

1 David E. Elliston #1205498
2 P.O. BOX 7000
3 Carson City, NV. 89702
4 Email : dellistonjr2@gmail.com
5
6
7

REC'D & FILED

2021 JUL 12 PM 4:45

AUSREY DOWD ATT

Electronically Filed

BY Jul 15 2021 03:33 p.m.

Elizabeth A. Brown
Clerk of Supreme Court

8 IN THE FIRST JUDICIAL DISTRICT
9 COURT OF THE STATE OF NEVADA
10 IN AND FOR CARSON CITY

11 THE STATE OF NEVADA,
12 plaintiff,

Case No. 20CR00121 IB

13 vs.

Dept No. 1

14 DAVID ELLISTON

15 defendant,

16
17 MOTION FOR APPEAL
18

19 Comes Now, defendant, David E.
20 Elliston, moving the court for appeal on
21 grounds of wishing to submit new evidence.
22 This new evidence being certified priors of
23 the confidential informant and pending
24 cases that have not been yet prosecuted,
25 that were deliberately left undisclosed by
26 the Carson City District Attorneys office.
27 These pending cases are by and through the
28 District Attorneys Office and the certified

1 priors which they failed to disclose are
2 felony convictions which resulted in
3 prison sentences out of California. I
4 do not have these documents in my possession
5 but, it was ordered by the court that it
6 was the District Attorneys Responsibility
7 to provide them to me at the time of my
8 trial which was neglected. I know they
9 exist and have no means aside from that to
10 attain them. Being that they're aware of his
11 arrest record through both prior and current
12 prosecution indictments of their own
13 against Jonathan Louis Waters along with
14 PMP, (Parole and Probation), records its
15 undeniable that the prosecution was aware
16 of this and failed to produce, even under a
17 direct court order. This constitutes Brady
18 violation.

19 Additionally, I would like to introduce
20 a police report of officer Ramirez on the
21 fact that he failed to file one when officer
22 Bindley clearly testified at trial that
23 Ramirez witnessed myself and the informant
24 together get into my vehicle with Jonathan
25 Waters in the passenger seat immediately
26 before Waters called Bindley to tell him I
27 was now leaving with drugs. Body Cam
28 video of officers on scene at my arrest

1 will show officer Ramirez on scene at
2 my arrest having dialog with other
3 officers as well as speaking with me
4 yet no report was filed. That's because
5 his testimony makes the informant active
6 vs. passive. Without having Waters
7 registered along with many other requirements
8 using informants Ramirez report would
9 prove Waters illegally used and therefore
10 was deliberately never submitted.

11 I would also like to address the fact
12 that I was denied all law library access
13 while in Carson City Jail and through their
14 instruction told to have my attorney request
15 copies of their denials. I asked my attorney
16 multiple times to request these so I could
17 file a civil suit and he never would do it.
18 Neither was I brought legal research
19 through him nor is there anyway to call
20 and get an answer on his phone. This
21 along with failure to obtain any of the
22 evidence we know were denied from
23 Carson Sheriffs and the district attorney
24 or any attempt to have an investigator obtain
25 evidence is why I am also appealing on
26 grounds of Ineffective Assistance of
27 Counsel. The same failure to provide
28 legal research was done through my

1 previous attorney Chuck Ogens.

2 All of the afore mentioned issues,
3 (Brady and Ineffective Assistance of Counsel),
4 are Due Process issues which violate my
5 14th Amendment. Under my plea agreement
6 this is an acceptable condition in which to
7 appeal being reasonable constitutional,
8 jurisdictional, or other grounds on
9 legality of proceedings.

10 That being said please excuse any
11 error on my part in the filling of this
12 motion due to the fact that I still
13 have no law library or legal research at
14 my disposal. I am on quarantine due to
15 Covid-19 precautions and am doing the
16 best I can with no guidance. Now I'm
17 at a point where I file an appeal on my
18 own or risk not filing in time.

19
20
21
22
23 Dated this 6th day of July, 2021

24
25 David E.

26 David E. Elliston

27 P.O. Box 7000

28 Carson City, NV. 89702

REC'D & FILED

2021 JUL 13 PM 2:36

AUDREY S. LATT
CLERK

DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

STATE OF NEVADA,

Petitioner(s),

vs.

DAVID EDWARD ELLISTON, JR.,
Respondent(s).

Case No.: 20 CR 00121 1B

Dept. No.: I

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

- DAVID EDWARD ELLISTON, JR.

