

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS ROCCO TAGLIAMONTE,
Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Docket Nos. 83-224 & 83-225 01:06 p.m.
Elizabeth A. Brown
D. Ct. Clerk of Supreme Court
CR21-0636

APPEAL FROM JUDGMENT OF
THE HONORABLE DAVID A. HARDY

SECOND JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX

KARLA K. BUTKO
KARLA K. BUTKO, LTD.
Attorney for Appellant
P. O. Box 1249
Verdi, Nevada 89439
(775) 786-7118
State Bar # 3307

CHRIS HICKS
Washoe County District Attorney
Attorney for Respondent
P. O. Box 11130
Reno, NV 89520
(775) 328-3200
Marilee Cate

INDEX TO APPELLANT'S APPENDIX

VOLUME 1

<u>Document</u>	<u>Pages</u>
Information (CR20-0117).....	1-3
Guilty Plea Memorandum.(CR20-0117)	4-9
Transcript of Proceedings, Via Audio/Visual Transmission Arraignment, Monday, August 24 th , 2020.....	10-24
NRS 176A.230/NRS 176A.240 Order and Order Admitting Defendant to Probation.....	25-28
Petition for Treatment Pursuant to NRS 458.300 or NRS 176A.230 and NRS 176A.240.....	29-40
Letters of Mitigation of Sentencing/Affirmation Pursuant to NRS 239B.030.....	41-45
Transcript of Proceedings, Sentencing, Monday, November 2, 2020 (CR20-0117)	46-74
Information (CR21-0636).....	75-77
Guilty Plea Memorandum (CR21-0636)	78-82
Transcript of Proceedings, Arraignment, Monday, May 10, 2021.....	83-94
Transcript of Proceedings, Via Auto/Visual Transmission Arraignment, Monday, August 24 th , 2020.....	95-109

INDEX TO APPELLANT'S APPENDIX

VOLUME 1

<u>Document</u>	<u>Pages</u>
Order Returning Case from Specialty Court to Original Department.	110
Returning Report from Specialty Courts.	111-112
Character Reference Letters/Affirmation Pursuant to NRS 239B.030.	113-123
Defendant's Statement of Mitigation.	124-129
Defendant's Supplemental Statement of Mitigation/ Affirmation Pursuant to NRS 239B.30.	130-132
Defendant's Supplemental Statement of Mitigation/ Affirmation Pursuant to NRS 239B.30.	133-135
Transcript of Proceedings, Motion for Probation Revocation and Sentencing, June 28, 2021.	136-158
Judgment (CR20-0117)	159-160
Judgment (CR21-0636)	161-162
Notice of Appeal.	163-164

DA #20-415

RPD RP20-000616

FILED
Electronically
CR20-0117
2020-08-18 04:37:22 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8025496

1 CODE 1800
2 Christopher J. Hicks
3 #7747
4 One South Sierra Street
5 Reno, NV 89501
6 districtattorney@da.washoecounty.us
7 (775) 328-3200
8 Attorney for Plaintiff

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

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No.: CR20-0117

15 v.

Dept. No.: D15

16 NICHOLAS ROCCO TAGLIAMONTE,

17 Defendant.

18 INFORMATION

19 CHRISTOPHER J. HICKS, District Attorney within and for the
20 County of Washoe, State of Nevada, in the name and by the authority
21 of the State of Nevada, informs the above entitled Court that, the
22 defendant above-named, NICHOLAS ROCCO TAGLIAMONTE, has committed the
23 crime of:

24 SALE OF A CONTROLLED SUBSTANCE, a violation of NRS 453.321,
25 a category B felony, (51090) in the manner following:

26 That the said defendant, NICHOLAS ROCCO TAGLIAMONTE, on or
about January 9, 2020, within the County of Washoe, State of Nevada,
did willfully and unlawfully sell a Schedule I or II controlled
substance, at or near 690 East 2nd Street, Reno, Washoe County,

1 Nevada, to wit: the said defendant sold five (5) Oxycodone and/or
2 Fentanyl pills to an undercover detective for \$100.00.

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

6
7 CHRISTOPHER J. HICKS
8 District Attorney
9 Washoe County, Nevada

10
11 By /s/ Zach Young
12 ZACH YOUNG
13 9227
14 Chief Deputy District Attorney
15
16
17
18
19
20
21
22
23
24
25
26

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

3 DANIEL KNOX
4 AUSTIN BROOME-PHILLIPS
5 CHRISTOPHER JOHNSON
6 APRYL BUNAGAN
7

8 AFFIRMATION PURSUANT TO NRS 239B.030

9 The party executing this document hereby affirms that this
10 document submitted for recording does not contain the social security
11 number of any person or persons pursuant to NRS 239B.030.
12

13 CHRISTOPHER J. HICKS
14 District Attorney
15 Washoe County, Nevada
16

17 By /s/ Zach Young
18 ZACH YOUNG
19 9227
20 Chief Deputy District Attorney
21
22
23
24
25

26 PCN RPD0009913C-TAGLIAMONTE

1 CODE 1785
2 Christopher J. Hicks
3 #7747
4 One South Sierra Street
5 Reno, NV 89501
6 districtattorney@da.washoecounty.us
7 (775) 328-3200
8 Attorney for Plaintiff

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

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR20-0117

15 v.

Dept. No. D15

16 NICHOLAS ROCCO TAGLIAMONTE,

17 Defendant.

18 _____/
19 GUILTY PLEA MEMORANDUM

20 1. I, NICHOLAS ROCCO TAGLIAMONTE, understand that I am
21 charged with the offense of: SALE OF A CONTROLLED SUBSTANCE, a
22 violation of 453.321, a category B felony.

23 2. I desire to enter a plea of guilty to the offense of
24 SALE OF A CONTROLLED SUBSTANCE, a violation of 453.321, a category B
25 felony, as more fully alleged in the charge filed against me.

