually none of which is because
13 they've heard what the potential consequences might be here
14 versus somewhere else.

15 But the other goals are valid: specific deterrence,
16 rehabilitation, protect the community, punishment.

17 So here's what the Court is going to do.

18 The Court is not opting for diversion.

19 While I am not suggesting the Court is not sincerely
20 and deeply impressed with the positive steps that Mr. Nied
21 has made, the seriousness of the crime, the events of that
22 day and other factors convince the Court that that's not the
23 right approach.

24 Nor, however, is a prison sentence appropriate, in

1 the Court's estimation.

2 Mr. Nied, you're not going to prison today.

3 And I say that with full understanding and respect of
4 the fact that the State of Nevada District Attorney's Office
5 argues for prison. Not the maximum, but essentially the
6 minimum term of prison, three years, eligible for parole
7 after a year. The Division recommended that. And the victim
8 himself indicated that he would find that fair.

9 I'm not in any way attempting to diminish the effect
10 that those three recommendations have had on the Court. I
11 think they're justified, they're heartfelt. I could impose
12 that sentence here and believe that justice had been served.
13 But I want to serve it just a little differently.

14 So, Mr. Nied -- well, let me ask you this first.
15 Mr. Vilorio, is there any legal cause why your client should
16 not be sentenced?

17 MR. VILORIA: I know of none, Your Honor. Other than
18 the Court may want to create a record with respect to the 213
19 issue and the Blankenship issue.

20 THE COURT: Okay. Thank you.

21 With respect to Blankenship, the Court has reviewed
22 the Division's probation eligibility matrix, and has
23 considered it, notwithstanding the concerns and objections of
24 the defense. However, because I am placing the defendant on

1 probation, the defense can decide whether it wants to create
2 a legal challenge as a result of that.

3 I don't see the infirmity -- I understand the
4 argument. I don't see the infirmity based on the other
5 objective criteria embedded in the matrix that the Court has
6 reviewed and believes are fact-based.

7 I can tell you in some cases I review them and give
8 them a high level of impact on the Court's ultimate
9 determination; some, a lower level. In this case, I have
10 reviewed it, and I'm pivoting from the ultimate conclusion of
11 the Division, or at least recommendation. So that's my
12 decision. I've relied on it, but the ultimate determination
13 of the Court was not to follow it.

14 MR. VILORIA: Your Honor, I think, as long as the
15 Court expresses -- as the judge did in Blankenship -- that
16 its sentencing was not predicated on the matrix or the PSP,
17 that it was the other factors in the case, there's no issue
18 on a review.

19 THE COURT: Well, I don't want to say something
20 merely because for somebody reviewing on appeal it will make
21 it easier.

22 MR. VILORIA: I understand.

23 THE COURT: I'm going to say it the way -- I'm going
24 to call it the way I see it.

1 And the way I see it is, I've reviewed it, I've
2 considered it, and I'm pivoting from the ultimate
3 recommendation. Now, whether somebody wants to say that that
4 means I considered it impermissibly, that's up to them. If
5 somebody else thinks that it's no harm, no foul, that's up to
6 them. I don't know what is going to happen. Because I don't
7 want to set the tempo in this case for future cases. I still
8 have to give that further thought.

9 But what I am going to say is, I've reviewed it. I'm
10 not prepared to say I'm not relying on it. But I am prepared
11 to say I'm not following the ultimate recommendation.

12 So, other than that, is there any objection to me
13 sentencing Mr. Nied at this time?

14 MR. VILORIA: I know of no other legal grounds, Your
15 Honor.

16 THE COURT: Thank you very much.

17 Mr. Nied, you're sentenced to five years in prison,
18 eligible for parole after two. So 24 to 60 months. That
19 sentence is suspended. You're placed on probation for a
20 fixed period of time -- not a variable period of time; a
21 fixed period of time -- of five years.

22 Now, there are several important special conditions
23 of your probation. Listen carefully, because this applies to
24 you.