2. Identify the judge issuing the decision, judgment, or order appealed from:

- HONORABLE JAMES T. RUSSELL

3. Identify each appellant and the name and address of counsel for each appellant:

- DAVID EDWARD ELLISTON, JR. #1205498 (PROPER PERSON)
P.O. BOX 7000
CARSON CITY, NV 89702

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

- STATE OF NEVADA
JASON WOODBURY, DISTRICT ATTORNEY (COUNSEL FOR RESP)
885 E. MUSSER STREET, STE. 2030
CARSON CITY, NV 89701

1 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
2 licensed to practice law in Nevada and, if so, whether the district court granted that
3 attorney permission to appear under SCR 42 (attach a copy of any district court order
4 granting such permission):

5 - NOT APPLICABLE

6 6. Indicate whether appellant was represented by appointed or retained counsel in the
7 district court:

8 - APPELLANT WAS REPRESENTED BY CHARLES ODGERS, DEPUTY
9 STATE P.D. AND COURT APPOINTED COUNSEL, WALTER FEY IN THE
10 DISTRICT COURT

11 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

12 - APPELLANT IN PROPER PERSON ON APPEAL

13 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date
14 of entry of the district court order granting such leave:

15 - NOT APPLICABLE

16 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
17 indictment, information, or petition was filed):

18 - JUSTICE COURT PAPERS FILED JULY 27, 2020

19 10. Provide a brief description of the nature of the action and result in the district court,
20 including the type of judgment or order being appealed and the relief granted by the
21 district court:

22 - JUDGMENT OF CONVICTION FILED JUNE 15, 2021

23 11. Indicate whether the case has previously been the subject of an appeal to or original writ
24 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
25 number of the prior proceeding:

26 - NOT APPLICABLE

27 12. Indicate whether this appeal involves child custody or visitation:

28 - NOT APPLICABLE

1 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
2 - NOT APPLICABLE.

3 Dated this 13th day of July, 2021.

4 AUBREY ROWLATT, Carson City Clerk
5 885 E. Musser St., #3031
6 Carson City, NV 89701

7 By , Deputy
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Judge: RUSSELL, JUDGE JAMES
TODD

Case No. 20 CR 00121 1B

Ticket No. 20-2877
CTN:

STATE OF NEVADA VS.

By:

-vs-

ELLISTON, DAVID EDWARD DFNDT
470 VALLE DRIVE
BRISBANE, CA 94005
Dob: 11/11/1982 Sex: M
Lic: Sid:By: FEY, WALTER B
223 MARSH AVENUE
RENO, NV 89509Plate#:
Make:
Year:
Type:
Venue:
Location: NV
Accident:CARSON CITY DISTRICT
ATTORNEY

CPLNT

Bond:
Type:Set:
Posted:

Charges:

Ct.1	453.3385.1A	TRAFFIC IN SCH 1 OR 2 CONT SUB OR FLUNITRAZEPAM OR GHB, 100 GRAMS OR MORE BUT LT 400 GRAMS	GUILTY PLEA W/SENT BEFORE TRIAL
	Offense Dt:	05/30/2020	Cvr:
	Arrest Dt:	05/30/2020	
	Comments:		
Ct.2	453.3385.1B	TRAFFIC IN SCH 1 OR 2 CONT SUB OR FLUNITRAZEPAM OR GHB, 400 GRAMS OR MORE	GUILTY PLEA W/SENT BEFORE TRIAL
	Offense Dt:	05/30/2020	Cvr:
	Arrest Dt:	05/30/2020	
	Comments:		
Ct.3	202.360.1	OWN OR POSSESS FIREARM BY PROHIBITED PERSON	GUILTY PLEA W/SENT BEFORE TRIAL
	Offense Dt:	05/30/2020	Cvr:
	Arrest Dt:	05/30/2020	
	Comments:		
Ct.4	453.337.2a	POSSESS, W/INTENT SELL, SCH I OR II CONT SUB OR FLUNITRAZEPAM/GHB, 1ST	NOT FORMALLY ADJUDICATED
	Offense Dt:	05/30/2020	Cvr:
	Arrest Dt:	05/30/2020	
	Comments:		

Sentencing:

Ct.1	Sentence	Suspended	Credit
Jail (Days)			
Fines	0.00		
Costs	588.00		
Restitution	0.00		
Probation(Mo)		Expires:	
Comm Svc (Hr)			
REMARKS:			
Ct.2	Sentence	Suspended	Credit
Jail (Days)			
Fines	0.00		
Costs	0.00		
Restitution			
Probation(Mo)		Expires:	
Comm Svc (Hr)			
REMARKS:			
Ct.3	Sentence	Suspended	Credit
Jail (Days)			
Fines	0.00		
Costs	0.00		
Restitution			
Probation(Mo)		Expires:	
Comm Svc (Hr)			
REMARKS:			
Ct.4	Sentence	Suspended	Credit
Jail (Days)			
Fines	0.00		
Costs	0.00		
Restitution			
Probation(Mo)		Expires:	
Comm Svc (Hr)			
REMARKS:			