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

A. I waive my privilege against self-incrimination.

///
///
///

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

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

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

9 4. I understand the charge against me and that the
10 elements of the offense which the State would have to prove beyond a
11 reasonable doubt at trial are that on January 9th, 2020, or
12 thereabout, in the County of Washoe, State of Nevada, I did willfully
13 and unlawfully sell a Schedule I or II controlled substance, at or
14 near 690 East 2nd Street, Reno, Washoe County, Nevada, to wit: I sold
15 five (5) Oxycodone and/or Fentanyl pills to an undercover detective
16 for \$100.00.

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

1 6. I understand that the consequences of my plea of guilty
2 are that I may be imprisoned in the Nevada State Department of
3 Corrections for a minimum term of not less than 1 year and a maximum
4 term of not more than 6 years, and I may further be punished by a
5 fine of not more than \$20,000.00. I further understand that I am
6 eligible for probation.

7 7. In exchange for my plea of guilty, the State, my
8 counsel and I have agreed to recommend the following: the State will
9 not object to probation and will recommend an underlying suspended
10 sentence of 12-30 months in the Nevada State Department of
11 Corrections. I will be free to argue for an appropriate sentence, to
12 include diversion, deferred entry of judgment, or suspension of
13 proceedings, pursuant to statute. The State will not pursue the
14 separate Possession of a Controlled Substance charge in this case,
15 and will further dismiss Reno Justice Court case number RCR2020-
16 106882.

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

21 9. Where applicable, I additionally understand and agree
22 that I will be responsible for the repayment of any costs incurred by
23 the State or County in securing my return to this jurisdiction.

24 10. I understand that the State, at their discretion, is
25 entitled to either withdraw from this agreement and proceed with the
26 prosecution of the original charges or be free to argue for an

1 appropriate sentence at the time of sentencing if I fail to appear at
2 any scheduled proceeding in this matter OR if prior to the date of my
3 sentencing I am arrested in any jurisdiction for a violation of law
4 OR if I have misrepresented my prior criminal history. I understand
5 and agree that the occurrence of any of these acts constitutes a
6 material breach of my plea agreement with the State. I further
7 understand and agree that by the execution of this agreement, I am
8 waiving any right I may have to remand this matter to Justice Court
9 should I later withdraw my plea.

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

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

1 best interest and that going to trial is not in my best interest. My
2 attorney has advised me that if I wish to appeal, any appeal, if
3 applicable to my case, must be filed within thirty days of my
4 sentence and/or judgment.

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

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

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

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

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

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

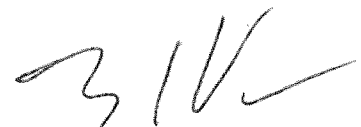
3 AFFIRMATION PURSUANT TO NRS 239B.030

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

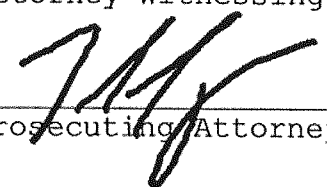
6 DATED this 24th day of August, 2020

7
8 

9 Defendant

10
11
12 
13
14
15
16
17
18
19
20
21
22
23
24
25
26
Translator/Interpreter

Attorney Witnessing Defendant's Signature


Prosecuting Attorney

4185
SUNSHINE LITIGATION
151 Country Estates Circle
Reno, Nevada 89512

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
BEFORE THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

-o0o-

STATE OF NEVADA,	:	
	:	
Plaintiff,	:	
	:	
vs	:	Case No. CR20-0117
	:	
NICHOLAS ROCCO	:	
TAGLIAMONTE,	:	Dept. No. 15
	:	
Defendant.	:	

=====

TRANSCRIPT OF PROCEEDINGS
VIA AUDIO/VISUAL TRANSMISSION

ARRAIGNMENT

MONDAY, AUGUST 24TH, 2020

Washoe County, Nevada

Reported By: ERIN T. FERRETTO, CCR #281

. **SUNSHINE LITIGATION **

A P P E A R A N C E S

FOR THE PLAINTIFF:

ROBERT DELONG, ESQ.
Deputy District Attorney
One South Sierra Street
Reno, Nevada

FOR THE DEFENDANT:

THOMAS E. VILORIA, ESQ.
327 California Avenue
Reno, Nevada

THE DEFENDANT:

Present

PAROLE AND PROBATION:

JILL BERRYMAN

**

SUNSHINE LITIGATION

**

1 -o0o-

2 WASHOE COUNTY, NEVADA

3 MONDAY, AUGUST 24TH, 2020, 3:00 P.M.

4 -o0o-

5
6
7 THE COURT: Hello, everyone. It's Judge David
8 Hardy, Department 15. This is our criminal docket for
9 the afternoon of August 24, 2020. I appear through the
10 Zoom program, sitting in Washoe County. If at any time,
11 counsel, you object to these proceedings, let me know
12 when I call your case.

13 * * * * *

14
15 THE COURT: First case this morning is CR20-0117,
16 State versus Nicholas Tagliamonte.

17 I see that Mr. Vilorio is present.

18 Mr. Tagliamonte, if you'll activate your video,
19 please.

20 And make sure, Mr. Tagliamonte and Mr. Vilorio,
21 that you are unmuted.

22 And for the State?

23 MR. DeLONG: Robert DeLong on behalf of the State,
24 your Honor, appearing in Washoe County, Nevada.

*** SUNSHINE LITIGATION ***

1 THE COURT: Thank you.

2 I have in front of me a Guilty Plea Memorandum,
3 which is not signed. It is the draft of what I expect to
4 occur. I have an Information file-stamped August 18,
5 2020, in which Mr. Tagliamonte is charged with a
6 Category B felony, sale of a controlled substance.

7 Mr. Viloría, if you'll confirm that your client is
8 properly identified and familiar with the contents of the
9 charging of the document, and also if you wish this
10 document to be read open court.

11 MR. VILORIA: Thank you, your Honor.

12 We acknowledge receipt of the Information filed
13 herein on August 18. Mr. Tagliamonte's name is his true
14 and lawful name. It is correctly spelled on line 12. We
15 are familiar, your Honor, with the single count of sale
16 of a controlled substance as alleged therein. We waive
17 the formal reading of the same.