1 Number one: You are to serve 30 days in the Washoe
2 County Jail. Not today. You can defer this -- not can --
3 I'm deferring this to a report date in the Washoe County Jail
4 of July 1st. You are to be released on July 30th. I want
5 you to report no later than 11:00 a.m. on July 1st.

6 The Court's thinking there is, number one: I don't
7 want to interfere with his current university semester.

8 Number two: Confining you during the summer when
9 it's glorious here is, in part, to remind you of the
10 seriousness of the crime here, and also to remind you as well
11 that whatever you do while on probation, or whatever you do
12 once this case is over, you do not want to go back to that
13 place ever, and you do not want to go back to -- go to the --
14 any prison in Nevada.

15 So 30 days Washoe County Jail. Report no later than
16 11:00 a.m. on July 1st.

17 Second special condition of your probation: No
18 drugs, no alcohol, no marijuana, unless prescribed by a
19 licensed professional.

20 Number three: Warrantless search and seizure. Which
21 means, Mr. Nied, that during the five years of your
22 probation, day or night, without a warrant, the Division of
23 Parole and Probation, your supervising officer or any agent
24 of the Division, can knock on your door, wherever you're

1 living -- dorm, an apartment, a house, an RV, a motor home,
2 it doesn't matter -- and you have to let them in without a
3 warrant. They can search your home, your car, areas under
4 your control for any evidence that you're violating the terms
5 of your probation.

6 So, by all means, let them in, and, by all means,
7 make sure you're in compliance with the terms of your
8 probation.

9 Next special condition of your probation: At all
10 times during your probation you're either working, looking
11 for work, going to school, or getting trained. In other
12 words, you can't have any hanging-out downtime. That doesn't
13 mean, you know, you can't be between jobs, looking for a new
14 job. You're not in violation of the terms of your probation
15 if that happens. But if you take three months off, don't do
16 anything, well, then bad things can happen. You get idle
17 time, and, you know, you might turn to something that you
18 know you shouldn't be. So you have to be doing something
19 productive with your life during the five years of your
20 probation.

21 Number six -- and, by the way, because if you
22 stumble, if you stumble on the terms of your probation -- I
23 don't mean a minor toast-up; I mean you fall down, and you
24 come back to me -- then the State or the Division will ask

1 the Court to revoke your probation and send you to prison for
2 five years. So you want to comply as best you can
3 completely with the terms of your probation.

4 In you have a small stumble, though, I'm giving the
5 Division the authority, without having to come back to court,
6 to order you to house arrest, home confinement, for up to 90
7 days.

8 So if you, again, have a minor noncompliance issue
9 that doesn't rise to the level where anyone is asking you to
10 come back here to be revoked, the Division officer, without
11 asking me for an order, can require you to have house arrest
12 for up to 90 days. But you're not even going to get there
13 because you're going to be in compliance.

14 Next: If they do a house visit or a work visit or a
15 car visit, they can check your cell phone or computer during
16 these five years for any evidence that you're not in
17 compliance with the terms of your probation.

18 So, again, don't think that, if you're texting
19 somebody to buy drugs, for example, that they won't know
20 about it, because they will. But that's not going to apply
21 to you.

22 And then, finally, I want you to continue with your
23 mental health counseling until your supervising officer and
24 Mr. Rubenstein -- Rubenstein?

1 MR. VILORIA: Yes, Your Honor. Rubenstein.

2 THE COURT: -- Rubenstein believe that you've reached
3 the point where you're no longer benefitting from that or any
4 other level of mental health counseling.

5 You know, I don't know if that means that, come March
6 31st of this year, if they'll say, "He's good to go. I mean,
7 he's as good as he is going to be, and the rest of this is
8 just now not really needed."

9 If it comes to that, well, you're good. You're good
10 for your life. You're good for complying with the terms of
11 your probation.

12 On the other hand, if, in collaboration with your
13 supervising officer and your attending therapist, they
14 believe that, "You know what? Once a month from now until
15 infinity, and then beyond," that you keep going until at
16 least your probation ends; and then, after that, it's up to
17 you, you decide whether that's something that you want to do.