No.	Filed	Action	Operator	Fine/Cost	Due
1	07/13/21	CASE APPEAL STATEMENT	1BJHIGGINS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
2	07/12/21	NOTICE OF DEFICIENCY IN NOTICE OF APPEAL	1BPETERSON	0.00	0.00
3	07/12/21	MOTION FOR APPEAL	1BPETERSON	24.00	0.00
4	06/28/21	SHERIFF/WARDEN RETURN - JUDGMENT OF CONVICTION	1BJULIEH	0.00	0.00
5	06/15/21	JUDGMENT OF CONVICTION	1BJULIEH	0.00	0.00
6	06/15/21	RELEASE FROM PRISON - BALANCE DUE 1B RELEASED FROM PRISON - BALANCE DUE Sent on: 06/15/2021 14:59:28.01	1BJULIEH	0.00	0.00
7	06/14/21	DEFENDANT SENTENCED TO JAIL/PRISON	1BJULIEH	0.00	0.00
8	06/14/21	GUILTY PLEA W/SENT BEFORE TRIAL	1BJULIEH	0.00	0.00
9	06/14/21	SENTENCING HEARING HELD: The following event: SENTENCING HEARING scheduled for 06/14/2021 at 9:00 am has been resulted as follows: Result: SENTENCING HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJULIEH	0.00	0.00
10	06/14/21	JAIL/PROBATION SENTENCE INFORMATION: Charge: 3 202.360.1 OWN OR POSSESS FIREARM BY PROHIBITED PERSON Disposition: GUILTY PLEA W/SENT BEFORE TRIAL Date: 06/14/2021 Plea: GUILTY =====	1BJULIEH	0.00	0.00
=====					
Sentence					
=====					
Sentence Date: 06/14/2021 Sentencing Judge: RUSSELL, JUDGE JAMES TODD					
Total: 0.00 All Fines: 0.00 All Costs: 0.00 Served At: NO NEVADA CORRECTIONAL CENTER Minimum Incarceration Time: 24 Months Maximum Incarceration Time: 60 Months Remand To: CARSON CITY SHERIFF					
Sentence Type: DEFENDANT SENTENCED Consecutive To: Count I & II					

No.	Filed	Action	Operator	Fine/Cost	Due
11	06/14/21	JAIL/PROBATION SENTENCE INFORMATION: Charge: 2 453.3385.1B TRAFFIC IN SCH 1 OR 2 CONT SUB OR FLUNITRAZEPAM OR GHB, 400 GRAMS OR MORE Disposition: GUILTY PLEA W/SENT BEFORE TRIAL Date: 06/14/2021 Plea: GUILTY =====	1BJULIEH	0.00	0.00
		Sentence =====			
		Sentence Date: 06/14/2021 Sentencing Judge: RUSSELL, JUDGE JAMES TODD Total: 0.00 All Fines: 0.00 All Costs: 0.00 Served At: NO NEVADA CORRECTIONAL CENTER Minimum Incarceration Time: 24 Months Maximum Incarceration Time: 180 Months Remand To: CARSON CITY SHERIFF Sentence Type: DEFENDANT SENTENCED Consecutive To: Count I			
12	06/14/21	JAIL/PROBATION SENTENCE INFORMATION: Charge: 1 453.3385.1A TRAFFIC IN SCH 1 OR 2 CONT SUB OR FLUNITRAZEPAM OR GHB, 100 GRAMS OR MORE BUT LT 400 GRAMS Disposition: GUILTY PLEA W/SENT BEFORE TRIAL Date: 06/14/2021 Plea: GUILTY =====	1BJULIEH	0.00	0.00
		Sentence =====			
		Sentence Date: 06/14/2021 Sentencing Judge: RUSSELL, JUDGE JAMES TODD Total: 588.00 All Fines: 0.00 All Costs: 588.00 Restitution: 0.00 Served At: NO NEVADA CORRECTIONAL CENTER Minimum Incarceration Time: 24 Months Maximum Incarceration Time: 180 Months Credit Time Served: 381 Days Remand To: CARSON CITY SHERIFF Sentence Type: DEFENDANT SENTENCED =====			
		Court Ordered Penalties =====			
		Penalty	Amount		
		=====			
		=====			

1B CARSON - CHEMICAL ANALYSIS
FEE §§ 60
1B CARSON - ATTORNEY FEE
REIMBURSEMENT §§
500
1B CARSON - AA FEE - GENETIC
MARKER ANALYSIS §§ 3
1B CARSON - ADMINISTRATIVE
ASSESSMENT FEE §§ 25

