

1 CASE NO.: DC-CR-20-4

2 DEPT. II

FILED

2021 APR 14 AM 11:55

ELKO CO DISTRICT COURT
Electronically Filed
Apr 20 2021 11:40 a.m.
CLERK Elizabeth A. Brown
Clerk of Supreme Court

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

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 JUAN JOSE LUNA,

13 Defendant.

NOTICE OF APPEAL

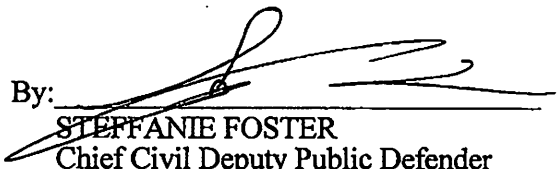
14
15 TO: TYLER INGRAM, Elko County District Attorney

16 NOTICE is hereby given that JUAN JOSE LUNA, defendant above named, hereby appeals
17 to the Supreme Court of Nevada from the Judgment of Conviction filed on March 18, 2021, in the
18 above-entitled action.

19 This appeal is to all issues of fact and law.

20 DATED this 14th day of April, 2021.

21
22 MATTHEW PENNELL
23 ELKO COUNTY PUBLIC DEFENDER
24 569 Court Street (Physical Address)
25 571 Idaho Street (Mailing Address)
26 Elko, NV 89801
27 (775) 738-2521

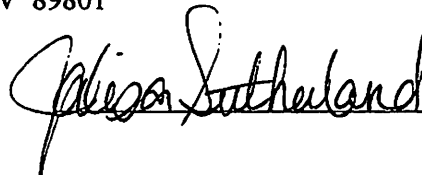
28 By: 
29 STEFFANIE FOSTER
Chief Civil Deputy Public Defender
NV Bar Number 11126

1
2 CERTIFICATE OF SERVICE

3 I hereby certify, pursuant to the provisions of NRCP 5(b), that on the ____ day of April,
4 2021, I served the foregoing NOTICE OF APPEAL, by delivering or causing to be delivered a copy
5 of said document, to the following:

6 HONORABLE ALVIN R. KACIN
7 District Judge, Department II
8 Elko County Courthouse
9 Elko NV 89801

10 ELKO COUNTY DISTRICT ATTORNEY'S OFFICE
11 540 Court Street
12 Elko NV 89801

13 
14

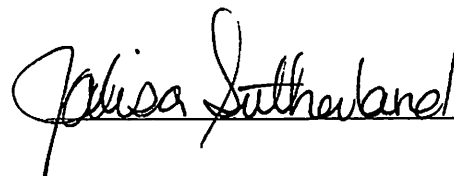
15 CERTIFICATE OF MAILING

16 I hereby certify, pursuant to the provisions of NRCP 5(b), that on the ____ day of April,
17 2021 I mailed, postage prepaid, a copy of the foregoing NOTICE OF APPEAL, to the following:

18 OFFICE OF THE ATTORNEY GENERAL
19 100 N. Carson Street
20 Carson City NV 89701-4717

21 CLERK OF THE SUPREME COURT
22 Supreme Court Building
23 201 S. Carson Street
24 Carson City NV 89701-4702

25 JUAN JOSE LUNA
26 #1061041, Northern Nevada Correctional Center
27 1721 E. Snyder Ave.
28 Carson City, NV 89701

29 


FILED

CASE NO. DC-CR-20-4
DEPT. II

2021 APR 14 AM 11:55

ELKO CO DISTRICT COURT

IN THE FOURTH JUDICIAL DISTRICT COURT

CLERK DEPUTY 

OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

THE STATE OF NEVADA,

Plaintiff,

vs.

JUAN JOSE LUNA,

Defendant.

CASE APPEAL STATEMENT

1. **Name of appellant filing this case appeal statement:** The name of the Appellant is JUAN JOSE LUNA.

2. **Identify the judge issuing the decision, judgment, or order appealed from:**
The judge who issued the Judgement of Conviction to be appealed from is the Honorable Judge Alvin R. Kacin of the Fourth Judicial District Court of the State of Nevada, in and for the County of Elko.

3. **Identify each appellant and the name and address of counsel for each appellant:** The sole appellant in this case is JUAN JOSE LUNA. Counsel for appellant is Steffanie Foster, Chief Civil Deputy Public Defender, 571 Idaho St. (mailing) 569 Court St. (physical), Elko, Nevada, 89801. Counsel's telephone number is (775) 738-2521.

4. **Identify each respondent and the name and address of appellate counsel, if known, for each respondent.** The sole respondent in this case is the State of Nevada.

1 Counsel for the Respondent is Chad B. Thompson, Chief Criminal Deputy District Attorney,
2 540 Court St., Elko, Nevada 89801 (775) 738-3101, and Aaron Ford, Attorney General, 100
3 N. Carson Street, Carson City, Nevada, 89701 (775) 684-1100.
4

5 **5. Indicate whether any attorney identified above in response to questions 3**
6 **or 4 is not licensed to practice law in the State of Nevada:** Attorneys for the Appellant and
7 Respondent are licensed to practice law in the State of Nevada.
8

9 **6. Indicate whether appellant was represented by appointed or retained**
10 **counsel in the district court:** Appellant was represented by appointed counsel in the district
11 court.
12

13 **7. Indicate whether appellant is represented by appointed or retained**
14 **counsel on appeal:** Appellant is represented by appointed counsel on appeal.
15

16 **8. Indicate whether appellant was granted leave to proceed in forma**
17 **pauperis, and the date of entry of the district court order granting such leave:** The parties
18 stipulated that appellant may proceed in forma pauperis on appeal. The Court filed the order
19 to proceed in forma pauperis on April 2, 2021.
20

21 **9. Indicate the date the proceedings commenced in the district court:** The
22 Criminal Information was filed in the District Court on February 18, 2020.
23

24 **10. Provide a brief description of the nature of the action and result in the**
25 **district court, including the type of judgment or order being appealed and the relief**
26 **granted by the district court.** The State of Nevada filed a Criminal Information, which
27 charged the Defendant with COUNT 1: TRAFFICKING IN A SCHEDULE I
28 CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS
29

1 453.3385.1(c); COUNT 2: TRAFFICKING IN A SCHEDULE I CONTROLLED
2 SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c);
3
4 COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E
5 FELONY AS DEFINED BY NRS 453.336.

6 The Defendant was convicted of COUNT 1: TRAFFICKING IN A SCHEDULE I
7
8 CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS
9 453.3385.1(c); COUNT 2: TRAFFICKING IN A SCHEDULE I CONTROLLED
10 SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c); and
11
12 COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E
13 FELONY AS DEFINED BY NRS 453.336.

14 The District Court sentenced the Defendant on March 15, 2021. The Judgement of
15
16 Conviction was filed on March 18, 2021. On Count I, the Court sentenced the Defendant to a
17
18 definite term of 25 years in the Nevada Department of Corrections with minimum parole
19
20 eligibility after 10 years and a fine of \$100.00. On Count 2, the Court sentenced the Defendant
21
22 to a maximum term of 25 years in the Nevada Department of Corrections with a minimum
23
24 parole eligibility after 10 years and a fine of \$100.00. On Count 3, the Court sentenced the
25
26 Defendant to a maximum term of 48 months in the Nevada Department of Corrections with
27
28 a minimum term of 19 months in prison. The Defendant was given credit for time served of
29
422 days on Count 1. The Court ordered Defendant's sentences for Counts 1 and 2 to be
served concurrently. Further, Defendant's sentence for Count 3 was ordered to be served
concurrent to the sentences for Counts 1 and 2.

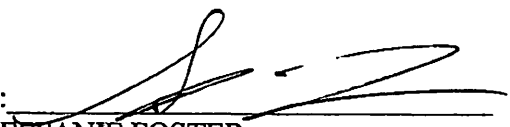
1 **11. Indicate whether the case has previously been the subject of an appeal or**
2 **original writ proceeding in the Supreme Court and, if so, the caption and Supreme**
3 **Court docket number of the original proceeding:** This case has not previously been the
4 subject of an appeal or original writ proceeding.
5

6 **12. Indicate whether this appeal involves child custody or visitation:** This
7 appeal does not involve child custody or visitation.
8

9 **13. If this is a civil case, indicate whether this appeal involves the possibility of**
10 **settlement:** This case involves a criminal action.
11

12 DATED this 14th day of April, 2021.

13
14 MATTHEW PENNELL
15 ELKO COUNTY PUBLIC DEFENDER
16 569 Court Street (Physical Address)
17 571 Idaho Street (Mailing Address)
18 Elko, NV 89801
19 (775)-738-2521

20 By: 
21 STEFFANIE FOSTER
22 Chief Civil Deputy Public Defender
23 NV Bar Number 11126
24
25
26
27
28
29

1 CERTIFICATE OF SERVICE

2 I hereby certify, pursuant to the provisions of NRAP 5(b), that I am an employee of
3 the Elko County Public Defender's Office, and that on the ____ day of April, 2021, I served
4 the foregoing CASE APPEAL STATEMENT, by delivering or causing to be delivered a copy
5 of said document, to the following:
6

7
8 HONORABLE ALVIN R. KACIN
9 District Judge, Department II
10 Elko County Courthouse
Elko, NV 89801

11 ELKO COUNTY DISTRICT ATTORNEY'S OFFICE
12 Chad Thompson
13 540 Court Street
Elko, NV 89801

14 
15 CASEWORKER

16 CERTIFICATE OF MAILING

17 I hereby certify, pursuant to the provisions of NRAP 5(b), that I am an employee of
18 the Elko County Public Defender's Office, and that on the ____ day of April, 2021, I mailed,
19 postage prepaid, a copy of the foregoing CASE APPEAL STATEMENT, to the following:

20 OFFICE OF THE ATTORNEY GENERAL
21 100 N. Carson Street
Carson City, NV 89701-4717

22 NEVADA SUPREME COURT CLERK
23 201 S. Carson Street, Ste. 201
24 Carson City, NV 89701


25 JUAN JOSE LUNA
26 NNCC, Inmate No. 1061041
P.O. BOX 7000
Carson City, NV 89702

27 
28 CASEWORKER
29

1 CASE NO. DC-CR-20-4
2 DEPT. II

FILED

2021 APR 14 AM 11:56
ELKO CO DISTRICT COURT

CLERK _____ DEPUTY 

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

8 JUAN JOSE LUNA,

9 Appellant,

10 v.