18 Now, you have -- as I understand it, Officer, five
19 days credit for time served?

20 MR. EM: Yes, Your Honor.

21 THE COURT: All right. Thank you.

22 So you get five days credit for time served. But,
23 you know, like with the rest of this, at 555 or 105, it's a
24 big "So what?" as long as you're in compliance with the terms

1 of your probation, because that five days only matters if
2 you're incarcerated in the Nevada Department of Corrections.
3 Then you'll do not two to five years, you will do two minus
4 five days to six years minus five days, and you're already
5 having a bad day if we get to that point in time. Do you
6 understand that?

7 Restitution. Now, this is the amount that the Court
8 is going to order, as part of your judgment, to be reimbursed
9 to the defendant -- excuse me -- to the victim, Mr. Patrick
10 Holt.

11 When it comes to restitution, it's not mathematical
12 certainty that's required. I don't have to have every
13 receipt, every bill, every piece of evidence that exists,
14 tending to reflect how much something costs.

15 On the other hand, I can't rely on highly unreliable
16 or unpalpable evidence. It has to be pretty clear that it's
17 accurate, and it is what it purports to show.

18 There are a lot of ways to approach that. But taking
19 into account the information embedded in the PSI -- the
20 presentence investigation report -- plus the testimony of
21 Patrick's mother, Maria Holt, plus the summary spreadsheet or
22 the summary that's embedded in the PSI, plus Exhibit 1, it
23 appears to the Court -- and I will order as restitution --
24 \$463,825.59.

1 It's an enormous number. It's for purposes of
2 whether some, most or all of it ever gets paid, that's an
3 unknown to the Court. But I certainly recognize it's a large
4 number, and larger than the defense argued for.

5 What I can say -- and, Mr. Nied, we don't put people
6 in jail or prison for not having money. We don't put them in
7 prison for not being able to pay restitution that they don't
8 have.

9 But as I've already ordered as part of your terms of
10 your probation, you're working or going to school or training
11 for a vocation, so, you know, good-faith effort is what we're
12 looking for here. Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: I think I've checked the boxes on what I
15 wanted to say. But if I've missed something or if I'm
16 unclear, let me hear first from Mr. Naughton, on behalf of
17 the State.

18 MR. NAUGHTON: Your Honor, I didn't hear that the
19 Court imposed the administrative assessments in this case.

20 THE COURT: Thank you.

21 So we have a few fines and fees I want to impose.

22 A \$25 mandatory administrative assessment, \$3
23 mandatory genetic-marker fee, \$150 DNA fee. Fine of \$1,000.
24 I'll impose that.

1 MR. NAUGHTON: Your Honor, I believe the statute in
2 this case, the minimum is a \$2,000 fine.

3 THE COURT: It's two? I thought it was one.
4 So I'm imposing the statutory minimum, then, of
5 \$2,000 fine.

6 What else, Mr. Naughton?

7 MR. NAUGHTON: Your Honor, the defendant's blood was
8 tested in this case, so we'd request the \$60 for the chemical
9 or drug --

10 THE COURT: It was tested?

11 MR. NAUGHTON: It was, Your Honor.

12 THE COURT: Sixty-dollar chemical or drug-analysis
13 fee.

14 MR. NAUGHTON: Nothing further from the State, Your
15 Honor.

16 THE COURT: Thank you.
17 How about from the Division?

18 MR. EM: No, Your Honor.

19 THE COURT: Thank you.
20 Anything else from the defense?

21 MR. VILORIA: Your Honor, I just don't understand the
22 Court's calculation.

23 As I understand it on the restitution, the total
24 amount that was actually billed is 277,503.43. That's what

1 was billed in actuality, and paid for by the carrier.

2 So I don't understand how the Court arrives at its
3 400-plus-thousand number. But I'll take that issue on
4 appeal.

5 THE COURT: Okay. All right.

6 Anything else from the defense?

7 MR. VILORIA: No.

8 THE COURT: All right. I want to wish everyone good
9 luck going forward. I hope people can do their best to move
10 past this and have a level of closure.