No.	Filed	Action	Operator	Fine/Cost	Due
13	06/14/21	ATTORNEY FEE REIMBURSEMENT	1BJULIEH	500.00	500.00
14	06/14/21	CHEMICAL ANALYSIS FEE Charge #1: TRAFFICKING OF SCH I CONT SUB OR FLUNITRAZEPAM/GHB, 14 - 28 GRAMS	1BJULIEH	60.00	60.00
15	06/14/21	ADMINISTRATIVE ASSESSMENT FEE Charge #1: TRAFFICKING OF SCH I CONT SUB OR FLUNITRAZEPAM/GHB, 14 - 28 GRAMS	1BJULIEH	25.00	25.00
16	06/14/21	AA FEE - GENETIC MARKER ANALYSIS Charge #1: TRAFFICKING OF SCH I CONT SUB OR FLUNITRAZEPAM/GHB, 14 - 28 GRAMS	1BJULIEH	3.00	3.00
17	06/11/21	SUBMISSION OF FORENSIC REPORT #1 - CONTROLLED SUBSTANCES	1BJULIEH	0.00	0.00
18	06/11/21	SUBMISSION OF LETTERS OF SUPPORT FOR DEFENDANT	1BJULIEH	0.00	0.00
19	06/08/21	RECEIPT	1BJHIGGINS	0.00	0.00
20	06/08/21	HEARING HELD: The following event: JUROR ORDER TO SHOW CAUSE HEARING scheduled for 06/08/2021 at 9:00 am has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJULIEH	0.00	0.00
21	06/07/21	CONTINUED The following event: SENTENCING HEARING scheduled for 06/07/2021 at 9:00 am has been resulted as follows: Result: CONTINUED Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJHIGGINS	0.00	0.00
22	06/03/21	RECEIPT	1BCCOOPER	0.00	0.00
23	05/26/21	SUBMISSION OF SUBSTANCE ABUSE EVALUATION	1BSBARAJAS	0.00	0.00
24	05/11/21	SHERIFF/WARDEN RETURN - ORDER TO SHOW CAUSE (11)	1BSBARAJAS	0.00	0.00
25	04/27/21	JUROR ORDER TO SHOW CAUSE (12)	1BJULIEH	0.00	0.00
26	04/09/21	RECEIPT FOR EXHIBITS	1BJULIEH	0.00	0.00
27	04/08/21	JURY TRIAL HELD - CRIMINAL The following event: JURY TRIAL scheduled for 04/06/2021 at 8:00 am has been resulted as follows: Result: JURY TRIAL HELD - CRIMINAL Judge: RUSSELL, JUDGE JAMES	1BJULIEH	0.00	0.00