18 At this time, Mr. Tagliamonte is prepared to enter
19 a guilty plea. There is a negotiation. Your Honor, we
20 did file in the Guilty Plea Memorandum, which was signed
21 in my presence this morning by Mr. Tagliamonte and
22 myself. We filed that in at 11:27 a.m. this morning.

23 THE COURT: Thank you. It has not reached its way
24 to my hands. I'm confident it's en route.

1 Mr. DeLong, are you satisfied with the rendition?

2 MR. DeLONG: I didn't hear the negotiations, your
3 Honor.

4 MR. VILORIA: If I may, your Honor, the
5 negotiations, Mr. Tagliamonte will enter a plea to the
6 count of sale of a controlled substance as alleged in the
7 Information. In exchange for his plea, the State will
8 not object to probation and will recommend an underlying
9 suspended sentence of 12 to 30 months in the Nevada State
10 Department of Corrections. The defense and Mr.
11 Tagliamonte will be free to argue for an appropriate
12 sentence to include any diversion program, deferred entry
13 of judgment program or suspension of proceedings pursuant
14 to those new statutes under AB 236. The State will not
15 pursue the separate possession of controlled substance
16 charge in this case, and will further dismiss the
17 proceedings Reno Justice Court, Case No. RCR2020-106882.

18 THE COURT: Thank you. And that's consistent with
19 the paragraph 7 at page three of the Guilty Plea
20 Memorandum.

21 Mr. Tagliamonte, please face my clerk, raise your
22 right hand and be sworn.

23 (Defendant sworn.)

24 THE DEFENDANT: I swear to tell the whole truth

1 and nothing but the truth.

2 THE COURT: Mr. Tagliamonte, you and I are going
3 to have a conversation. I must confirm that you are
4 making your own voluntary informed choice. How you plead
5 is ultimately your decision, and you can surprise
6 everyone and change your plea today. I have no opinion
7 about how you should plead. I want to talk about your
8 plea options and differences and consequences.

9 First, Mr. Tagliamonte, you are presumed innocent,
10 which means that you could be guilty if and only if the
11 State proved your guilt beyond a reasonable doubt or you
12 admitted your guilt. You have no obligation to admit
13 your guilt. You know what's happened, you know your
14 circumstances, you know the State's position, you know
15 your private conversations with counsel, so it may be
16 appropriate for you to plead guilty but that choice is
17 entirely yours.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have you had an adequate time to
21 discuss this matter with your attorney?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: If you plead guilty this afternoon,
24 you will be incriminating yourself and there will not be

1 a trial. The next time I see you will be for sentencing.

2 Are you clear about that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: If you have any concerns and you want
5 to change your mind, I would invite you to talk to your
6 attorney again or plead not guilty. If you pled not
7 guilty, I would not make any comment, I would not make
8 any judgment, but I would set this matter for trial.
9 That trial will be public and fair, set sometime next
10 year, I presume, when the courthouse reopens. You would
11 have an effective attorney assisting you, you could
12 confront the State's witnesses and evidence, you could
13 present your own witnesses and evidence. The jury must
14 all agree -- all 12 members of the jury must agree that
15 you are guilty beyond a reasonable doubt. That is the
16 consequence of pleading not guilty, that you will go to
17 trial.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: I want to visit this negotiation. I
21 like negotiations when presented to the court. They help
22 me but they don't answer all my questions. When I am
23 called upon to sentence you, I will read a report
24 prepared by Division of Parole & Probation, I will listen

1 to anything you have to say, I will listen to your
2 attorney, I will listen to the State's attorney, I'll
3 listen to others who might be affected by this crime, and
4 then I'll make own my independent decision.

5 What I'm saying, Mr. Tagliamonte, is it's nice
6 that your attorney and the State's attorney have bundled
7 up what they think I should do. I might do it but I may
8 not. I can surprise everybody and I reserve that
9 ability.

10 Do you have any questions about that?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: I want to quickly fly over the
13 allegations that the State has alleged against you in the
14 charging document. The State has alleged that on or
15 about January 9, 2020, in Washoe County, you willfully
16 and unlawfully sold a Schedule I or Schedule II
17 controlled substance, this occurring at or near 690 East
18 Second Street in Washoe County; specifically, you sold
19 five Oxycodone or other Fentanyl pills to an undercover
20 detective for \$100.

21 Do you understand what the State has alleged
22 against you?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you have any questions before I ask

1 for your plea?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Do you need time to speak to your
4 attorney privately before I ask for your plea?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Let me ask one more question. You
7 read the Guilty Plea Memorandum before you signed it; is
8 that correct?

9 THE DEFENDANT: Yes, your Honor. Yes, sir.

10 THE COURT: Do you have any of question about its
11 contents?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. To the Category B felony,
14 sale of a controlled substance, how do you plea?

15 THE DEFENDANT: Guilty, your Honor.

16 THE COURT: Did you do when you were accused of
17 doing, Mr. Tagliamonte?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Has anybody promised anything to you
20 or threatened you in any way to obtain your plea?

21 THE DEFENDANT: No, sir.

22 THE COURT: The court concludes that Mr.
23 Tagliamonte is fully informed; he's competent to
24 understand his choice; he understands the nature of the

1 charge; he understands its possible consequences. The
2 court accepts the plea.

3 This matter is set for entry of judgment and
4 imposition of sentence. Ms. Clerk?

5 THE CLERK: That will be Monday, October 26 at
6 3:00 p.m.

7 THE COURT: Let's talk about marijuana.

8 MR. VILORIA: Your Honor, on the 26th I have a
9 conflict. I've got another matter that afternoon. On
10 Monday -- the following Monday, your Honor, November 2nd,
11 I'm wide open.