11 We'll be in recess.

12 (Recess.)

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1 STATE OF NEVADA)

2 COUNTY OF WASHOE)

3

4 I, ISOLDE ZIHN, a Certified Shorthand Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, do hereby certify:

7 That I was present in Department 8 of the
8 above-entitled court on Wednesday, January 16, 2019, at the
9 hour of 11:00 a.m. of said day, and took verbatim stenotype
10 notes of the proceedings had upon the matter of THE STATE OF
11 NEVADA, Plaintiff, versus TYLER NIED, Defendant, Case No.
12 CR18-1142, and thereafter reduced to writing by means of
13 computer-assisted transcription as herein appears;

14 That the foregoing transcript, consisting of pages 1
15 through 90, all inclusive, contains a full, true and complete
16 transcript of my said stenotype notes, and is a full, true
17 and correct record of the proceedings had at said time and
18 place.

19 Dated at Reno, Nevada, this 11th day of February,
20 2019.

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/s/ Isolde Zihn
Isolde Zihn, CCR #87

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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. CR18-1142

11 vs.

Dept. No. 8

12 TYLER CHASE NIED,

13 Defendant.
14

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

17 The Defendant is guilty of the crime of Reckless Driving Resulting in Death or
18 Substantial Bodily Harm to Another Person, a violation of NRS 484B.653(6), a category B
19 felony, as charged in the Amended Information. The Defendant is sentenced to a term of
20 imprisonment in the Nevada Department of Corrections. Execution of the sentence is
21 suspended and the Defendant is hereby admitted to probation for a fixed term of Five (5)
22 years under the following conditions:

23 A. General:

- 24 1. **Reporting:** The Defendant shall report in person to the Division of Parole
25 and Probation as instructed by the Division or its agent. Defendant is
26 required to submit a written report each month on forms supplied by the
27 Division. This report shall be true and correct in all aspects.
28 2. **Residence:** Defendant shall not change his place of residence without first
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,

1 Defendant shall submit to a medically recognized test for blood/breath
2 alcohol content.

3 4. **Controlled Substances:** Defendant shall not use, purchase or possess any
4 illegal drugs, or any prescription drugs, unless first prescribed by a licensed
5 medical professional. Defendant shall immediately notify the Division of
6 Parole and Probation of any prescription received. Defendant shall submit to
7 drug testing as required by the Division or its agent.

8 5. **Weapons:** Defendant shall not possess, have access to, or have under his
9 control, any type of weapon.

10 6. **Search:** Defendant shall submit his person, property, place of residence,
11 vehicle or areas under his control to search including electronic surveillance
12 or monitoring of his location, at any time, with or without a search warrant or
13 warrant of arrest, for evidence of a crime or violation of probation by the
14 Division of Parole and Probation or its agent.

15 7. **Associates:** Defendant must have prior approval by the Division of Parole
16 and Probation to associate with any person convicted of a felony, or any
17 person on probation or parole supervision. Defendant shall not have any
18 contact with persons confined in a correctional institution unless specific
19 written permission has been granted by the Division of Parole and Probation
20 and the correctional institution.

21 8. **Directives and Conduct:** Defendant shall follow the directives of the
22 Division of Parole and Probation and his conduct shall justify the opportunity
23 granted to him by this community supervision.

24 9. **Laws:** Defendant shall comply with all municipal, county, state, and federal
25 laws and ordinances.

26 10. **Out-of-State Travel:** Defendant shall not leave the state without first
27 obtaining written permission from the Division of Parole and Probation.

28 11. **Employment/Program:** Defendant shall seek and maintain legal
employment, or maintain a program approved by the Division of Parole and
Probation and not change such employment or program without first
obtaining permission. All terminations of employment or program must be
immediately reported to the Division.

12. **Financial Obligation:** Defendant shall pay administrative assessment fees,
fines and restitution as ordered in the special conditions of probation. Any
excess monies paid will be applied to any other outstanding fees, fines
and/or restitution, even if it is discovered after Defendant's discharge.