TODD Location: DEPT I

No.	Filed	Action	Operator	Fine/Cost	Due
28	04/07/21	PRESENTENCE SUPERVISION	1BJULIEH	0.00	0.00
29	04/07/21	MEMO OF PLEA NEGOTIATION	1BJULIEH	0.00	0.00
30	04/07/21	SECOND AMENDED CRIMINAL INFORMATION	1BJULIEH	0.00	0.00
31	04/06/21	JUROR QUESTIONS #1 & #2	1BJULIEH	0.00	0.00
32	04/05/21	ORDER	1BPETERSON	0.00	0.00
33	04/02/21	OBJECTION TO MOTION FOR RECONSIDERATION	1BPETERSON	0.00	0.00
34	04/02/21	AMENDED CRIMINAL INFORMATION	1BPETERSON	0.00	0.00
35	04/02/21	MOTION FOR LEAVE TO AMEND CRIMINAL INFORMATION	1BPETERSON	0.00	0.00
36	04/02/21	NOTICE OF HIBITUAL CRIMINALITY	1BPETERSON	0.00	0.00
37	03/31/21	NOTICE OF WITNESSES	1BCCOOPER	0.00	0.00
38	03/31/21	MOTION FOR RECONSIDERATION REGARDING DISCLOSURE OF INFORMANTS AND IMPEACHING INFORMATION	1BCCOOPER	0.00	0.00
39	03/31/21	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
40	03/31/21	ORDER DENYING MOTION TO BIFURCATE	1BCCOOPER	0.00	0.00
41	03/30/21	TRIAL STATEMENT	1BCCOOPER	0.00	0.00
42	03/29/21	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
43	03/29/21	ORDER	1BCCOOPER	0.00	0.00
44	03/25/21	REPLY MEMORANDUM IN SUPPORT OF DISCLOSURE OF INFORMANTS AND IMPEACHING INFORMATION	1BCCOOPER	0.00	0.00
45	03/22/21	TRIAL STATEMENT	1BSBARAJAS	0.00	0.00
46	03/22/21	OPPOSITION TO MOTION FOR DISCLOSURE OF INFORMANTS AND IMPEACHING HEARING	1BSBARAJAS	0.00	0.00
47	03/22/21	MOTION TO BIFURCATE CHARGES WITHIN SAME TRIAL	1BSBARAJAS	0.00	0.00
48	03/22/21	ORDER DENYING MOTION TO SUPPRESS	1BSBARAJAS	0.00	0.00
49	03/15/21	NOTICE OF EXPERT WITNESSES FOR PROSECUTIONS CASE IN CHIEF	1BCCOOPER	0.00	0.00
50	03/15/21	RELEASE FROM PRISON - BALANCE DUE 1B RELEASED FROM PRISON - BALANCE DUE Sent on: 03/15/2021 11:54:35.91	1BJHIGGINS	0.00	0.00
51	03/15/21	RELEASE FROM PRISON - BALANCE DUE 1B RELEASED FROM PRISON - BALANCE DUE Sent on: 03/15/2021 11:54:11.53	1BJHIGGINS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
52	03/12/21	MOTION FOR DISCLOSURE OF INFORMANTS AND IMPEACHING INFORMATION	1BJULIEH	0.00	0.00
53	03/05/21	OPPOSITION TO MOTION TO SUPPRESS EVIDENCE	1BCCOOPER	0.00	0.00
54	03/01/21	HEARING HELD: The following event: STATUS CHECK scheduled for 03/01/2021 at 9:00 am has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJULIEH	0.00	0.00
55	02/19/21	MOTION TO SUPPRESS EVIDENCE	1BSBARAJAS	0.00	0.00
56	01/21/21	EX-PARTE ORDER TO PAY	1BPETERSON	0.00	0.00
57	01/19/21	CRIMINAL SCHEDULING ORDER	1BCFRANZ	0.00	0.00
58	01/19/21	REQUEST FOR SUBMISSION OF EXPARTE ORDER TO PAY	1BCFRANZ	0.00	0.00
59	01/19/21	TRIAL DATE MEMO	1BCFRANZ	0.00	0.00
60	01/19/21	HEARING HELD: The following event: STATUS CHECK scheduled for 01/19/2021 at 9:00 am has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BCFRANZ	0.00	0.00
61	01/06/21	EVENT RESCHEDULED The following event: STATUS CHECK scheduled for 01/25/2021 at 9:00 am has been resulted as follows: Result: RESCHEDULED Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJULIEH	0.00	0.00
62	01/04/21	ORDER APPOINTING COUNSEL	1BJULIEH	0.00	0.00
63	01/04/21	HEARING HELD: The following event: STATUS CHECK scheduled for 01/04/2021 at 9:00 am has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJULIEH	0.00	0.00
64	12/21/20	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
65	12/21/20	ORDER	1BCCOOPER	0.00	0.00
66	12/18/20	EX-PARTE MOTION FOR EXTRAORDINARY FUNDS FOR EXPERT	1BSBARAJAS	0.00	0.00
67	12/10/20	SUBPOENA	1BSBARAJAS	0.00	0.00
68	10/28/20	TRANSCRIPT OF PROCEEDINGS - PRELIMINARY HEARING	1BCCOOPER	0.00	0.00
69	08/11/20	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BSBARAJAS	0.00	0.00
70	08/11/20	ORDER	1BSBARAJAS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
71	08/10/20	EX-PARTE MOTION FOR EXTRAORDINARY FUNDS TO RETEST DRUGS	1BCFRANZ	0.00	0.00
72	08/04/20	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
73	08/04/20	CRIMINAL SCHEDULING ORDER	1BCCOOPER	0.00	0.00
74	08/03/20	TRIAL DATE MEMO	1BJHIGGINS	0.00	0.00
75	08/03/20	ARRAIGNMENT HEARING HELD; The following event: ARRAIGNMENT HEARING scheduled for 08/03/2020 at 9:00 am has been resulted as follows: Result: ARRAIGNMENT HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJHIGGINS	0.00	0.00
76	08/03/20	PRETRIAL SUPERVISION	1BJHIGGINS	0.00	0.00
77	07/27/20	CRIMINAL INFORMATION	1BSBARAJAS	0.00	0.00
78	07/27/20	KNOW YOUR COURT DATE, MAINTAIN CONTACT W/YOUR ATTORNEY & ATTEND COURT ON TIME & DRUG/ALCOHOL FREE	1BSBARAJAS	0.00	0.00
79	07/27/20	REPORT TO DAS TO HAVE COLOR ASSIGNED (TESTING) Condition Notes CARNATION	1BSBARAJAS	0.00	0.00
80	07/27/20	SUBMIT TO SEARCH & SEIZURE: WEAPONS	1BSBARAJAS	0.00	0.00
81	07/27/20	CONTACT AND MAINTAIN CONTACT WITH HIS OR HER ATTORNEY	1BSBARAJAS	0.00	0.00
82	07/27/20	STAY WITHIN NORTHERN NEVADA	1BSBARAJAS	0.00	0.00
83	07/27/20	NO ALCOHOL DRUGS OR DRUG PARAPHERNALIA	1BSBARAJAS	0.00	0.00
84	07/27/20	NO WEAPONS	1BSBARAJAS	0.00	0.00
85	07/27/20	ELECTRONIC MONITORING (GPS)	1BSBARAJAS	0.00	0.00
86	07/27/20	SEARCH & SEIZURE: ALCOHOL, DRUGS, PARA AND RX OTHER THAN PRESCRIBED	1BSBARAJAS	0.00	0.00
87	07/27/20	OBEY ALL LAWS EXCEPT FOR MINOR TRAFFIC	1BSBARAJAS	0.00	0.00
88	07/27/20	FILING JUSTICE COURT PAPERS	1BSBARAJAS	0.00	0.00
Total:				612.00	588.00
Totals By:					
AA FEE				25.00	25.00
ATTORNEY FEES				500.00	500.00
CHEMICAL ANALYSIS				60.00	60.00
FEE					
COST				24.00	0.00
GENETIC MARKER				3.00	3.00
ANALYSIS FEE					
INFORMATION				0.00	0.00
*** End of Report ***					

REC'D & FILED

2021 JUN 15 PM 2:44

AUBREY BOBLATT
CLERK
BY *[Signature]*
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

STATE OF NEVADA,

Plaintiff,

vs.

DAVID EDWARD ELLISTON, JR.,
Defendant.