11 THE STATE OF NEVADA,

12 Respondent.
13

} REQUEST FOR TRANSCRIPTS OF
} PROCEEDINGS
}

14
15 TO: LISA MANLEY
16

17 Appellant requests preparation of a transcript of the proceedings before the district
18 court as follows:

19 Judge or officer hearing the proceeding: Honorable Alvin R. Kacin
20

21 Date of the Proceedings: August 7, 2020 and December 15, 2020

22 Portions of proceedings requested: Pre-trial motions hearing, held on August 7, 2020; Entire
23 voir dire for trial on December 15, 2020.
24

25 Number of copies required: 4

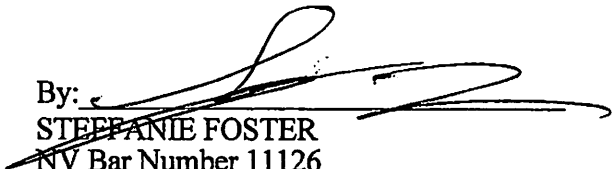
26 One (1) copy for each of the following: Clerk of the Supreme Court, Supreme Court
27 Building, 201 S. Carson Street, Carson City, NV 89701; Office of the Attorney General, 100
28 N. Carson Street, Carson City, NV 89701; Office of the Elko County District Attorney, 540
29

1 Court Street, Elko, NV 89801; and Office of the Elko County Public Defender, 569 Court
2 Street, Elko, NV 89801.

3
4 I hereby certify that on the 14th day of April, 2021, I ordered the transcripts listed above from
5 the court reporter named above.

6 DATED this 14th day of April, 2021.

7
8 MATTHEW PENNELL
9 ELKO COUNTY PUBLIC DEFENDER
10 569 Court Street (Physical Address)
11 571 Idaho Street (Mailing Address)
12 Elko, NV 89801
13 (775)-738-2521

14 By: 
15 STEFFANIE FOSTER
16 NV Bar Number 11126
17 Elko County Chief Deputy Public Defender
18 571 Idaho Street (Mailing Address)
19 Elko, NV 89801
20 (775)-738-2521
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LISA MANLEY
Department II
Elko County Courthouse
Elko, NV 89801

ELKO COUNTY DISTRICT ATTORNEY'S OFFICE
540 Court Street
Elko NV 89801

89801
Julia Salbeck
 CASEWORKER

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29

OFFICE OF THE ATTORNEY GENERAL
100 N. Carson Street
Carson City, NV 89701-4717

JUAN JOSE LUNA
NNCC, Inmate No. 1061041
P.O. BOX 7000
Carson City, NV 89702

89702 *Alisa Sutherland*
CASEWORKER

Case Summary

DC-CR-20-4 - STATE OF NEVADA VS. LUNA, JOSE JUAN

Court: DC-CR-20-4

Agency: Elko County Clerk's Office

Type: Criminal

CaseID: 20-72665

Status: Closed

Received Date: 2/18/2020

Status Date: 3/18/2021

Age: 423 days Active Age: 423 days

Involvements

KACIN, ALVIN Judge
THOMPSON, CHAD Prosecution Attorney
LUNA, JOSE Defendant
GAUMOND, BENJAMIN Defense Attorney

Related Name(s)

JOSE JUAN LUNA
is Also Known As of JUAN JOSE LUNA

Filed Charge - Criminal Information

1. NRS 453.3385.3 ~ Trafficking Of Schedule I Controlled Substance Or Flunitrazepam, Gamma-Hydroxybutyrate Or Substance Containing Specified Substance(S), 28 Grams Or More Occurred: 1/19/2020

Felony Felony - Drugs Category A 2/18/2020 12:00:00 PM

Notes: NVELSO4007283C

2. NRS 453.3385.3 ~ Trafficking Of Schedule I Controlled Substance Or Flunitrazepam, Gamma-Hydroxybutyrate Or Substance Containing Specified Substance(S), 28 Grams Or More Occurred: 1/19/2020

Felony Felony - Drugs Category A 2/18/2020 12:00:00 PM

Notes: NVELSO4007283C

3. NRS 453.336.2a ~ Possess Schedule I, Ii, Iii Or Iv Controlled Substance, First Or Second Offense Occurred: 1/19/2020

Felony Felony - Drugs Category E 2/18/2020 12:00:00 PM

Notes: NVELSO4007283C

Case History

Date	Event Type Desc	Status
	Awaiting Charging Decision - Case Status	
	Case Status Change	
	Pending - Case Status	
	CRIMINAL INFO FILED	
	Awaiting Return of Original Warrant - Task	
	Arraignment Hearing - Event	
4/10/ 2020	4/10/2020 1:00 PM	4/10/2020 1:00:00 PM
	1:00:00 PM	

Case Summary

Evidentiary Hearing - Event	5/15/ 5/15/2020 2020 1:30: 00 PM	1:30 PM	5/15/2020 1:30:00 PM
Early Case Conference Hearing - Event	6/8/2 6/8/2020 020 8:30: 00 AM	8:30 AM	6/8/2020 8:30:00 AM
Status Hearing - Event	8/5/2 8/5/2020 020 11:00 :00 AM	11:00 AM	8/5/2020 11:00:00 AM
Motion Hearing - Event	8/7/2 8/7/2020 020 2:30: 00 PM	2:30 PM	8/7/2020 2:30:00 PM
Status Hearing - Event	8/13/ 8/13/2020 2020 9:00: 00 AM	9:00 AM	8/13/2020 9:00:00 AM
Jury Trial - Event	8/25/ 8/25/2020 2020 9:00: 00 AM	9:00 AM	8/25/2020 9:00:00 AM
Motion Hearing - Event	11/12 11/12/2020 /2020 10:30 :00 AM	10:30 AM	11/12/2020 10:30:00 AM
NO PENDING MOTIONS			
Jury Trial - Event	12/8/ 12/8/2020 2020 9:00: 00 AM	9:00 AM	12/8/2020 9:00:00 AM
Jury Trial - Event	12/15 12/15/2020 /2020 9:00: 00 AM	9:00 AM	12/15/2020 9:00:00 AM

Case Summary

	Sentencing Hearing - Event	3/15/ 3/15/2021 2021 8:30: 00 AM	8:30 AM	3/15/2021 8:30:00 AM
	Closed - Case Status			
	JOC FILED			
1/21/2020	DECLARATION OF PROBABLE CAUSE - Document			
1/21/2020	APPLICATION FOR APPOINTMENT OF ATTORNEY - Document			
1/21/2020	ORDER APPOINTING PUBLIC DEFENDER - Document			
1/22/2020	DECLARATION OF PROBABLE CAUSE 1-22-20 - Document			
1/22/2020	BOOKING SHEET - Document			
	BOOKED 01/19/20, ARREST CHARGES			
1/27/2020	CRIMINAL COMPLAINT - Document			
1/29/2020	BOOKING SHEET 1-29-20 - Document			
	BOOKED 1/19/20, ARREST CHARGES			
1/29/2020	BOOKING SHEET, BOOKED 1.19.20, REVISED, CONTAINS SS NUMBER AND IDAHO ID NUMBER - Document			
2/3/2020	MOTION TO RELEASE ON OWN RECOGNIZANCE - Document			
2/4/2020	ORDER SHORTENING TIME - Document			
	FOR NOTICE OF AND SETTING HEARING ON MOTION TO RELEASE ON OWN RECOGNIZANCE OR IN THE ALTERNATIVE TO REDUCE BAIL			
2/14/2020	ORDER BINDING OVER (IN CUSTODY) - Document			
2/18/2020	CRIMINAL INFORMATION - Document			
2/19/2020	RECORD OF COURT PROCEEDINGS - Document			

Case Summary

2/26/2020	COMMITMENT - Document UNSIGNED	
3/30/2020	EMERGENCY MOTION TO RELEASE ON OWN RECOGNIZANCE - Document NOTICE OF MOTION; EX PARTE MOTION FOR ORDER SHORTENING TIME	
3/30/2020	SUBMISSION OF ORDER SHORTENING TIME ON EMERGENCY MOTION TO RELEASE ON OWN RECOGNIZANCE - Document	No Action Taken
4/1/2020	TRANSCRIPT OF PROCEEDINGS - Document PRELIMINARY HEARING FROM 04/14/2020. FILE CHECKED OUT; PLACED IN DC2 PICKUP BOX @ 4:30 PM	
4/10/2020	04.10.20 HRG - ARRAIGNMENT - NOT GUILTY - Document REVIEWED 07/21/20. LOOSE IN FILE	
4/13/2020	REQUEST FOR DISCLOSURE BY DEFENDANT OF EVIDENCE RELATING TO DEFENSE - Document COPIES PLACED BACK IN DA'S P/U BOX @ 3:53PM. FILE CHECKED OUT PLACED IN DC2 P/U BOX @ 3:53PM.	
4/15/2020	ORDER ESTABLISHING BRIEFING SCHEDULE - Document FILE CHECKED OUT PLACED IN DC2 P/U BOX @ 4:13PM.	
4/15/2020	OPPOSITION TO MOTION FOR RELEASE ON O.R. OR REDUCTION OF BAIL - Document COPIES PLACED IN DA'S BOX, FILE CHK'D OUT, PLACED IN DC2 BOX @ 3:44 PM	
5/5/2020	REQUEST FOR REVIEW REGARDING EMERGENCY MOTION TO RELEASE ON OWN RECOGNIZANCE - Document FILE CHECKED OUT PLACED IN DC2 P/U BOX @ 3:06PM. ORDER DENYING FILED 5/19/20	Order Filed
5/7/2020	PRETRIAL ORDER - Document (FILE CHECKED OUT SENT PLEADING TO	
5/15/2020	05.15.20 HRG - EVIDENTIARY - Document	
5/19/2020	ORDER DENYING MOTION FOR PRETRIAL RELEASE ON OWN RECOGNIZANCE ORDER REDUCING BONDABLE BAIL TO \$250,000 - Document	
6/8/2020	06.08.20 HRG - EARLY CASE CONFERENCE - Document	