B. Special Conditions as follows:

1. The Defendant shall serve Thirty (30) days in the Washoe County Detention Facility. Defendant shall self-surrender on July 1, 2019, no later than 11:00 a.m. and shall serve 30 days flat time, with no good time/work time credit.
2. The Defendant shall abstain from the use, possession or control of any controlled substances, alcohol, and marijuana during his term of probation, unless prescribed by a licensed medical professional;

3. Defendant shall submit his person, place of residence, vehicle or areas under his control to search at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by the Division of Parole and Probation or its agent;
4. The Defendant shall maintain steady and gainful employment, actively seek gainful employment if not employed, and/or maintain an educational and/or vocational program as approved by the Division of Parole and Probation during his term of probation;
5. The Defendant shall submit to random substance abuse testing as deemed appropriate by the Division of Parole and Probation to determine whether he is using a controlled substance;
6. The Defendant shall participate in a mental health counseling program, at his own expense, as approved by the Division of Parole and Probation until discharged by agreement of both his supervising officer and counselor;
7. Defendant shall submit his computer, computer hard drive, cellular phone or any other electronic devices under his control to search and seizure at any time by any parole and probation officer, with or without a warrant, for review of social media and/or texting as evidence of a crime or violation of probation
8. If deemed necessary by the supervising officer, the Defendant shall submit to the residential confinement/electronic monitoring program administered by the Division of Parole and Probation, at the Defendant's own expense, for a period not to exceed 90 days.
9. The Defendant shall pay restitution (\$463,825.59), a fine (\$2000.00), the administrative assessment fees (\$3.00 and \$25.00), the Chemical Analysis Fee (\$60.00) and the DNA analysis fee (\$150.00) as ordered in the Judgment of Conviction.

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 17 day of January, 2019.

NUNC PRO TUNC to the 16th day of January, 2019.


DISTRICT JUDGE

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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. CR18-1142

12 TYLER CHASE NIED,

Dept. No. 8

13 Defendant.
14 _____/

15 JUDGMENT OF CONVICTION

16 The Defendant, having entered a plea of guilty, and no sufficient cause
17 being shown by Defendant as to why judgment should not be pronounced against him,
18 the Court rendered judgment as follows:

19 Tyler Chase Nied is guilty of the crime of Reckless Driving Resulting in
20 Death or Substantial Bodily Harm to Another Person, a violation of NRS 484B.653(6), a
21 category B felony, as charged in the Amended Information, and that he be punished by
22 Imprisonment in the Nevada Department of Corrections for a minimum term of Twenty-
23 Four (24) months to a maximum term of Sixty (60) months, with Five (5) days credit for
24 time served and by payment of restitution in the amount of Four Hundred Sixty-Three
25 Thousand, Eight Hundred Twenty-Five Dollars and Fifty-Nine Cents (\$463,825.59) and
26 payment of a fine in the amount of Two Thousand Dollars (\$2000.00). It is further
27 ordered that the sentence is suspended, and the Defendant is placed on probation for the
28 fixed period of time of Five (5) years, with special conditions imposed. Special conditions

1 of probation are as outlined in the Order Admitting Defendant to Probation and Fixing the
2 Terms Thereof.

3 It is further ordered as a condition of probation Defendant shall serve Thirty
4 (30) days flat time in the Washoe County Detention Facility, and shall self-surrender to
5 the Washoe County Detention Facility on July 1, 2019, no later than 11:00 a.m.

6 It is further ordered that the Defendant shall pay the statutory Twenty-Five
7 Dollar (\$25.00) administrative assessment fee, a Sixty Dollar (\$60.00) chemical/drug
8 analysis fee, the Three Dollar (\$3.00) administrative assessment fee for obtaining a
9 biological specimen and conducting a genetic marker analysis, the One Hundred Fifty
10 Dollar (\$150.00) DNA testing fee, and submit to a DNA analysis to determine the
11 presence of genetic markers, if not previously ordered.