Case No.: 20 CR 00121 1B

Dept. No.: I

JUDGMENT OF CONVICTION

On the 6th day of April, 2021, the Defendant above-named appeared before this Court with his counsel, Walter Fey, and entered a plea of guilty pursuant to North Carolina v Alford to the crime of **Trafficking in a Schedule I Controlled Substance -14 Grams to 28 Grams, Counts I and II, a category B felony; and Ex-Felon in Possession of a Firearm, a category B felony, Count III**, committed May 30, 2020, in violation of NRS 453.3385(1)(b) and 202.360.

On the 14th day of June, 2021, the Defendant appeared before the Court for sentencing with his counsel, Walter Fey, and the State was represented by Melanie Brantingham. No sufficient legal cause was shown by the Defendant as to why judgment should not be pronounced against him. The Court adjudged the Defendant guilty of **Trafficking in a Schedule I Controlled Substance -14 Grams to 28 Grams, Counts I and II, a category B felony; and Ex-Felon in Possession of a Firearm, a category B felony, Count III**.

The Court then sentenced the Defendant on Count I to imprisonment on in the Nevada Department of Corrections for a period of twenty-four (24) months minimum to one hundred

1 eighty (180) months maximum. The Court then sentenced the Defendant on Count II to
2 imprisonment in the Nevada Department of Corrections for a period of twenty-four (24) months
3 minimum to one hundred eighty (180) months maximum. The Court then sentenced the
4 Defendant on Count III to twenty-four (24) months minimum to sixty (60) months maximum.
5 Counts II and III will run consecutive to Count I, for an aggregate sentence of seventy-two (72)
6 months minimum to four hundred twenty (420) months maximum. A \$3.00 genetic marker,
7 \$25.00 administrative assessment fee and \$60.00 chemical analysis fee were imposed. The
8 Defendant was ordered to reimburse Carson City the sum of Five Hundred (\$500.00) Dollars for
9 legal representation by court appointed conflict counsel. The Defendant was ordered to report to
10 the Fines and Fees Office immediately upon release to pay and/or make arrangements to pay the
11 fines/fees imposed upon him. The Court enters judgment against the Defendant for the
12 assessments and fees imposed. The Defendant was given credit for 381 day(s) pre-sentence
13 confinement time.
14
15
16

17 Dated this 15th day of June, 2021.

18
19
20
21
22
23
24
25
26
27
28

DISTRICT JUDGE

RECEIVED of _____, Sheriff of Carson City, State of
Nevada, on this ____ day of _____, one _____.

DIRECTOR, NEVADA DEPARTMENT OF CORRECTIONS

By: _____

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON

06/14/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Harkleroad, Clerk – Not Reported

ENTRY OF JUDGMENT AND SENTENCING

Present: Deputy District Attorney Melanie Brantingham represented the State; Andrew Rico Parole and Probation Officer; Defendant with counsel, Court appointed counsel Walter Fey.

Statements were made by Court, counsel and Deft.

COURT ORDERED: Judgment entered. Deft. sentenced on Ct. I from 24 months minimum to 180 months maximum Nevada Department of Corrections; Deft. sentenced on Ct. II from 24 months minimum to 180 months maximum Nevada Department of Corrections and Deft. sentenced on Ct. III from 24 months minimum to 60 months maximum Nevada Department of Corrections to run consecutive to Cts. I & II, for an aggregate term of 72 months to 420 months. Deft. imposed the following fines/fees: genetic marker assessment fee of \$3.00; administrative assessment fee of \$25.00; chemical analysis fee of \$60.00; DNA fee of \$0.00; reimburse Carson City \$500.00 for legal representation by Court appointed counsel, Walter Fey; fine of \$0.00; restitution of \$0.00. Deft. given 381 days credit for time served.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON

06/08/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Harkleroad, Clerk – Not Reported

JUROR ORDER TO SHOW CAUSE

Present: Parties not present.

David Sanchez, now present telephonically.

Statements were made by Court and counsel.

COURT ORDERED: Mr. Sanchez to come in and pay the fine and it will not issue a warrant.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON

06/07/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Higgins, Clerk – Not Reported

ENTRY OF JUDGMENT AND SENTENCING

Present: Deputy District Attorney Melanie Brantingham represented the State; Andrew Rico Parole and Probation Officer; Defendant with counsel, Court appointed counsel Walter Fey.

Defense counsel moved for a continuance. No objection by State.

COURT ORDERED: Matter continued to June 14, 2021 at 9:00 A.M.

CONTINUED TO: 06/14/21 – 9:00 A.M. – Sentencing

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON JR

04/06/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Harkleroad, Clerk – C. Joyce, Reporter

CONTINUATION OF JURY TRIAL

Present: Deputies District Attorney Sarah White and Melanie Brantingham represented the State; Defendant with counsel, Court appointed counsel Walter Fey.

Evidence was marked and admitted in accordance with the Exhibit Sheet.

Outside the presence of the prospective jurors.

Statements were made by Court and counsel regarding questions proposed by Court yesterday.

Counsel stipulated to the presence of the jury.

The following witnesses were sworn and testified:

3. Jeff Pullen w/K-9 partner Blue

Jurors admonished prior to each recess throughout the day.

Outside the presence of the jury.

Fey made Mo/Renew Motion to Suppress. Brantingham in response.