Case Summary

7/9/2020 OFFER OF PROOF CONCERNING
IMPEACHMENT OF DEFENDANT WITH
PRIOR FELONY CONVICTIONS - Document

7/9/2020 NOTICE OF INTENT TO USE EXPERT
WITNESSES - Document

7/10/2020 OFFER OF PROOF CONCERNING OTHER
CRIMES OR WRONGS COMMITTED BY
DEFENDANT - Document

7/10/2020 MOTION TO SUPPRESS EVIDENCE
7.10.2020 - Document

7/20/2020 CONDITIONAL NON-OPPOSITION TO OFFER
OF PROOF CONCERNING IMPEACHMENT OF
DEFENDANT WITH PRIOR FELONY
CONVICTIONS - Document
Loose in file. Reviewed 7/20/20.

7/20/2020 OPPOSITION TO OFFER OF PROOF
CONCERNING OTHER CRIMES OR WRONGS
COMMITTED BY DEFENDANT - Document
Loose in file. Reviewed 7/20/20.

7/20/2020 OPPOSITION TO MOTION - Document

7/21/2020 AMENDED NOTICE OF INTENT TO USE
EXPERT WITNESSES - Document

7/27/2020 REPLY TO OPPOSITION TO MOTION TO
SUPPRESS - Document

8/5/2020 08.05.20 HRG - STATUS - Document

8/6/2020 ADDENDUM TO AMENDED NOTICE OF
INTENT TO USE EXPERT WITNESS -
Document
PLACED IN DC2 BOX

8/7/2020 08.07.20 HRG - PRETRIAL MOTION
HEARING - Document

8/13/2020 08.13.20 - STATUS HEARING - Document

Case Summary

8/17/2020	- Case Notes	For: 8/17/2020 9:04 AM
	ALL EXHIBITS CHECKED OUT TO DC2 PER LIDIA'S REQUEST	
8/18/2020	ORDER DENYING MOTION TO SUPPRESS EVIDENCE - Document	
	(FILE CHECKED OUT SENT PLEADING TO DC 2)	
8/31/2020	SUBMISSION OF THE STIPULATION AND ORDER TO CONTINUE - Document	Order Filed
	(FILE CHECKED OUT SENT PLEADING TO DC 2) COPIES WERE PROVIDED BY THE DA	
9/1/2020	STIPULATION AND ORDER TO CONTINUE - Document	
	COPIES PLACED IN DA'S BOX - FILE CHK'D OUT, PLACED IN DC2 BOX @ 3:20PM	
9/24/2020	AMENDED PRETRIAL ORDER - Document	
9/25/2020	SECOND AMENDED PRETRIAL ORDER - Document	
11/17/2020	REQUEST FOR TRANSCRIPT OF PROCEEDINGS - Document	
	THIS DOCUMENT WAS FOUND IN THE REQUEST FOR CERTIFIED COPIES - CHECKED FILE OUT TO DC2 11/19/2020 @ 2:32 PM	
11/23/2020	TRANSCRIPT - PRETRIAL MOTIONS HRG WITNESS TESTIMONY - Document	
11/25/2020	NOTICE OF WITNESSES - Document	
12/7/2020	12.07.20 HRG -STATUS- Document	
12/11/2020	JURY PANEL - Document	
	12 JURORS 2 ALTERNATES FILED IN OPEN COURT 12/15/20 AT 1:58 P.M.	
12/15/2020	12.15.20 - JURY TRIAL MINUTES - Document	
12/16/2020	JUROR QUESTION - Document	
	SUBMITTED BY JUROR NO. 2 - NOT ASKED FILED IN OPEN COURT 12/16/20 AT 11:42 A.M.	
12/17/2020	JUROR QUESTION (2) - Document	
	SUBMITTED BY JUROR NO. 6 FILED IN OPEN COURT 12/17/20 AT 8:49 A.M.	
12/17/2020	JURY INSTRUCTIONS NO. 1 THROUGH 43 - Document	
	FILED IN OPEN COURT 12/17/20 AT 10:39 A.M.	

Case Summary

12/17/2020 JURY VERDICT - GUILTY COUNT 1-
Document
FILED IN OPEN COURT 12/17/20 AT 11:47 A.M.

12/17/2020 JURY VERDICT - GUILTY COUNT 2-
Document
FILED IN OPEN COURT 12/17/20 AT 11:47 A.M.

12/17/2020 JURY VERDICT - GUILTY COUNT 3-
Document
FILED IN OPEN COURT 12/17/20 AT 11:47 A.M.

12/17/2020 DC PSI Request - Document

12/17/2020 PSI REFERRAL - FAXED TO P&P-
Document
FAXED TO P&P 12/17/20

12/18/2020 ORDER FOR COMMITMENT - Document

3/9/2021 SENTENCING MEMORANDUM - Document

3/15/2021 3.15.21 HRG - SENTENCING - Document
EMAILED TO P&P 3/16/21

3/18/2021 JUDGMENT OF CONVICTION (GUILTY, JURY
CONVICTION) - Document
COUNT 1: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS
DEFINED BY NRS 453.3385(1)(c) (NOC 51160)
COUNT 2: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS
DEFINED BY NRS 453.3385(1)(c) (NOC 51160)
COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY
NRS 453.336 (NOC 51127)
\$25 ADMIN FEE; \$3 GENETIC ADMIN ASSESSMENT; \$60 FORENSIC FEE;
FOR COUNT 1, DEFINITE TERM OF 25 YRS IN PRISON WITH PAROLE ELIGIBILITY BEGINNING
WHEN A MINIMUM OF 10 YRS HAS BEEN SERVED. TO HAVE CREDIT FOR 422 DAYS SERVED AND
PAY A FINE OF \$100.00.
FOR COUNT 2, MAX TERM OF 25 YRS IN PRISON WITH PAROLE ELIGIBILITY BEGINNING WHEN A
MINIMUM OF 10 YRS HAS BEEN SERVED AND PAY A FINE OF \$100.00.
FOR COUNT 3, MAX TERM OF 48 MOS AND A MINIMUM TERM OF 19 MOS IN PRISON.
THE SENTENCE FOR COUNT 2 SHALL BE CONCURRENT TO THE SENTENCE FOR COUNT 1
THE SENTENCE FOR COUNT 3 SHALL BE CONCURRENT TO THE SENTENCES FOR COUNT 1 AND
2.
3 PGS

3/22/2021 TRANS CONF RPT - DPS - Document
BOOKING SHEET, CRIMINAL INFORMATION AND JOC FAXED TO DPS

4/1/2021 STIPULATION TO ALLOW APPELLANT TO
PROCEED ON APPEAL IN FORMA PAUPERIS-
Document

Case Summary

4/1/2021	SUBMISSION OF ORDER TO ALLOW DEFENDANT TO PROCEED ON APPEAL IN FORMA PAUPERIS - Document	Order Filed
	3 COPIES PROVIDED BY THE PUBLIC DEFENDER'S OFFICE	
4/2/2021	ORDER TO ALLOW DEFENDANT TO PROCEED ON APPEAL INFORMA PAUPERIS - Document	
	COPIES PLACED IN THE PUBLIC DEFENDERS P/U BOX	
4/14/2021	CASE APPEAL STATEMENT - Document	
4/14/2021	NOTICE OF APPEAL - Document	
4/14/2021	REQUEST FOR TRANSCRIPTS OF PROCEEDINGS - Document	
4/16/2021	CLERK'S CERTIFICATE - Document	

Case Obligations

Obligation	Pay By	Due Date	Obligation Amount	Amount Paid	Balance Due
DC2 Admin	1--LUNA, JOSE-NRS 453.3385.3	4/21/2021	\$20.00	\$0.00	\$20.00
Assessment Fee: NRS 176.062 \$20					
DC2 Admin	1--LUNA, JOSE-NRS 453.3385.3	4/21/2021	\$5.00	\$0.00	\$5.00
Assessment Fee: NRS 176.062 \$5					
DC2 Genetic Admin	1--LUNA, JOSE-NRS 453.3385.3	4/21/2021	\$3.00	\$0.00	\$3.00
Assessment Fee: NRS 176.0623 \$3					
DC2 Forensic Fee: NRS 453.575	1--LUNA, JOSE-NRS 453.3385.3	4/21/2021	\$60.00	\$0.00	\$60.00
Total Personal Obligation(s):			\$88.00	\$0.00	\$88.00
Total Case Obligation(s):			\$88.00	\$0.00	\$88.00

FILED 19 JAN 11 01

In The Justice's/Municipal Court of Elko Township
County of Elko, State of Nevada

CLERK _____ DEPUTY _____

SL

THE STATE OF NEVADA,

Plaintiff,

vs.