12 Any fine, fee or administrative assessment imposed upon the Defendant
13 today, as reflected in this Judgment of Conviction constitutes a lien, as defined in Nevada
14 Revised Statutes (NRS 176.275). Should the Defendant not pay these fines, fees or
15 assessments, collection efforts may be undertaken against him.

16 Dated this 17 day of January, 2019.

17 NUNC PRO TUNC to the 16th day of January, 2019.

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22 DISTRICT JUDGE
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FILED
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2019-02-14 11:11:49 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7118612 : cvera

1 2515
2 Thomas E. Viloría, Esq.
3 Nevada Bar No. 003833
4 VILORIA, OLIPHANT, OSTER & AMAN L.L.P.
5 P.O. Box 62
6 Reno, NV 89504
7 (775) 284-8888
8 Attorney for Defendant

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

12 * * *

13 THE STATE OF NEVADA

14 Plaintiff,

Case No. CR18-1142

15 vs.

Dept. No. 8

16 TYLER CHASE NIED,

17 Defendant.

18 NOTICE OF APPEAL TO SUPREME COURT

19 TO: THE STATE OF NEVADA, Plaintiff; and

20 TO: The Washoe County District Attorney's Office, its counsel;

21 PLEASE TAKE NOTICE that the Defendant TYLER CHASE NIED, hereby appeals to
22 the Supreme Court of the State of Nevada from the Judgment of Conviction filed January 17,
23 2019.

24 ///

25 ///

26 ///

27 ///

28 ///

ATTORNEYS AND
COUNSELORS AT LAW
Office: (775) 284-8888 Fax: (775) 284-3838
P.O. Box 62 - RENO, NEVADA 89504
327 CALIFORNIA AVENUE - RENO, NEVADA 89509

VILORIA,
OLIPHANT,
OSTER &
AMAN LLP.

ATTORNEYS AND
COUNSELORS AT LAW
Office: (775) 284-8888 Fax: (775) 284-3838
P.O. Box 62 ~ RENO, NEVADA 89504
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

VILORIA,
OLIPHANT,
OSTER &
AMAN LLP.

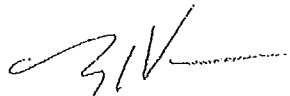
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AFFIRMATION PURSUANT TO NRS 239B.030

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

DATED this 14th day of February, 2019.

FAHRENDORF, VILORIA,
OLIPHANT & OSTER L.L.P.

By: 
Thomas E. Viloria, Esq.

VILORIA,
OLIPHANT,
OSTER &
AMAN LLP.

ATTORNEYS AND
COUNSELORS AT LAW
Office: (775) 284-8888 Fax: (775) 284-3838
P.O. Box 62 - RENO, NEVADA 89504
327 CALIFORNIA AVENUE - RENO, NEVADA 89509

CERTIFICATE OF SERVICE

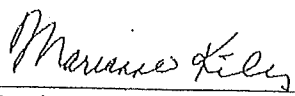
Pursuant to NRCP 5(b), I certify that I am an employee of the law firm of VILORIA,
OLIPHANT, OSTER & AMAN L.L.P., and that on the date shown below, I caused service of a
true and correct copy of the attached:

NOTICE OF APPEAL

to be completed by electronic service upon electronically filing the within document with the
Second Judicial District Court addressed to:

KEVIN NAUGHTON, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION


DATED this 14th day of February, 2019.


Employee of Vilorina, Oliphant, Oster & Aman L.L.P.

CERTIFICATE OF MAILING

The undersigned certifies that they are an employee of Thomas E. Vilorio, Esq., and that on the 17th day of June 2019, they served a true and correct copy of the foregoing document upon opposing counsel, as set forth below, by way of the court's E-flex filing system and U.S. mail:

Appellate Division
WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE
1 South Sierra Street, 7th Floor
Reno, NV 89501
Attorney for Respondent

By: 
Katelyn Wolf, Legal Assistant