12 THE COURT: To the State?

13 MR. DeLONG: No objection, your Honor.

14 THE COURT: So ordered.

15 MR. VILORIA: What time would that be?

16 THE CLERK: Three o'clock.

17 MR. VILORIA: Three o'clock.

18 THE COURT: Now can we talk about marijuana?

19 MR. VILORIA: Certainly, your Honor.

20 THE COURT: My understanding is that
21 Mr. Tagliamonte continues to use marijuana, and there is
22 sometimes a disconnect between what is permitted or
23 proscribed in the lower courts and what happens in
24 Department 15. Our Pre-Trial Court Services is on

1 written notice that in Department 15 medical marijuana
2 cards do not apply unless there's a specific proffer of
3 the condition, medical condition which requires that
4 treatment modality, that there is a prescription
5 indicating no other treatment modalities are appropriate,
6 and a prescription which includes the duration and the
7 dosage of the marijuana. It's my way to ferret out those
8 who are using marijuana to watch Oprah and giggle while
9 eating Cheetos on one side versus those who
10 therapeutically and legitimately benefit from its
11 medicinal properties.

12 So I don't feel the need to punish Mr. Tagliamonte
13 right now for his recent use because he didn't hear my
14 speech, but there will be no marijuana between now and
15 the time of sentencing. I will enter an order consistent
16 with my oral pronouncement.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And I will cause Mr. Tagliamonte to be
19 tested at least twice, once immediately before court for
20 sentencing and one other time Pre-Trial Services is going
21 to call him in randomly and request that he produce a
22 specimen.

23 Counsel, do you wish to be heard on this issue?

24 MR. VILORIA: No, your Honor. I'm confident

1 Mr. Tagliamonte will comply with this order.

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: It will be a significant piece of
4 information if you do comply with the order.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: It will be a significant piece of
7 information if you do not comply with this order.

8 All right. Thank you, everybody. Good day to you
9 all on this particular case. Call the next one.

10 MR. VILORIA: Your Honor, will the PSI -- will
11 they email to questionnaire to me or give a number for
12 Mr. Tagliamonte to call?

13 THE COURT: Thank you for the question. We're
14 still working our way through Zoom. Let me yield to the
15 court clerk.

16 MR. VILORIA: Okay. You're muted, Ms. Clerk, if
17 you're talking.

18 THE CLERK: Can you hear me now?

19 THE COURT: Perfectly.

20 MR. VILORIA: Yes, I can. It's sort of varies
21 department by department. I've had some of the probation
22 officers email me the questionnaire, provide the
23 telephone number, the defendants will call, we'll
24 complete the questionnaire and submit it. I've had

1 others simply indicate they want the defendant to call a
2 number by a set time, then we go from there. I'm not
3 sure what your Honor's department and, more particularly,
4 what the Probation Department is doing in your
5 department.

6 THE COURT: Typically here the Division announces
7 a telephone number. And thank you for me reminding me
8 because I was bypassing that.

9 Ms. Clerk, is it okay if the Division of Parole &
10 Probation takes over at this point?

11 THE CLERK: Yes. That's what I prefer.

12 THE COURT: Let's see. Who do we have from the
13 Division? Ms. Berryman?

14 MS. BERRYMAN: Good afternoon, your Honor.

15 THE COURT: Hello.

16 MS. BERRYMAN: Mr. Viloria, I can email that
17 questionnaire and contact sheet to you and ask that the
18 defendant gets it back by the end of the week, and then
19 follows up by calling the Division next week. The phone
20 number is on the questionnaire. Will that work for you?

21 MR. VILORIA: That's just fine. I think you've
22 done that similarly and you've got my email,
23 tviloria@renonvlaw.com.

24 MS. BERRYMAN: I believe I do. Thank you.

1 MR. VILORIA: Yes. Thank you so much.

2 Mr. Tagliamonte, you and I will be talking here
3 shortly, but there's some packets and you need to call
4 and schedule a time with the Probation Department. Okay,
5 sir?

6 THE DEFENDANT: Yes, sir.

7 MR. VILORIA: Thank you.

8 * * * * *

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3

4 I, ERIN T. FERRETTO, an Official Reporter
5 of the Second Judicial District Court of the State of
6 Nevada, in and for the County of Washoe, DO HEREBY
7 CERTIFY:

8 That I was present in Department No. 15 of
9 the above-entitled Court vis simultaneous audio/visual
10 transmission on MONDAY, AUGUST 24TH, 2020, and took
11 verbatim stenotype notes of the proceedings had upon the
12 matter captioned within, and thereafter transcribed them
13 into typewriting as herein appears;

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

17 That I am not related to or employed by any
18 parties or attorneys herein, nor financially interested
19 in the outcome of these proceedings.

20
21 DATED: This 10th day of January, 2021.

22 The document to which this certificate is
23 attached is a full, true and correct copy of the
24 original on file and of record in my office.
By: ALICIA L. LERUD, Clerk of the Second
Judicial District Court, in and for the County of
Washoe.

/s/ Erin T. Ferretto

ERIN T. FERRETTO, CCR #281

SUNSHINE LITIGATION

1 **CODE 1385**

2
3
4
5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

Case No. CR20-0117

11 **vs.**

Dept. No. 15

12 **NICHOLAS ROCCO TAGLIAMONTE,**

13 **Defendant.**
14 _____/

15 **NRS 176A.230/NRS176A.240 ORDER AND**
16 **ORDER ADMITTING DEFENDANT TO PROBATION**

17 1. Defendant Nicholas Rocco Tagliamonte entered a plea of guilty on August 24th,
18 2020, to the crime of SALE OF A CONTROLLED SUBSTANCE, a violation of NRS 453.321, a
19 category B felony, as charged in the Information.

20 2. It is hereby ordered that Nicholas Rocco Tagliamonte have judgment deferred
21 pursuant to NRS 176A.230/NRS176A.240. Nicholas Rocco Tagliamonte is placed on probation for
22 a fixed period of time of 12 months, with imposition of the following special conditions:

- 23 a. Defendant shall enter and successfully complete the Washoe
24 County Second Judicial District Diversion Specialty Court or any
25 other Specialty Court subsequently deemed appropriate by the
26 Specialty Court Judge; Defendant shall immediately call Specialty
27 Court Staff at 775-224-5224 for orientation.
28 b. Defendant shall pay a fine in the total amount of \$4,000.00 no later
than August 27th, 2021; payments shall be made payable and
remitted to the Second Judicial District Court Clerk of Court at 75
Court Street Reno, NV, 89501.