**ORDER APPOINTING OFFICE
 OF THE ELKO COUNTY PUBLIC
 DEFENDER TO REPRESENT
 INDIGENT DEFENDANT**

Juan Luna

Defendant.

Having taken an oral request for the appointment of an attorney and considered the accompanying affidavit of the above-named Defendant in support of his/her written Application for Appointment of Attorney in the above-captioned case, and having conducted any inquiry regarding that Application as deemed necessary by the Court, and it appearing to the Court that the Defendant is without means of employing an attorney and has provided facts with sufficient particularity, definiteness and certainty concerning his/her financial disability, the Court hereby appoints the Office of the Elko County Public Defender to represent the Defendant in this case pursuant to NRS 171.188.

The Court specifically finds that the Defendant is without means of employing an attorney, meets the standard for determining indigency set forth in the Nevada Supreme Court Order entered January 4, 2008 under ADKT 411, and otherwise determines that representation is required.

Per that Nevada Supreme Court Order: "A person will be deemed 'indigent' who is unable, without substantial hardship to himself or his dependents, to obtain competent, qualified legal counsel on his or her own. 'Substantial hardship' is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance, reside in public housing, or earn less than 200 percent of the Federal Poverty Guideline.¹ A

¹ 2016 FEDERAL POVERTY LEVEL

Persons in Family	Federal Poverty Guideline
1	\$11,770
2	\$15,930
3	\$20,090
4	\$24,250
5	\$28,410
6	\$32,570
7	\$36,730
8	\$40,890

defendant is presumed to have a substantial hardship if he or she is currently serving a sentence in a correctional institution or housed in a mental health facility. Defendants not falling below the presumptive threshold will be subjected to a more rigorous screening process to determine if their particular circumstances, including seriousness of charges being faced, monthly expenses and local private counsel rates, would result in a substantial hardship were they to seek to retain private counsel.

If no attorney employed by the Elko County Public Defender's Office is able to represent the Defendant in compliance with the Nevada Rules of Professional Conduct, or other good cause appears, another attorney may be appointed to represent the Defendant. Id.

The Court will not permit the withdrawal of the Elko County Public Defender's Office unless: (a) at the conclusion of this case, a Notice of Withdrawal is filed; (b) the Defendant employs another attorney to represent him/her in this case and that attorney files with the Court a paper providing that the Defendant, the Elko County Public Defender, and the new attorney consent by their respective signatures to substitution of the new attorney in place of the Elko County Public Defender's Office; or (c) the Court issues a written Order Granting the Elko County Public Defender's Motion to Withdraw as Attorney of Record or a stipulation thereto. See NRS 7.115.

No Order Granting Elko County Public Defender's Motion to Withdraw as Attorney of Record shall be issued except upon a finding of good cause following the Court's review of a written Motion to Withdraw as Attorney of Record, or a stipulation thereto. NRS 171.188(3).

DATED this 21 day of January, 2020.




Justice of the Peace

1 CASE NO. DC-CR-20-4

2 DEPT. NO. 2

RECEIVED 18 APR 9:11
FILED CO DISTRICT COURT

CLERK _____ DEPUTY 

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

8 * * * * *

9 _____
10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

JUDGMENT OF CONVICTION

13 JUAN JOSE LUNA,

14 Defendant.
15 _____ /

16 On December 17, 2020, Defendant JUAN JOSE LUNA (date of birth: June 24, 1985;
17 place of birth: Burley, ID) was found guilty by a jury of **COUNT 1: TRAFFICKING IN A**
18 **SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY**
19 **NRS 453.3385(1)(c) (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE I**
20 **CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS**
21 **453.3385(1)(c) (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE,**
22 **A CATEGORY E FELONY AS DEFINED BY NRS 453.336 (NOC 51127),** which crimes
23 occurred on or about January 19, 2020, The court held a sentencing hearing on March 15,
24 2021 and sentenced Defendant as follows:

25 **IT IS ORDERED that Defendant shall pay a genetic administrative**
26 **assessment of \$3.00.**

27 **IT IS FURTHER ORDERED that Defendant shall pay an administrative**
28 **assessment of \$25.00.**

1 IT IS FURTHER ORDERED that Defendant shall pay the forensic fee of
2 \$60.00.

3 For Count 1, Defendant shall serve a definite term of 25 years in prison
4 with parole eligibility beginning when a minimum of 10 years has been
5 served. Defendant shall have credit for 422 days served as of March
6 12, 2021. Defendant shall pay a fine of \$100.00.

7 For Count 2, Defendant shall serve a maximum term of 25 years in
8 prison with parole eligibility beginning when a minimum of 10 years
9 has been served. Defendant shall pay a fine of \$100.00.

10 For Count 3, Defendant shall serve a maximum term of 48 months and
11 a minimum term of 19 months in prison.

12 IT IS FURTHER ORDERED the sentence for count 2 shall be
13 concurrent to the sentence for count 1.

14 IT IS FURTHER ORDERED the sentence for count 3 shall be
15 concurrent to the sentences for count 1 and count 2.

16 Throughout these proceedings, Defendant was represented by the Elko County Public
17 Defender's Office.

18 THEREFORE, the Clerk is directed to enter this Judgment of Conviction as part of the
19 record in this matter.

20 DATED this 15 day of March 2021.

21 

22 ALVIN R. (AL) KACIN
23 District Court Judge
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District
3 Court, Department 2, and that on this 18 day of March 2021, I served by hand delivery by
4 placing a copy of said document in the agency box located in the Elko County Clerk's Office,
5 a true copy of the foregoing document to:

6
7 Elko County District Attorney

8 Elko County Public Defender's Office

9 State of Nevada, Division of Parole & Probation

10 Elko County Sheriff

11 Director, Nevada Department of Corrections

12 
13 LUIZ CARLOS NUNES

14
15 **CERTIFICATE OF SERVICE**

16 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District
17 Court, Department 2, and that on this 18 day of March 2021, I served by regular U.S.
18 Mail, a true copy of the foregoing document to:

19 Nevada Department of Corrections

20 Offender Management Division,

21 Sentence Management

22 PO Box 7011

23 Carson City, NV 89702

24 
25 LUIZ CARLOS NUNES

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 04/10/20

VS.

Case No.: DC-CR-20-4

Dept: 2 – Courtroom A

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Justin Barainca, Esq. present telephonically.

Defendant present via Video, in custody, and represented by

Benjamin C. Gaumond, Esq.

Court Clerk, Darla Malotte, present.

Lisa Manley present as Court Reporter.

ARRAIGNMENT – NOT GUILTY

Court convened at 2:42 p.m.

The Court noted the presence of the parties.

The Court noted the Defendant was appearing via video due to the current Coronavirus pandemic. The Court advised the Defendant that a telephone had been provided if he needed to speak with his attorney privately.

The Defendant advised that he understood and waived his right to be physically present and was willing to appear via video from the Elko County Jail.

The Court found that it met the demands of the Defendant's Sixth Amendment rights and was balancing public safety concerns and advised that this matter would proceed.

This was the date and time set for an arraignment on the Criminal Information filed charging COUNT 1: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A

SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).

A certified copy of the Criminal Information was presented to the Defendant.

The Defendant advised that he reviewed the Criminal Information with his attorney, and was satisfied with legal representation to date.

The name of the Defendant was correctly stated.

Defense counsel waived the formal reading of the Criminal Information.

The Court read the charging portion of the Criminal Information and asked the Defendant to enter a plea.

The Defendant entered a plea of not guilty to the charges.

The Court advised the Defendant of the right to be tried within 60 days from today's date.

The Defendant did not waive the sixty-day rule.

The Court advised that a jury trial may not be scheduled in the next 60 days due to the restrictions of the coronavirus outbreak.

The Court advised that it would set a 3-day trial and call 110 prospective jurors and jury selection will occur in the County Commissioners room.

The Court noted a Emergency Motion to Release on Own Recognizance was filed and further noted that bail was currently posed at \$520,000.00 and inquired regarding an evidentiary hearing.

The State and Defense counsel requested an evidentiary hearing be scheduled.

The Court inquired how long the State needed to respond to the Emergency Motion filed March 30, 2020.

The State advised that needed a few days to respond and presented a statement.

The Court advised the State that it had until Wednesday April 15, 2020 to respond to the Emergency Motion.

The Court advised that an evidentiary hearing would be scheduled once a request for review was received and the parties would be contacted by the Judicial Assistant to schedule the evidentiary hearing with approximately 30 minutes or 1 hour to be set aside.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 2:56 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 05/15/20

VS.

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present via Video, in custody, and represented by
Benjamin C. Gaumond, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

EVIDENTIARY HEARING

Court convened at 1:56 p.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for an Evidentiary hearing on an Emergency Motion to Release on Own Recognizance or In the Alternative to Reduce Bail filed March 30, 2020.

The State advised had 7 exhibits to offer and had 1 witness to call for testimony.

Defense counsel advised that it had no exhibits or witness to present.

The State offered Plaintiff's Exhibit 1, Washoe County Crime Lab Report #1;
Plaintiff's Exhibit 2, Elko County Sheriff's Department Witness Statement Jacob Elmore;
Plaintiff's Exhibit 3, Judgment of Conviction CR-FP-10-1344; Plaintiff's Exhibit 4, Judgment of Conviction CR-FP-16-409; Plaintiff's Exhibit 5, Elko District Attorney Master Case Select;
Plaintiff's Exhibit 6, Twin Falls Idaho Fifth District Court Case No. CR-42-20-1196 Warrant; and
Plaintiff's Exhibit 7, Magic Valley Idaho Obituary Allison Emily Cyr, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 1 through Plaintiff's Exhibit 7 admitted.