Court stated its findings for the record,

COURT ORDERED: Motion to renew the Motion to Suppress is denied.

Counsel stipulated to the presence of the jury.

4. Daniel Henneberger

Outside the presence of the jury,

Statements were made by counsel.

Second Amended Criminal Information and Memorandum of Plea Negotiation filed in open Court.

Defendant's counsel received copy of Amended Information and reading waived. Upon inquiry by Court, Defendant moved to withdraw his former plea of not guilty. Defendant entered ALFORD pleas to Cts. I – III to Second Amended Information. Court canvassed the Defendant and advised him of his rights. The Court finds that the Defendant has voluntarily and knowingly waived his constitutional rights and that the Defendant understands the charges and the possible penalty against him. The Court finds that the Defendant knowingly and voluntarily entered a plea of guilty and the court accepts the plea.

COURT ORDERED: PSR and sentencing set for June 7, 2021 at 9:00 A.M. Deft. will remain in custody.

Stipulated that exhibits 3 through 12 can returned to the Sheriff's Office.

Statements were made by Deft. regarding his forfeiture proceedings.

Counsel stipulated to the presence of the jury.

Jury was thanked and excused.

CONTINUED TO: 06/7/21 – 9:00 A.M. – Sentencing

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON JR

04/06/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Harkleroad, Clerk – C. Joyce, Reporter

JURY TRIAL

Present: Deputies District Attorney Sarah White and Melanie Brantingham represented the State; Defendant with counsel, Court appointed counsel Walter Fey.

Evidence was marked and admitted in accordance with the Exhibit Sheet.

Outside the presence of the prospective jurors.

TRUE NAME: DAVID EDWARD ELLISTON, JR. Defendant's counsel received copy of Amended Information and formal reading waived. Defendant entered NOT GUILTY pleas to Ct. I, II, III & IV of Amended Information.

Statements were made by Court and counsel regarding housekeeping matters.

White stated the offer for the record. Fey indicated it has been conveyed and Deft. rejected the offer.

Deft. advised of his 5th amendment rights.

Further statements were made by counsel

Fey made Mo/Dismiss. White in response.

COURT ORDERED: Motion is denied.

Record will reflect the presence of prospective jurors.

Prospective jurors sworn.

Counsel made brief statements as to the nature of the case.

Court took recess to address additional prospective jurors located in the Specialty Courtroom, which was recorded on the Court recording system and the Court Reporter was present.

Matter resumed.

Prospective jurors admonished prior to each recess throughout the day.

Outside the presence of the prospective jury,

Statements were made by Court and counsel.

Record will reflect the presence of prospective jury.

The following persons were selected and sworn to try the case:

- | | |
|----------------------|-----------------------|
| 1. Rory Block | 8. Anthony Myers |
| 2. Mary Switft | 9. Medina Rosas |
| 3. Kristina Cervenak | 10. Katie Folmer |
| 4. Khristan Ramirez | 11. Andrew St. George |
| 5. Rochelle Maynor | 12. Suzanne Lusich |
| 6. Jose Pina, Jr. | 13. Marcus Soulier |
| 7. James Kirkpatrick | 14. Andrew Johnson |

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON JR

4/6/2021 – Cont'd.

Court gave preliminary instructions to the jury.
Upon request by counsel,
Rule of exclusion was invoked.
Clerk read information and stated Deft.'s plea(s)
Jurors admonished prior to each recess throughout the day.
Outside the presence of the jury,
Statements were made by Court and counsel.
Counsel stipulated to the presence of the jury.
Opening statements by counsel.
The following witnesses were sworn and testified:

1. Brett Bindley

Outside the presence of the jury,
Court read juror question #1 to counsel.
Counsel stipulated to the presence of the jury.

2. Lizzeth Granata

Juror admonished until April 7, 2021 at 8:30 a.m.
Outside the presence of the jury,
Statements were made by Court and counsel.
Court read juror question #2 to counsel.
Further statements were made by Court and counsel.

CONTINUED TO: 4/7/2021 – 8:15 a.m. – Continued Jury Trial

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON JR

03/01/21 – DEPT. I – HONORABLE WILLIAM A. MADDOX
J. Harkleroad, Clerk – Not Reported

STATUS CHECK

Present: Deputy District Attorney Garrit Pruyt represented the State; Andrew Rico Parole and Probation Officer; Defendant with counsel, Court appointed counsel Walter Fey.

Upon inquiry by Court,
Counsel stated they are prepared to go to trial on April 6th

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON, JR

01/19/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
C. Franz, Clerk – Not Reported

STATUS CHECK

Present: Deputy District Attorney Garrit Pruyt represented the State; Heather Hardy Parole and Probation Officer; Defendant with counsel, Court appointed counsel Walter Fey.

Statements were made by Court, counsel and Deft.

COURT ORDERED: It reschedules Jury Trial for April 06, 2021 at 8:00 A.M.

CONTINUED TO: 04/06/21 – 8:00 A.M. – Jury Trial

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD
ELLISTON

01/04/21 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Harkleroad, Clerk – Not Reported

STATUS CHECK

Present: Deputy District Attorney Melanie Brantingham represented the State; Andrew Rico Parole and Probation Officer; Defendant with counsel, Deputy State Public Defender Charles Odgers.