- 1 c. Defendant shall complete 40 hours of community service within
2 the first 9 months of probation; he shall be permitted to complete
3 community service at a verifiable animal services organization
4 such as the Humane Society, Animal Ark, or the Livestock Event
5 Center.
6
7 d. Defendant shall appear for a probation review hearing scheduled
8 for Monday, August 30th, 2021, at 3:00 p.m. This hearing may
9 vacate if Defendant provides, in advance of August 30th, 2021,
10 proof of completion of 40 hours of community service at a
11 verifiable animal services organization and proof of payment in-
12 full of the \$4,000.00 fine.

13 3. It is further ordered that Nicholas Rocco Tagliamonte shall submit to the imposition
14 of the following general conditions:

- 15 1a. **Reporting:** The Defendant shall report in person to the Division
16 of Parole and Probation as instructed by the Division or its agent.
17 Defendant is required to submit a written report each month on
18 forms supplied by the Division. This report shall be true and
19 correct in all aspects.
20 2b. **Residence:** Defendant shall not change his/her place of residence
21 without first obtaining permission from the Division of Parole and
22 Probation, in each instance.
23 3c. **Intoxicants:** Defendant shall not consume any alcoholic
24 beverages WHATSOEVER. Upon order of the Division of Parole
25 and Probation or its agent, Defendant shall submit to a medically
26 recognized test for blood/breath alcohol content.
27 4d. **Controlled Substances:** Defendant shall not use, purchase or
28 possess any illegal drugs, or any prescription drugs, unless first
prescribed by a licensed medical professional. Defendant shall
immediately notify the Division of Parole and Probation of any
prescription received. Defendant shall submit to drug testing as
required by the Division or its agent.
5e. **Weapons:** Defendant shall not possess, have access to, or have
under his/her control, any type of weapon.
6f. **Search:** Defendant shall submit his person, property, place of
residence, vehicle or areas under his/her control to search including
electronic surveillance or monitoring of his location, at any time,
with or without a search warrant or warrant of arrest, for evidence
of a crime or violation of probation by the Division of Parole and
Probation or its agent.
7g. **Associates:** Defendant must have prior approval by the Division
of Parole and Probation to associate with any person convicted of a
felony, or any person on probation or parole supervision.
Defendant shall not have any contact with persons confined in a
correctional institution unless specific written permission has been

granted by the Division of Parole and Probation and the correctional institution.

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

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

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

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

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

3. Defendant shall be given 1 day credit for time served commencing at the beginning of his term.

4. Defendant's case is assigned to the Second Judicial District – Specialty Court, which will exercise jurisdiction over this matter while the Defendant is in Specialty Court. Should the Defendant be removed from the Specialty Court Program, the Defendant shall be returned heretofore for all further matters.

5. It is further ordered that the Defendant shall pay the statutory \$25.00 administrative assessment fee, \$3.00 as an administrative assessment for obtaining biological specimen and conducting a genetic marker analysis, and \$500.00 for legal representation during his participation in Diversion Court; payments for these fees shall be made payable and remitted to the Second Judicial District Court Clerk of Court at 75 Court Street Reno, Nevada, 89501.

///

///

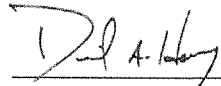
///

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

6. Nicholas Rocco Tagliamonte is hereby advised that:

**Any fine, fee or administrative assessment imposed today
(as reflected in this judgment of conviction) constitutes a
lien, as defined in Nevada Revised Statutes 176.275. Should
you not pay these fines, fees, or assessments, collection
efforts may be undertaken against you.**

Dated this 2nd day of November, 2020.


DISTRICT JUDGE

3645

Thomas E. Vilorio, Esq.
Nevada Bar No. 003833
VILORIA, OLIPHANT,
OSTER & AMAN L.L.P.
P.O. Box 62
Reno, Nevada 89504
mailtev@renonvllaw.com
(775) 284-8888
Attorney for Defendant

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

* * *

THE STATE OF NEVADA,
Plaintiff,

Case No. CR20-0117

vs.

Dept. No. D15

NICHOLAS ROCCO TAGLIAMONTE

Defendant.

[FILED CONFIDENTIAL]

PETITION FOR TREATMENT PURSUANT TO NRS 458.300 OR
NRS 176A.230 and NRS 176A.240

Defendant, by and through his counsel of record declares that he is a drug addict within the meaning of NRS 458.290; that he is eligible under NRS 458.300 to elect treatment for the abuse of drugs pursuant to NRS 453.580; Furthermore, defendant has a severe cocaine use disorder, severe cannabis use disorder and severe stimulant use disorder and he is eligible for a treatment program pursuant to NRS 176A.230 and NRS 176A.240 which permits the court to suspend or defer proceedings without entry of Judgment in the Specialty Court of the Second Judicial District court for such treatment. This petition is based upon the following Points and Authorities, the Affidavit of the Defendant, the attached Exhibit and all pleadings on file herein.

DATED this 14th day of October, 2020.

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

By: Thomas E. Vilorio, Esq.

29

POINTS AND AUTHORITIES

I. Statement of Facts

Mr. Tagliamonte has entered a guilty plea to Sale of a Controlled Substance, a violation of NRS 453.321 a category B felony for an offense alleged to have occurred on January 9, 2020 alleging he sold five (5) Oxycodone and/or Fentanyl pills to an undercover detective for \$100. Mr. Tagliamonte is eligible for probation. In exchange for his plea, Mr. Tagliamonte is free to agree for diversion, deferred entry of Judgment or suspension of proceedings and the State has no objection to probation with a 12-30 month underlying term and will dismiss Reno Justice Court Case RCR2020-106882. See Guilty Plea Memorandum filed herein on August 24, 2020, page 3, lines 7-16.