Jacob Eisinger was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. No redirect by the State. Witness excused.

The State made a statement regarding the descriptions of the exhibits and presented argument opposing the Motion to Release.

The Court inquired of the current bail amount.

Defense counsel advised that bail was currently set at \$520,000.00. Defense counsel presented argument in support of its Motion.

The Court noted the file included the preliminary hearing transcript.

Defense counsel had no objection to the Court reviewing the transcript for deciding the motion. Defense counsel continued presenting argument in support of its Motion.

The Court advised that this matter would be taken under advisement and advised that the preliminary hearing transcript would be reviewed.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 2:15 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 06/08/20

VS.

Case No.: DC-CR-20-4

Dept: 2 – Courtroom B

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.

Defendant present via video, in custody, and represented by

Benjamin C. Gaumond, Esq.

The Division of Parole and Probation represented by Michelle Gavorsky.

Court Clerk, Darla Malotte, present.

Lisa Manley present as Court Reporter.

EARLY CASE CONFERENCE

Court convened at 8:41 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for an Early Case Conference hearing on Criminal Information filed February 18, 2020 charging COUNT 1: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).

The Court advised that this matter was scheduled for jury trial to begin August 25, 2020 through August 27, 2020 and further advised that a Pretrial Motion hearing was scheduled for August 7, 2020. The Court inquired if there was any possible settlement in this matter.

Defense counsel advised that the State had extended a plea offer and it had been rejected. Defense counsel further advised that it extended an offer to the State and it had been rejected.

The State advised that its offer was still outstanding.

The Court noted the preliminary hearing transcript had been filed April 1, 2020 and inquired if Counsel had anything further.

Counsel had nothing further.

The Defendant was remanded to the custody of the Elko County Sheriff's Department in lieu of posting bail in the amount of \$250,000.00 bondable.

Court adjourned at 8:43 a.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 08/05/20

VS.

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.

Defendant present, in custody, and represented by

Benjamin C. Gaumond, Esq.

Court Clerk, Darla Malotte, present.

Lisa Manley present as Court Reporter.

STATUS HEARING

Court convened at 11:01 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a hearing on a Status hearing on Criminal Information filed February 18, 2020 charging COUNT 1: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE IN A CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).

The Court noted this matter was scheduled for jury trial to begin August 25, 2020 and advised of concerns of procedural consideration for Covid-19 safety. The Court noted that it was advised that there were five witnesses for the hearing scheduled this Friday at 4:00 p.m.

The State advised that 2 witness would be called pursuant to a stipulation of facts with Defense counsel. The State advised that the witnesses would be contacted to possibly appear earlier than 4:00 p.m.

The Court advised that if the witnesses could appear earlier and all parties agreed then the hearing could be held earlier in the day.

Counsel agreed.

The Court advised Counsel to contact the Judicial Assistant regarding any changes in time.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 11:05 a.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 08/07/20

VS.

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.

Defendant present, in custody, and represented by

Benjamin C. Gaumond, Esq.

Court Clerk, Darla Malotte, present.

Lisa Manley present as Court Reporter.

PRETRIAL MOTION HEARING

Court convened at 2:30 p.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a pretrial motion hearing on a Criminal Information filed charging COUNT 1: TRAFFICKING IN A SCHEDULE IN A CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).

The Court noted that Defense counsel filed a Motion to Suppress Evidence filed July 10, 2020 and the State filed a Reply to the Opposition on July 27, 2020 and the State filed an Offer of Proof Concerning Other Crimes or Wrongs on July 10, 2020, and Defense counsel opposed the Offer of

Proof. The Court further noted the State filed an Offer of Proof Concerning Impeachment of Defendant with Prior Felony Convictions and Defense filed a conditional non-opposition on July 20, 2020.

The State advised that it had 2 witnesses to present and further advised the parties stipulated to the admission of Plaintiff's Exhibit 1, DVD Body Camera Video; Plaintiff's Exhibit 2, CD Dispatch Recording and Dispatch Log; Plaintiff's Exhibit 3, Certified Idaho Vehicle Registration; Plaintiff's Exhibit 4, Elko County Sheriff's Department Rules and Regulations 2-27; Plaintiff's Exhibit 5, Elko County Sheriff's Department Policy 515 Search and Seizure; Plaintiff's Exhibit 6, Elko County Sheriff's Department Vehicle Impound; Plaintiff's Exhibit 7, Elko County Sheriff's Department Supplemental Report of Deputy Trice; and Plaintiff's Exhibit 8, Nevada Department of Public Safety Detective Jake Eisinger Report.

Defense counsel had no objection to the admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 1 through 8 admitted.

The State advised that it had two witnesses, Jennifer Gardner and Deputy Trice, and further advised that the videos would not be played and the Court could review the videos after the hearing.

Defense counsel had no witnesses to present.

The State advised that the parties stipulated to the Court relying upon the preliminary hearing transcript to decide the motions.

The Court advised that it would review the preliminary hearing transcript filed April 1, 2020.

Jennifer Gardner was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. Redirect by the State. No recross by Defense counsel. Witness excused.

Deputy John Trice was sworn and examined on direct by the State. The Witness identified the Defendant. The State continued direct examination of the Witness. The State played Plaintiff's Exhibit 1, DVD Body Camera Video. The State continued direct examination of the Witness. Defense counsel examined the Witness on cross. The Witness reviewed page 48 of the preliminary hearing transcript. Defense counsel continued cross examination of the Witness. Redirect by the State. Recross by Defense counsel.

The Court presented a follow up question.

No follow up questions by the State. No follow up questions by Defense counsel.

Witness excused.

The Court inquired of Defense counsel regarding suppression of evidence.

Defense counsel advised that it was seeking to suppress the pipe only and any physical evidence from the search of the vehicle.

The Court inquired regarding suppression of statements.

Defense counsel presented argument.

The State presented argument.

The Court advised the parties that if the evidence was not suppressed then they could reach an agreement regarding redacting the video.

The Court advised that it would review the briefs and the preliminary hearing transcript.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 4:42 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 08/13/20

VS.

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, in custody, and represented by
Benjamin C. Gaumond, Esq.
Lisa Manley present as Court Reporter.

STATUS HEARING

Court convened at 9:16 a.m.

The Court noted the presence of the parties.

This was the date and time set by the Court for a status hearing on Criminal Information filed February 18, 2020 charging COUNT 1: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE IN A CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).

The Court noted this matter was scheduled for jury trial to begin August 25, 2020 and advised that it this matter would be continued due to health concerns for Covid-19 and safety protocol for jury trials were being discussed with health experts.

The Court advised that the Motion to Suppress was denied and an order would be issued. The Court proposed a range of dates for rescheduling the trial as a priority 1 setting and advised that the Judicial Assistant would email Counsel the proposed dates.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 9:24 a.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 12/07/20

VS.

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant not present, in custody, and represented by
Benjamin C. Gaumond, Esq.
Court Clerk, Darla Malotte, present.
Hearing video recorded.

STATUS HEARING

Court convened at 1:36 p.m.

The Court noted the presence of the parties.

Counsel waived the presence of a court reporter

This was the date and time set by the Court for a status hearing.

The Court noted a jury trial was scheduled tomorrow and Defense counsel was waiting the results of a covid-19 test and cannot proceed with a trial participant waiting for results which were to be received December 9, 2020 and one of the State's expert witness would not be available to testify until Wednesday December 16, 2020.

Defense counsel waived the presence of the Defendant for the purpose of this hearing.

The State stipulated to continue the trial.

The Court advised that it may be possible to conduct the trial next week beginning December 15, 2020 if the Department 1 trial did not proceed.

Defense counsel advised that it did not have any witnesses for the trial.

The Court **ORDERED** the trial be continued.

Court adjourned at 1:41 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: 12/15/20 – 12/17/20

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, in custody, and represented by
Benjamin C. Gaumond, Esq.
Court Clerk, Darla Malotte, present.
Lisa Manley present as Court Reporter.

JURY TRIAL

**Day One – December 15, 2020
Elko Convention Center**

Court convened at 8:35 a.m.

This was the date and time set for a jury trial on a Criminal Information Criminal Information filed February 18, 2020 charging COUNT 1: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).

The Court introduced Counsel to the prospective jurors and Defense counsel introduced the Defendant.

All prospective jurors were present except as follows: Beau Bowman, Sterling Chavis, Sandra A. Checketts, Sarah Jane Christensen, Tyle Davis, Katlyn Delrio, Vernon Lee Elton, Marc P. Espinoza, Jose Manuel Garcia-Miramontes, Tonja Dawn Gillemich, Roger G. Hockemier, Jamie Joggerst, Victor J. Jones, Quenten Scott Lopez, Mayra Luna, Susan Lee Martin, Michelle Lynn McGrath, Antonio R. Mendive, Tammy Leeann Ordaz, Alyssa Maria Ortega, Mary Ann Polish, Marcie Ann Polsky, Anita Salas-Santos, James Philip Schumacher, Mattie Steelman, and Jeffrey Alan Zaugg.

The Clerk read the Criminal Information in its entirety.

The Court informed the jury venire of the presumption of innocence pursuant to NRS 175.191 and of the definition of a reasonable doubt pursuant to NRS 175.211.

The Court made a statement to the jury venire describing the importance of their service as prospective jurors.

All prospective jurors were sworn on their voir dire.

The Court explained the jury selection process and asked general questions of the potential jurors.

Potential Juror No. 6, Liborio Gonzales, was excused for cause.

Potential Juror No. 22, Richard Shine, was excused for cause.

Potential Juror No. 37, Ryan Rasband, was excused for cause.