Odgers stated for the record that he has a conflict and will need to withdraw from the case. However, an offer has been made that he will propose to Deft.

Statements were made by Odgers and Court.

Matter trialed.

Matter resumed.

Odgers stated the offer that was made was rejected. Odgers further stated that because of the conflict he will not be able to proceed to trial in this matter.

COURT ORDERED: It will vacate the February 9, 2021 trial and appoint will appoint conflict counsel. It will keep the March 2, 2021 trial date at this time.

Upon inquiry by Brantingham,

COURT ORDERED.: It will set a status check for January 25, 2021 at 9:00 a.m.

CONTINUED TO: 1/25/2021 – 9:00 A.M. – Status Check

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 CR 00121 1B

TITLE: STATE OF NEVADA VS. DAVID EDWARD ELLISTON, JR.

08/03/20 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Higgins, Clerk – Not Reported

ARRAIGNMENT

Present: Deputy District Attorney Melanie Brantingham represented the State; Heather Hardy Parole and Probation Officer; Defendant with counsel, Deputy State Public Defender Chuck Odgers.

TRUE NAME: DAVID EDWARD ELLISTON, JR. Defendant's counsel received copy of Information and formal reading waived. Defendant entered NOT GUILTY pleas to Counts I through IV of the Information. Odgers indicated that Count III to be bifurcated and set separately. Statements were made by Court and counsel.

COURT ORDERED: Counts I, II, IV - 4 day Jury Trial set for February 09, 2021 at 8:00 A.M.
Count III – 3 day Jury Trial set for March 2, 2021, at 8:00 A.M.

**CONTINUED TO: 02/09/21 – 8:00 A.M. – Jury Trial (Counts I, II, IV)
03/02/21 – 8:00 A.M. – Jury Trial (Count III)**

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT

CASE NUMBER: 20 CR 00121 1B

JUDGE: JAMES T. RUSSELL

DEPT. NO. I

PLAINTIFF/PETITIONER: STATE OF NEVADA

DEFENDANT/RESPONDENT: DAVID EDWARD ELLISTON, JR.

DATE: 4/6/2021

HEARING: JURY TRIAL

Pty	Number	Description of Exhibit	Marked	Offered	Admitted
Pltf.	1a	Photo's (20)	4/5	4/6	4/6
Pltf.	1b	Thumb Drive (purple)	4/5	4/6	4/6
Pltf.	2	Map	4/5	4/6	4/6
Pltf.	3	Item # 6 - bag w/4.3 grams of methamphetamine/hadlo Item #7 - bag w/30 grams of methamphetamine/heneb Item #12 - bag w/30.6 grams of methamphetamine/henne Item #13 - bag w/31.1 grams of methamphetamine/henne Item #14 - bag w/60.7 grams of methamphetamine/henne Item #15 - bag w/31.1 grams of methamphetamine/henne	4/5	4/7	4/7
Pltf.	5	Item #17 - 1 plastic case w/baggies in it	4/5	4/7	4/7
Pltf.	10	Item #18 - digital scale/red/wht/grn/ylw/ henneberg	4/5	4/7	4/7
Pltf.	11	Item #26 - Hi-point 380ACP model CF/Bindley/x4 (9mm)	4/5	4/6	4/6
Pltf.	12	Item #24 - black gun magazine/bindley/x2	4/5	4/6	4/6

- EXHIBIT RECORD PAGE 1 -

FIRST JUDICIAL DISTRICT COURT

CASE NUMBER: 20 CR 00121 1B

JUDGE: JAMES T. RUSSELL

DEPT. NO. I

PLAINTIFF/PETITIONER: STATE OF NEVADA

DEFENDANT/RESPONDENT: DAVID EDWARD ELLISTON, JR.

DATE: 6/14/2021HEARING: SENTENCING[illegible]

- EXHIBIT RECORD PAGE 1 -

REC'D & FILED

2021 JUL 12 PM 5:04

AUBREY ROWLATT
CLERK

DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

STATE OF NEVADA,

Plaintiff,

vs.

DAVID EDWARD ELLISTON, JR.,
Defendant.

Case No.: 20 CR 00121 1B

Dept. No.: I

**NOTICE OF DEFICIENCY IN NOTICE
OF APPEAL**

PLEASE TAKE NOTICE that a Notice of Appeal was filed July 12 , 2021, in the
above-entitled action despite the fact that there appears to be the following deficiency(ies) noted
by the Clerk at the time of filing:

- ☐ \$24.00 District Court filing fee not paid.
- ☐ \$250.00 filing fee for the Clerk of the Supreme Court not paid.
- ☐ Document not signed.
- ☐ Document presented was not an original.
- ☐ Case Appeal Statement not filed.
- ☒ No proof of service upon opposing counsel/litigant.
- ☐ Other

DATED this 12 day of July, 2021

Aubrey Rowlatt
AUBREY ROWLATT, CLERK

By *[Signature]*, Deputy

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

K. Peterson
Judicial Clerk