On February 2, 2020, Nina Willingham, M.Ed., LADC, conducted an evaluation. In her report updated October 8, 2020 she states, Mr. Tagliamonte qualifies as 'drug addicted' as defined by NRS 453/458 which was the law at the time of his offense. She also opines he qualifies as having severe cocaine use disorder, severe cannabis use disorder and severe stimulant use disorder and recommends the court suspend or defer proceedings for treatment pursuant to NRS 453/458 or NRS 176A.230/NRS 176A.240 which became effective July 1, 2020. See Evaluation marked Exhibit "1" attached hereto and incorporated herein by reference.

II. Discussion

1. Mr. Tagliamonte qualifies and is eligible for diversion pursuant to NRS 458 if the court applies the sentencing law in effect at the time of the commission of the offense.

Pursuant to NRS 458.300, a court may assign an individual to a treatment program for the abuse of drugs or alcohol pursuant to NRS 453.580 before he is sentenced.¹

When the request for treatment is pursuant to NRS 458.300, the individual must be classified as an alcoholic or drug addict². In addition, an individual must satisfy seven (7) factors

¹ NRS 458 was repealed effective July 1, 2020. See 2019 Statutes of Nevada, page 4488, Sec. 136 (Chapter 633, AB 236. However, it is well established that the penalty in effect at time of sentencing is the penalty at the time of the commission of the offense. *Sparkman v. State*, 95 Nev. 76, 590 P.2d 151 (1979) and *State v. Second Judicial Dist. Court ex rel. County of Washoe*, 124 Nev. 564, 188 P.3d 1079 (2008).

² NRS 458.290 defines the meaning of "drug addict" for purposes of NRS 458.300 to NRS 458.350 as any person who habitually takes or otherwise uses any controlled substance. . . to the extent he endangers the health, safety or welfare of himself or any other person.

1 to be legally eligible for treatment. NRS 458.300(1)-(7). Mr. Tagliamonte satisfies each of the
2 seven (7) factors.

3 A hearing must be held to review a request for NRS 458.300 treatment. NRS 458.310.
4 At this hearing, the Court can evaluate whether the elements of NRS 458.300 are satisfied and
5 whether the individual is a proper candidate for treatment. Id. In addition, the State may present
6 evidence regarding the petition's merit. Id. This hearing can be conducted at the time set for
7 sentencing.

8 If the Court allows treatment, the Court shall advise Mr. Tagliamonte that sentencing will
9 be postponed if he elects treatment for substance abuse. NRS 458.310 (2). In offering the
10 election, the court may impose any conditions upon the election of treatment that could be
11 imposed as conditions of probation NRS 458.310 (2) (a). Mr. Tagliamonte may be placed under
12 the supervision of a facility for not less than one (1) year and no more than three (3) years; and
13 he could be placed as an in-patient at the discretion of the facility or released for treatment or
14 supervised care in the community. NRS 458.310 (2) (a), (b) and (c). If Mr. Tagliamonte
15 completes treatment any conviction would be set aside, but if he does not satisfactorily complete
16 treatment, he may be sentenced and the sentence executed. NRS 458.310 (d).

17 In this case, Mr. Tagliamonte is a proper candidate for NRS 458.300 treatment as
18 follows:

19 A. Mr. Tagliamonte has been diagnosed with severe cocaine use disorder, severe
20 cannabis use disorder and severe stimulant use disorder.

21 Pursuant to the evaluation of Ms. Willingham, attached hereto as Exhibit "1", Mr.
22 Tagliamonte meets the definition of an "addict" as defined in NRS 458.290.

23 B. Mr. Tagliamonte is legally eligible for treatment

24 Mr. Tagliamonte's current criminal arrest and his criminal history do not disqualify him
25 from treatment NRS 458.300 (1), (2), (3) and (4). Mr. Tagliamonte will not have other pending
26 criminal proceedings alleging a felony and he is not on probation or parole. NRS 485.300 (5)
27 and (6). Lastly, Mr. Tagliamonte has not been admitted to a program of treatment pursuant to

28 ///

1 NRS 458.290 to NRS 458.350 more than twice within the preceding five (5) years. NRS
2 458.300 (7). Thus, Mr. Tagliamonte is eligible for the requested relief.

3 C. Mr. Tagliamonte is a good candidate for treatment

4 Mr. Tagliamonte is a proper individual for a 458 deferred sentence for the following
5 reasons:

- 6 1. Ms. Willingham recommends treatment pursuant to NRS 458;
- 7 2. Mr. Tagliamonte has abstained from controlled substance use following his arrest
8 and release from custody;
- 9 3. Mr. Tagliamonte is counseling with Garry E. Rubinstein, M.A. and as of the most
10 recent report has 16 session completed. The eight (8) Progress Reports are attached as Exhibit
11 "2,"
- 12 4. Mr. Tagliamonte has no prior arrest of any kind before the instant offense;
- 13 5. Mr. Tagliamonte obtained his high school diploma in 2018;
- 14 6. Mr. Tagliamonte has attended Narcotics Anonymous after his arrest; and
- 15 7. Mr. Tagliamonte is and has been gainfully employed by High Desert Drywall
16 since February, 2020 and was previously employed as a production operator from June 2019
17 until November 2019 and in the same industry with a different company from February 2018
18 until April 2019.

19 **2. Mr. Tagliamonte is eligible to have the court suspend or defer the proceedings**
20 **without entering judgment and place him on probations with terms and conditions to**
21 **include a treatment program under 176A.230/NRS 176A.240.**

22 As of July 1, 2020, NRS 176A.230 provides in pertinent part "[a] court may establish an
23 appropriate program for the treatment of alcohol or other substance use disorders, to which it
24 may assign a defendant pursuant to ... NRS 176A.240 The assignment must include terms
25 and conditions for successful completion of the program and provide for progress reports at
26 intervals set by the court to ensure that the defendant is making satisfactory progress towards
27 completion of the program."