Potential Juror No. 19, Elliot Thompson, was excused for cause.

The Court continued general questions of the potential jurors.

The Court admonished the potential jurors pursuant to NRS 175.121.

Court recessed for morning break at 10:16 a.m.

Court reconvened at 10:36 a.m. outside the presence of the potential jurors.

The Court noted the presence of the parties.

The Court made a record of the Covid-19 requirements and noted the court staff all indicated that they had their temperatures taken and they had no symptoms.

The Court advised that there were several potential jurors that wished to address the Court outside the presence of the other potential jurors.

Potential juror No. 44, Zachery Hamilton-York Hibdon, entered the courtroom and addressed the Court.

Zachery Hibdon was excused for cause.

Potential juror No. 4, Tony P. Araquistian, entered the courtroom and addressed the Court.

The Court advised Mr. Araquistain that he would remain as a potential juror and he was excused from the courtroom.

Potential juror No. 45, Nicole Paiz, entered the courtroom and addressed the Court.

Counsel stipulated to Ms. Paiz being excused for cause.

Nicole Paiz was excused for cause.

Potential juror No. 29, James Henry Williams, entered the courtroom and addressed the Court.

The State asked follow up questions.

Defense counsel had no follow up questions.

The Court advised Mr. Williams that he would remain as a potential juror and was excused from the courtroom.

Potential juror No. 1, Robert Trujillo, entered the courtroom and addressed the Court.

The State had no follow-up questions.

Defense counsel had no objection to Mr. Trujillo being excused.

Robert Trujillo was excused for cause.

The potential jurors entered the courtroom at 11:02 a.m.

The Court noted the presence of the parties.

The Court continued asking general questions of the potential jurors.

Potential Juror No. 3, William Joe Lott, was excused for cause.

Potential Juror No. 2, Shawn Svancara, was excused for cause.

The Court concluded general questions.

The potential jurors introduced themselves.

The State examined the potential jurors on supplemental examination.

Defense counsel examined the potential jurors on supplemental examination.

Counsel approached the bench for a sidebar at 12:24 p.m.

The Court advised that Counsel agreed to excuse Potential Juror No. 12, John M. Williams, for cause.

Defense counsel examined the potential jurors on supplemental examination.

Defense counsel passed the panel for cause.

Counsel approached the bench for a sidebar 12:31 p.m.

The Court explained the peremptory challenge process to the prospective jury panel.

The Court admonished the potential jurors pursuant to NRS 175.121.

Court recessed for lunch break at 12:37 p.m.

Court reconvened at 12:39 p.m. outside the presence of the potential jurors.

The Court noted the presence of the parties.

The Court advised that the State wished to address a challenge for cause regarding potential juror No. 35, Vicky Blair and potential juror No. 39, Ashley Rodriguez.

The State presented a statement in support of its challenge for cause.

Defense counsel presented argument.

The Court overruled the objection and granted the State's challenge for cause and advised that potential jurors No. 35 Vicky Blair and potential juror No. 39 Ashley Rodriguez were excused for cause.

Court recessed at 12:49 p.m.

Court reconvened at 1:45 p.m. with Counsel and the Defendant present outside the presence of the prospective jurors the purpose of exercising peremptory challenges.

The State's first peremptory challenge was juror No. 36, William L. Lineberry.

Defense counsel's first peremptory challenge was juror No. 5, William D. Martin.

The State's second peremptory challenge was juror No. 11, Thomas Graves.

Defense counsel's second peremptory challenge was juror No. 14, Tanya C. Koch.

The State's third peremptory challenge was juror No. 29, James H. Williams.

Defense counsel's third peremptory challenge was juror No. 15, D'Anne L. Wright.

The State's fourth peremptory challenge was juror No. 24, Yvonne Allred.

Defense counsel's fourth peremptory challenge was juror No. 17, Daniel F. Ferguson.

The State's fifth peremptory challenge was juror No. 30, Demi L. Bolley.

Defense counsel's fifth peremptory challenge was juror No. 34, Samantha R. Mowrey.

The State's sixth peremptory challenge was juror No. 9, Kevin L. Hines.

Defense counsel's sixth peremptory challenge was juror No. 33, Katylynn B. Hymas.

The State's seventh peremptory challenge was juror No. 27, William H. Jones, Jr.

Defense counsel's seventh peremptory challenge was juror No. 13, Amy E. Armstrong.

The State's eighth peremptory challenge was juror No. 28, Jason Hodnett.

Defense counsel's eighth peremptory challenge was juror No. 7, Delmer D. Fiscus.

The State's alternate peremptory challenge was juror No. 38, Cody Drewry.

Defense counsel's alternate peremptory challenge was juror No. 40, Susan L. Kemper.

Court recessed at 1:56 p.m.

The potential jurors entered the courtroom at 1:56 p.m.

The Clerk called the names of the 12 trial jurors and the 2 alternates, to wit: Tony P. Araquistain, Kayla L. Kennah, Marco Rodriguez, Rachel L. Johnson, Conner L. Hite, Julie A. Pennell, Christopher Barnes, William J. Homan, Kandi S. Lara, Austin Davis, Leida Goyeneche, Johnathan H. Anderson, Jared Nachiondo, and Taylor R. Whitfield.

The Court thanked and excused those not called to serve as jurors.

The 12 Jurors and the 2 Alternates were sworn by the Clerk to try the case.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121 and informed them of their right to take notes pursuant to NRS 175.131.

Court recessed for break at 2:16 p.m.

Court reconvened at 3:22 p.m.

Counsel stipulated to the presence of the Jury and the Alternates.

The Court advised that it would read Jury Instructions No. 1 and No. 2 at this time.

Counsel concurred, and stipulated that the Court Reporter would not report the reading of Jury Instruction No. 1 and No. 2.

The Court read Jury Instruction No. 1 and No. 2.

Mr. Thompson presented an opening statement on behalf of the State.

Mr. Gaumond reserved the right to make an opening statement until after the presentation of the State's case.

The Court directed the State to call its first witness.

Jennifer Gardner was sworn and examined on direct by the State. Defense counsel examined the Witness on cross. Redirect by the State. No recross by Defense counsel.

The Court inquired if there were any jury questions.

The Court invoked the rule of exclusion and admonished the Witness.

There being no jury questions, the Witness was excused subject to recall.

Jacob Elmore was sworn and examined on direct by the State. Defense counsel examined the Witness on cross. No redirect.

The Court inquired if there were any jury questions.

The Court invoked the rule of exclusion and admonished the Witness.

There being no jury questions, the Witness was excused subject to recall.

Deputy John Trice was sworn and examined on direct by the State. The State offered Plaintiff's Exhibit 13, CD Body Camera Video, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 13, CD Body Camera Video, admitted.

Counsel stipulated that the Court Report need not report the audio portion of the video. The State played Plaintiff's Exhibit 13, CD Body Camera Video, and intermittently stopped and started the video and continued to examine the Witness on direct.

The Court advised the Jury and the Alternates regarding the testimony of a warrant and it was only to be considered for the limited purpose of why the Deputy took the Defendant into custody and not to show that the Defendant had a propensity to commit crimes or was of bad character.

The State continued direct examination of the Witness. The Witness identified the Defendant. The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 10, Methamphetamine Pipe, for admission.

Defense counsel objected based upon a continuing objection.

The Court overruled the objection, and **ORDERED** Plaintiff's Exhibit 10, Methamphetamine Pipe, admitted.

The State continued direct examination of the Witness.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

Court recessed for evening break at 5:00 p.m.

Day Two - December 16, 2020
Convention Center

Court reconvened at 8:50 a.m. outside the presence of the Jury and the Alternates.

The Court noted the presence of the parties.

The Court made a record of the Covid-19 requirements pursuant to Administrative Order and noted the court staff all indicated that they had their temperatures taken and they had no symptoms.

Court recessed at 8:52 a.m.

Court reconvened at 8:57 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternates.

Deputy John Trice resumed the stand and was reminded by the Court that he was still under oath. The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 6, Certified Idaho DMV Vehicle Registration for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 1, Certified Idaho DMV Vehicle Registration, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 1, Photograph, for admission. Defense counsel advised of previously continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 1, Photograph, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 2, Photograph, for admission. Defense counsel advised of previously continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 2, Photograph, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 3, Photograph, for admission. Defense counsel advised of previously continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 3, Photograph, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 4, Photograph, for admission. Defense counsel advised of previously continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 4, Photograph, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 5, Photograph, for admission. Defense counsel advised of previously continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 5, Photograph, admitted.

Defense counsel examined the Witness on cross. Redirect by the State. Recross by Defense counsel.

The Court advised the Witness of the rule of exclusion. The Court inquired if there were any jury questions. There being no jury questions, the Witness excused subject to recall.

Trooper Jason Bringham was sworn and examined on direct by the State. Witness examined on cross by Defense counsel. Redirect by the State. No recross by Defense counsel.

The Court inquired if there were any jury questions. The Court advised the Witness of the rule of exclusion. There being no jury questions, the Witness excused subject to recall.

Deputy Chris Furbee was sworn and examined on direct by the State. The Witness identified the Defendant. The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 14, CD Audio Jail Phone Calls, for admission.

There being no objection, the Court **ORDERED** Plaintiff's Exhibit 14, CD Audio Jail Phone Calls, admitted.

The State requested to play Plaintiff's Exhibit 14. The Court advised that the Court Report would not report the audio recording of Plaintiff's Exhibit 14.

The State continued direct examination of the Witness. The State played Plaintiff's Exhibit 14, CD Audio Jail Phone Calls. The State continued direct examination of the Witness. Defense counsel examined the Witness on cross. No redirect by the State.

The Court inquired if there were any jury questions. There being no jury questions, the Witness excused subject to recall.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

Court recessed for morning break at 10:16 a.m.

Court reconvened at 10:36 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

Eloisa Mendoza was sworn and examined on direct by the State. The State played portions of Plaintiff's Exhibit 14, CD Audio Jail Phone Calls, of conversations that were in the Spanish language. The Witness, a previously sworn interpreter, translated the conversations from the Spanish language to the English language. The State continued direct examination of the Witness. No cross examination by Defense counsel.

The Court inquired if there were any jury questions. There being no jury questions, the Witness was excused subject to recall.

Detective Jacob Eisinger was sworn and examined on direct by the State. The State requested that the Witness be allowed to give his opinion on narcotics investigations.

Defense counsel examined the Witness on voir dire and submitted the matter.

The Court advised that the Witness would be allowed to give his opinion on narcotics investigations.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 11, Photograph, and Plaintiff's Exhibit 12, Photograph, for admission.

Defense counsel objected based upon previous continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 11, Photograph, admitted and **FURTHER ORDERED** Plaintiff's Exhibit 12, Photograph, admitted.

The State continued direct examination of the Witness. Witness examined on cross by Defense counsel. Redirect by the State. Recross by Defense counsel.

The Court inquired if there were any jury questions.

Juror No. 2 submitted one question.

The Court and Counsel took a sidebar.

The Court advised that the jury question would not be asked and would be dealt with in the jury instructions.

The Witness was excused subject to recall.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

Court recessed for lunch break at 11:41 a.m.

Court reconvened at 1:22 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternates.

Caleb Fife was sworn and was examined on direct by the State. Witness examined on cross by Defense counsel. Redirect by the State. No recross by Defense counsel.

The Court inquired if there were any jury questions.

There being no jury questions, the Witness was excused.

Rebecca Nelson was sworn and examined on direct by the State. The State requested that the Witness be allowed to give her expert opinion in identifying controlled substances. Defense counsel had no objection.

The Court advised that Ms. Nelson would be permitted to give her opinion regarding identifying controlled substances.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 7, Methamphetamine 452.06 grams, for admission. Defense counsel objected based upon previous continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 7, Methamphetamine 452.06 grams gross weight, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 8, Heroin 102.66 grams gross weight, for admission. Defense counsel objected based upon previous continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 8, Heroin 102.66 grams gross weight, admitted.

The State continued direct examination of the Witness. The State offered Plaintiff's Exhibit 9, Cocaine 3.34 grams gross weight, for admission. Defense counsel objected based upon previous continuing objection.

The Court overruled the objection and **ORDERED** Plaintiff's Exhibit 9, Cocaine 3.34 grams gross weight, admitted.

The State continued direct examination of the Witness. Defense counsel examined the Witness on cross. No redirect.

The Court inquired if there were any jury questions.

There being no jury questions, the Witness was excused.

The State rested its case-in-chief at 1:58 p.m.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

Court recessed for break at 2:00 p.m.

Court reconvened at 2:00 p.m. outside the presence of the Jury and the Alternates.

The Court noted the presence of the parties.

Defense counsel advised that it would not be calling any witnesses.

The Court canvassed the Defendant regarding his right to testify.

The Court noted the State filed an Offer of Proof Concerning impeachment of Defendant with Prior Felony conviction. The Court further noted a felony conviction was attached to the Offer of Proof and the Judgment of Conviction was filed November 9, 2010.

Counsel advised that there was no further litigation regarding the Offer of Proof.

The Court further advised the Defendant regarding his right to testify.

The Defendant advised that he had sufficient time to discuss the matter with his attorney and was comfortable with his decision.

Court recessed at 2:09 p.m.

Court reconvened at 2:19 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternates.

Defense counsel rested its case-in-chief at 2:20 p.m.

The Court advised that the evidentiary portion of the trial was closed and further advised that a recess would be taken in order for the Court and Counsel to finalize the Jury Instructions.

The Court admonished the Jury and the Alternates pursuant to NRS 175.121.

Court recessed at 2:25 p.m.

Court reconvened at 5:32 p.m. in the Department II Courtroom, with Counsel and the Defendant present outside the presence of the Jury and the Alternates for the purpose of settling the Jury Instructions and Verdict Forms.

The Court noted it had a packet of Jury Instructions numbered 1 through 43 and had 3 Forms of Verdict and inquired if Counsel had any objection.

The State had no objection to the jury instructions and had no additional jury instructions to offer.

Defense counsel had no objection to the jury instructions and had no additional jury instructions to offer.

The Court noted it had 3 Forms of Verdict and inquired if Counsel had any objection to the Form of Verdict.

The State had no objection to the 3 Form of Verdict.

Defense counsel had no objection to the 3 Forms of Verdict.

The Court inquired if Counsel had any proposed forms of verdict.

Counsel had no proposed forms of verdict.

Court recessed at 5:34 p.m.

Day Three - December 17, 2020
Convention Center

Court reconvened at 8:38 a.m. outside the presence of the Jury and the Alternates.

The Court noted the presence of the parties.

The Court made a record of the Covid-19 requirements pursuant to Administrative Order and noted the court staff all indicated that they had their temperatures taken and they had no symptoms.

The Court advised that it received a note from Juror No. 6, Julie Pennell.

Juror No. 6, Julie Pennell, entered the courtroom and the Court read the note submitted.

Ms. Pennell addressed the Court.

The Court inquired of Ms. Pennell further.

The State presented follow up questions.

Defense counsel presented follow up questions.

The Court reminded Ms. Pennell regarding the admonishment and she was excused from the courtroom.

The Court advised counsel that if Ms. Pennell was excused as a juror then she would be replaced by juror no. 13, Jared Nachiondo.

The State presented a statement and requested that Ms. Pennell be excused from the jury.

Defense counsel presented a statement and requested that Ms. Pennell be excused from the jury.

The Court advised that Juror No. 6, Julie Pennell, would be excused and would be replaced by Alternate Juror No. 13, Jared Nachiondo.

The Court advised Counsel that Jury Instruction No. 32 had been replaced due to a pronoun error.

The State advised that it received a copy and had no objection and had no further proposed jury instructions.

Defense counsel State advised that it received a copy and had no objection and had no further proposed jury instructions.

The Court advised the bailiff to return Ms. Pennell to the courtroom.

Juror No. 6, Julie Pennell, entered the courtroom.

The Court advised Ms. Pennell that she would be excused from the jury. The Court thanked Ms. Pennell and she was excused from the courtroom.

Court recessed for break at 8:57 a.m.

Court reconvened at 9:12 a.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternate.

The Court advised that Jury No. 6, Julie Pennell, had been excused and was replaced by Juror No. 13, Jared Nachiondo.

The Court advised that it would read the jury instructions and further advised that it would not read Jury Instructions No. 1 and No. 2, as they had been previously read.

Counsel stipulated that the reading of the Instructions need not be reported.

The Court read Jury Instructions No. 3 through No. 43.

The Court advised that copies of the jury instructions would be provided to the jury during deliberation. Counsel agreed.

Mr. Thompson presented closing argument on behalf of the State.

Mr. Gaumond presented closing argument on behalf of the Defendant.

Mr. Thompson gave rebuttal argument.

The Court disclosed that Taylor Whitfield was the alternate juror and he was admonished pursuant to NRS 175.121. The Court instructed him to remain available via telephone.

The Bailiff was sworn and the Jury was released to begin deliberations.

Court recessed at 10:33 a.m. subject to the call of the Jury.

Court reconvened at 10:34 a.m. outside the presence of the Jury.

The Court noted an error to jury instruction no. 3 that listed the charge as a Category B and inquired if Counsel had any objection to changing to Category A by interlineation.

The State had no objection.

Defense counsel had no objection.

The Court made the correction by interlineation.

The Court and Counsel discussed jury instruction No. 24 and Counsel agreed to no changes to be made.

The Court discussed with Counsel regarding Jury Instruction No. 30 regarding testimony of the witness and regarding giving their opinion.

The Court advised that Counsel agreed there would not be supplemental instruction needed regarding the testimony of Detective Eisinger.

Court recessed at 10:38

A call was received at 11:09 a.m. that the Jury had reached a verdict.

Court reconvened at 11:39 a.m. at the call of the Jury.

The Court noted the presence of the parties.

The Clerk called the roll of the Jury.

The Court asked the Jury if they had reached a verdict.

The foreperson, Kayla Kennah, advised that a verdict had been reached and provided the Forms of Verdict for the Court's review.

The Court requested that the Clerk read the Verdict into the record.

The Clerk read the Verdict: **GUILTY OF COUNT 1: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127).**

Defense counsel requested that the jury be polled.

The Clerk polled the jury panel.

The Court thanked and excused the Jury at 11:49 a.m.

Counsel requested to set sentencing at a later date.

The Court advised the parties that they would be contacted by the Judicial Assistant to schedule a sentencing date on a regular Law and Motion date.

The Court **ORDERED** a Presentence Investigation Report due two weeks prior to sentencing.

The State requested the Defendant be held in custody without bail.

Defense counsel submitted the matter.

The Court noted the Defendant was found guilty of two Category A felonies and one Category E felony. The Court advised that it would issue an order regarding a no bail hold.

The Defendant was remanded to the custody of the Elko Sheriff's Department.

Court adjourned at 11:52 a.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable ALVIN R. KACIN, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: March 15, 2021

VS.

Case No.: DC-CR-20-4

Dept: 2

JOSE JUAN LUNA,

Defendant.

State of Nevada represented by Jeffrey Slade, Esq.
Defendant present, in custody, and represented by
Steffanie Foster, Esq.
Court Clerk, Annette Apodaca, present.
Lisa Manley present as Court Reporter.