28 NRS 176A.240 (1) in pertinent part provides:
Except as otherwise provided in subparagraph (1) of paragraph (a) of subsection 3 of
NRS 176.211, if a defendant who suffers from a substance use disorder ... tenders a plea

1 of guilty to ... any offense for which the suspension of sentence or the granting of
2 probation is not prohibited by statute, the court may: (a) Without entering a judgment of
3 conviction and with the consent of the defendant, suspend or defer further proceedings
4 and place the defendant on probation upon terms and conditions that must include
5 attendance and successful completion of a program established pursuant to NRS
6 176A.230 if the court determines that the defendant is eligible for participation in such a
7 program; or (b) Enter a judgment of conviction and place the defendant on probation
8 upon terms and conditions that must include attendance and successful completion of a
9 program established pursuant to NRS 176A.230 if the court determines that the defendant
10 is eligible for participation in such a program.³

11 NRS 176.240 (2) provides in pertinent part:

12 Except as otherwise provided in subsection 4, a defendant is eligible for participation in a
13 program established pursuant to NRS 176A.230 if the defendant is diagnosed as having a
14 substance use disorder ...:

15 (a) After an in-person clinical assessment by:

16 (1) A counselor who is licensed or certified to make such a diagnosis; or

17 (2) A duly licensed physician qualified by the Board of Medical Examiners to
18 make such a diagnosis; or

19 (b) Pursuant to a substance use assessment.

20 NRS 176A.240 (3) requires, "[a] counselor or physician who diagnoses a defendant as
21 having a substance use disorder shall submit a report and recommendation to the court
22 concerning the length and type of treatment required for the defendant."

23 NRS 176A.240 (4) provides if the offense committed by the defendant is a category A
24 felony or a sexual offense as defined in NRS 179D.097 that is punishable as a category B felony,
25 the defendant is not eligible for assignment to the program.⁴

26 NRS 176A.240 (5) provides:

27 Upon violation of a term or condition:

28 (a) The court may enter a judgment of conviction, if applicable, and proceed as provided
in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the
court may order the defendant to the custody of the Department of Corrections if the
offense is punishable by imprisonment in the state prison.

NRS 176A. 240 (6) states:

Upon fulfillment of the terms and conditions, the court:

(a) Shall discharge the defendant and dismiss the proceedings or set aside the
judgment of conviction, as applicable, unless the defendant:

(1) Has been previously convicted in this State or in any other jurisdiction of a
felony; or

³NRS 176.211 (3)(a)(1) requires the court shall defer judgment for a defendant who has plead guilty, guilty but
mentally ill or nolo contendere to a violation of NRS 453.336 (2)(a).

⁴ Reckless Driving resulting in death or substantial bodily harm a felony violation of NRS 484B.653 (9) is not a
category A offense and is not a category B sex offense as set forth in NRS 179D.097.

- 1 (2) Has previously failed to complete a specialty court program; or
2 (b) May discharge the defendant and dismiss the proceedings or set aside the
3 judgment of conviction, as applicable, if the defendant:
4 (1) Has been previously convicted in this State or in any other jurisdiction of a
5 felony; or
6 (2) Has previously failed to complete a specialty court program.

7 NRS 176A.240 (7) provides:

8 Discharge and dismissal pursuant to this section is without adjudication of guilt and is not
9 a conviction for purposes of this section or for purposes of employment, civil rights or
10 any statute or regulation or license or questionnaire or for any other public or private
11 purpose, but is a conviction for the purpose of additional penalties imposed for second or
12 subsequent convictions or the setting of bail. Discharge and dismissal restores the
13 defendant, in the contemplation of the law, to the status occupied before the arrest,
14 indictment or information. The defendant may not be held thereafter under any law to be
15 guilty of perjury or otherwise giving a false statement by reason of failure to recite or
16 acknowledge that arrest, indictment, information or trial in response to an inquiry made
17 of the defendant for any purpose.

18 In the present case, as of July 1, 2020 Mr. Tagliamonte is eligible for a treatment program
19 pursuant to NRS 176A.230 and NRS 176A.240. The evaluation by Nina Willingham finds Mr.
20 Tagliamonte has a severe cocaine use disorder, severe cannabis use disorder and severe stimulant
21 use disorder and recommends the court suspend or defer proceedings and place him in a
22 diversion treatment program.

23 Mr. Tagliamonte is an ideal candidate for the NRS 176A.230/NRS 176A.240 diversion
24 treatment program in Specialty Court. He has no prior arrest of any kind. Mr. Tagliamonte is
25 and has been gainfully employed. Mr. Tagliamonte has attended NA meetings and is actively
26 counseling with Mr. Rubinstein.

27 Accordingly, Mr. Tagliamonte requests this court without entering judgment suspend or
28 defer proceedings and place him on probation with terms and conditions the court deems
appropriate to include a treatment program in the Specialty Court. Mr. Tagliamonte is confident
he can successfully complete any terms and conditions imposed by the court in an effort to
obtain discharge and dismissal of the proceedings in accordance with NRS 176A.240 (7).

///

///

///


///

1 III. Conclusion

2 Based upon the foregoing, Mr. Tagliamonte requests that his Petition for Treatment
3 Pursuant to NRS 458.300 or NRS 176A.230/NRS 176A.240 be granted and sentencing
4 suspended or deferred.

5 **DATED** this 14th day of October, 2020.

6 VILORIA, OLIPHANT,
7 OSTER & AMAN, L.L.P.

8 
9 By: _____
10 Thomas E. Vilorio, Esq.
11 Attorney for Defendant
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT FOR TREATMENT PURSUANT TO NRS 458.300

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, NICHOLAS ROCCO TAGLIAMONTE, do hereby swear under penalty of perjury that the assertions of this Affidavit are true as follows:

1. That on August 24, 2020 I entered a Guilty Plea to Sale of a Controlled Substance, a violation of NRS 453.321, a category B felony with a date of offense of January 9, 2020 alleging I sold five (5) Oxycodone and/or Fentanyl pills to an undercover detective for \$100. That pursuant to NRS 458.300 which was in existence on the date of the offense, the crime that is the subject of this action is not:

- (a) a crime against the person as provided in Chapter 200 of NRS;
- (b) a crime against a child as defined in NRS 179D.0357
- (c) a sexual offense as defined in NRS 179D.097 or
- (d) an act which constitutes domestic violence as set forth in NRS 33.018.