SENTENCING HEARING

Court convened at 9:26 a.m.

The Court noted the presence of the parties.

This was the date and time set for sentencing.

All parties advised they were in receipt of the Presentence Investigation Report.

The State did not make any corrections to the report.

Defense counsel made corrections to the report.

The Court made corrections to the report by interlineation.

The Court inquired if either party had evidence to present for sentencing.

The State presented its position for sentencing.

Defense counsel presented a recommendation on behalf of the Defendant.

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

The Defendant addressed the Court.

After being canvassed by the Court, both parties advised that there was no cause why formal judgment should not be entered at this time.

The Court **ORDERED** a Judgment of Conviction be entered against the Defendant finding the Defendant guilty of COUNT 1: TRAFFICKING IN A SCHEDULE I CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 2: TRAFFICKING IN A SCHEDULE IN CONTROLLED SUBSTANCE, A CATEGORY A FELONY AS DEFINED BY NRS 453.3385.1(c). (NOC 51160); COUNT 3: POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS DEFINED BY NRS 453.336. (NOC 51127)., by a jury verdict entered on December 17, 2020.

The matter being submitted;

The Court **ORDERED** the Defendant to pay a \$25.00 administrative assessment fee, \$3.00 genetic administrative assessment fee, \$60.00 chemical analysis fee, and be sentenced to serve a maximum of 25 years in the Nevada Department of Corrections with minimum parole eligibility after 10 years with credit for 422 days previously served for Count 1.

The Court **FURTHER ORDERED** the Defendant be sentenced to serve a maximum of 25 years in the Nevada Department of Corrections with minimum parole eligibility after 10 years for Count 2, to run concurrently with sentence for Count 1.

The Court **FURTHER ORDERED** the Defendant be sentenced to serve a maximum of 48 months in the Nevada Department of Corrections with minimum parole eligibility after 19 months for Count 3, to run concurrent with sentences for Count 1 and Count 2.

The Court **FURTHER ORDERED** the Defendant to pay a \$100.00 fine for Count 2.

The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 9:47 a.m.

Number	Description	Location	Marked Dt	Admitted Dt
1	PHOTO - BAGS OF SUBSTANCES ON SEAT OF CAR	Elko County Clerk's Office	12/2/2020	12/16/2020
2	PHOTO - BAG OF WHITE CRYSTALLINE SUBSTANCE	Elko County Clerk's Office	12/2/2020	12/16/2020
3	PHOTO - 4 BAGS OF BLACK SUBSTANCE	Elko County Clerk's Office	12/2/2020	12/16/2020
4	PHOTO - 1 SMALL BAG OF WHITE SUBSTANCE	Elko County Clerk's Office	12/2/2020	12/16/2020
5	PHOTO - IDAHO IDENTIFICATION CARD	Elko County Clerk's Office	12/2/2020	12/16/2020
6	CERTIFIED IDAHO DMV VEHICLE REGISTRATION	Elko County Clerk's Office	12/2/2020	12/16/2020
7	METHAMPHETAMINE 452.06 GRAMS	Elko County Clerk's Office	12/2/2020	12/16/2020
8	HEROIN 102.66 GRAMS	Elko County Clerk's Office	12/2/2020	12/16/2020
9	COCAINE 3.34 GRAMS	Elko County Clerk's Office	12/2/2020	12/16/2020
1	Photograph	Elko County Clerk's Office	2/19/2020	
1	WASHOE CO. CRIME LAB REPORT #1	Elko County Clerk's Office	5/15/2020	5/15/2020
1	BODY CAMERA VIDEO	Elko County Clerk's Office	8/7/2020	8/7/2020
10	PIPE IN BAG	Elko County Clerk's Office	12/2/2020	12/15/2020
11	PHOTO - PIPE WITH STICKER	Elko County Clerk's Office	12/2/2020	12/16/2020
12	PHOTO - BULB END OF PIPE	Elko County Clerk's Office	12/2/2020	12/16/2020
13	CD VIDEO - TRICE BODY CAMERA REDACTED	Elko County Clerk's Office	12/2/2020	12/15/2020
13A	CD VIDEO - TRICE BODY CAMERA FULL	Elko County Clerk's Office	12/2/2020	
14	CD AUDIO - JAIL PHONE CALLS READACTED W/ COVER SHEET	Elko County Clerk's Office	12/2/2020	12/16/2020
14A	CD AUDIO - JAIL PHONE CALLS - FULL	Elko County Clerk's Office	12/2/2020	
15	WASHOE CO. CRIME LAB REPORT	Elko County Clerk's Office	12/2/2020	
16	DEPUTY FURBEE REPORT	Elko County Clerk's Office	12/2/2020	
17	TRANSLATION OF JAIL PHONE CALL	Elko County Clerk's Office	12/2/2020	
18	DEPUTY TRICE REPORT RE JAIL PHONE CALLS	Elko County Clerk's Office	12/2/2020	
19	DETECTIVE EISINGER REPORT	Elko County Clerk's Office	12/2/2020	
2	Photograph	Elko County Clerk's Office	2/19/2020	
2	ECSO WITNESS STATEMENT - JACOB ELMORE	Elko County Clerk's Office	5/15/2020	5/15/2020
2	CD - DISPATCH RECORDING & DISPATCH LOG	Elko County Clerk's Office	8/7/2020	8/7/2020
20	DETECTIVE EISINGER CV	Elko County Clerk's Office	12/2/2020	
21	JACOB ELMORE - WITNESS STATEMENT	Elko County Clerk's Office	12/2/2020	
22	JENNIFER GARDNER - WITNESS STATEMENT	Elko County Clerk's Office	12/2/2020	
23	DEPUTY TRICE REPORT	Elko County Clerk's Office	12/2/2020	
24	NHP TROOPER BRINGHURST REPORT	Elko County Clerk's Office	12/2/2020	
25	CERTIFIED JUDGMENT OF CONVICTION CR-FP-10-1344	Elko County Clerk's Office	12/2/2020	
26	TRANSCRIPT - PRELIMINARY HEARING 2/14/20	Elko County Clerk's Office	12/2/2020	

3	Photograph	Elko County Clerk's Office	2/19/2020	
3	JUDGMENT OF CONVICTION CR-FP-10-1344	Elko County Clerk's Office	5/15/2020	5/15/2020
3	CERTIFIED IDAHO DMV VEHICLE REGISTRATION RECORD	Elko County Sheriff's Office	8/7/2020	8/7/2020
4	Photograph	Elko County Clerk's Office	2/19/2020	
4	JUDGMENT OF CONVICTION CR-FP-16-409	Elko County Clerk's Office	5/15/2020	5/15/2020
4	ECISO - RULES AND REGULATION	Elko County Clerk's Office	8/7/2020	8/7/2020
5	Photograph	Elko County Clerk's Office	2/19/2020	
5	ELKO DISTRICT ATTORNEY MASTER CASE SELECT	Elko County Clerk's Office	5/15/2020	5/15/2020
5	ECISO POLICY 515 SEARCH & SEIZURE	Elko County Clerk's Office	8/7/2020	8/7/2020
6	TWIN FALLS IDAHO 5TH DISTRICT COURT WARRANT	Elko County Clerk's Office	5/15/2020	5/15/2020
6	ECISO VEHICLE IMPOUND	Elko County Clerk's Office	8/7/2020	8/7/2020
7	MAJIC VALLEY OBITUARY ALLISON EMILY CYR	Elko County Clerk's Office	5/15/2020	5/15/2020
7	ECISO SUPPLEMENT REPORT DEPUTY TRICE	Elko County Clerk's Office	8/7/2020	8/7/2020
8	NV DPS DET. JAKE EISINGER REPORT	Elko County Clerk's Office	8/7/2020	8/7/2020

Case No. DC-CR-20-4

Dept. No. 2

FILED

2021 APR 16 PM 4:23

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

ELKO CO DISTRICT COURT
CLERK _____ DEPUTY *am*

JUAN JOSE LUNA,

Appellant,

vs.

CLERK'S CERTIFICATION

THE STATE OF NEVADA,

Respondent,

I, KRISTINE JAKEMAN, the duly elected, acting and qualified County Clerk and Ex-Officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed are true, full and correct copies of certain documents in Case No.DC-CR-20-4 Dept.2, JUAN JOSE LUNA, Appellant, vs. STATE OF NEVADA, Respondent, as appears on file and of record in my office.

WITNESS My Hand and Seal of said Court on April 16, 2021.

KRISTINE JAKEMAN, ELKO COUNTY CLERK

By

Annette Marshall
Annette Marshall, DEPUTY CLERK

CERTIFICATE OF SERVICE

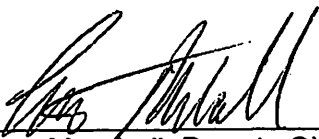
I hereby certify that I caused to be sent electronically and/or mailed a certified copy of the annexed documents in Case No. Case No.DC-CR-20-4 Dept.2, JUAN JOSE LUNA, Appellant, vs. STATE OF NEVADA, Respondent, as appears on file and of record in this Court, to the following:

Elko County District Attorney
canchondo@elkocountynv.net
csmith@elkocountynv.net
kdarby@elkocountynv.net
tyell@elkocountynv.net
cthompson@elkocountynv.net

Steffanie Foster, ESQ
Chief Civil Deputy Public Defender
569 Court Street (Physical Address)
571 Idaho Street (Mailing Address)
Elko, NV 89801

Aaron Ford
Nevada Attorney General
Attn: Criminal Division
100 North Carson Street
Carson City, NV 89701-4717

DATED this 16th, day of April, 2021.



Annette Marshall, Deputy Clerk