2. The crime is not trafficking of a controlled substance.

3. The crime is not a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430.

4. That I do not have a record of two or more convictions of a crime described in 1. or 2. above or a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

5. That no other criminal proceedings alleging commission of a felony are pending against me because RCR2020-106882 will be dismissed as part of my plea herein;

6. When arrested for the current offense, I was not on probation or parole; and;

7. That I was not admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment not more than twice within the preceding five (5) years.

///

///

1 8. That it is my understanding that I am classified as an abuser of alcohol or drugs
2 (cannabis) and that I have been diagnosed as having an alcohol use disorder and cannabis use
3 disorder by a certified counselor.

4 9. That I understand that if my application for treatment is granted by the Court:

5 (a) That final sentencing in this case will be deferred;

6 (b) That pursuant to NRS Chapter 458 or NRS 176A.230/NRS 176A.240, if I
7 do not satisfactorily complete the treatment or terms and conditions thereof, the Court may
8 proceed with sentencing and execute the sentence; and,

9 (c) That if I complete the treatment satisfactorily, as determined by the
10 Court, then pursuant to NRS Chapter 458 any conviction will be set aside.

11 (d) That if proceedings are suspended or deferred without entry of judgment
12 pursuant to NRS 176A.230/NRS 176A.240 and I am placed on probation and I successfully
13 complete all the terms and conditions thereof that the court will discharge me and dismiss the
14 proceedings.

15 10. That after due deliberation, I desire to enter a program of treatment under the
16 procedures provided in NRS 458.320/458.330 which existed at the date of the offense or I
17 desire and consent to a program of treatment without entry of judgment and consent to the same
18 in accordance with NRS 176A.230/NRS 176A.240.

19 11. I have read the foregoing Petition for Treatment Pursuant to NRS 458.300 or NRS
20 176A.230 and NRS 176A.240 know the contents thereof, and that the same is true of my own
21 knowledge, except as to those matters stated upon information and belief and as to those matters,
22 I also believe them to be true.

23 DATED this 14th day of October, 2020.

24 

25 NICHOLAS ROCCO TAGLIAMONTE

26 SUBSCRIBED and SWORN to before me
27 This 14th day of October, 2020.

28 NOTARY PUBLIC

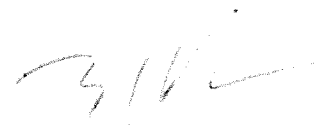
VILORIA,
OLIPHANT,
OSTER &
AMAN L.L.P.
ATTORNEYS AND
COUNSELORS AT LAW
Office: (775) 284-8888 Fax: (775) 284-3838
P. O. BOX 62 ~ RENO, NEVADA 89504
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

AFFIRMATION PURSUANT TO NRS 239B.030

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

DATED this 14th day of October, 2020.

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

By: 
Thomas E. Viloria, Esq.
Attorney of Record

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

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

CERTIFICATE OF SERVICE

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

PETITION FOR TREATMENT PURSUANT TO NRS 458.300
OR NRS 176A.230 and NRS 176A.240

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

ZACK YOUNG, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION

DATED this 14th day of October, 2020.

Marianne Kiley

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

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

1
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

INDEX OF EXHIBITS

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>NO. PAGES</u>
Exhibit 1	Evaluation by Nina Willingham, M.Ed., LADC	3
Exhibit 2	Counseling Progress Reports	8

1960

1 Thomas E. Vioria, Esq.
Nevada Bar No. 003833
2 VILORIA, OLIPHANT,
OSTER & AMAN L.L.P.
3 P.O. Box 62
Reno, Nevada 89504
4 mailtev@renonvllaw.com
(775) 284-8888
5 Attorney for Defendant

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

8 * * *

9 THE STATE OF NEVADA,

Case No. CR20-0117

10 Plaintiff,

Dept. No. D15

11 vs.

12 NICHOLAS ROCCO TAGLIAMONTE, III,

13 Defendant.

14 _____ /
15 **LETTERS IN MITIGATION OF SENTENCING**

16 Defendant, NICHOLAS ROCCO TAGLIAMONTE, III, by and through his attorney,
17 Thomas E. Vioria, Esq. of VILORIA, OLIPHANT, OSTER & AMAN L.L.P., hereby submits a
18 letter in mitigation of sentencing from Christina Tagliamonte.

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

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

22 **DATED** this 21 day of November, 2020.

23 VILORIA, OLIPHANT
24 OSTER & AMAN L.L.P.

25 
26 By: _____
27 Thomas E. Vioria, Esq.
28

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

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

CERTIFICATE OF SERVICE

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

LETTERS IN MITIGATION OF SENTENCING

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

ZACK YOUNG, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION

DATED this 2nd day of November, 2020.

Marianne Kiley

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

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

INDEX OF EXHIBITS

EXHIBIT NO.	DESCRIPTION	NO. PAGES
-------------	-------------	-----------

Exhibit 1	Letter	1
-----------	--------	---

EXHIBIT 1

EXHIBIT 1

Dear Honorable David A Hardy,

I have known Nicholas Tagliamonte since he was born. Nicky is my little brother and like so many of us he has had his difficulties in life. This young man has a good heart and great morals. I do know that when he got in trouble it instantly woke him up, he has been working toward a better life for himself and his children. Nick has proved not only to himself but all his family that he is utilizing the resources and sticking to his substance abuse counseling, staying sober and working a steady job earning an honest living. He has worked hard to get his life on track. Keeping a steady job in construction for the last four months and providing a healthy life for himself and his daughters on his own. Nick has really changed for the better and growing into a responsible young man.

Christina Tagliamonte

Bartender Bully's sports bar and grill

775-997-9927

Christinatag14@gmail.com

4185

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

--oOo--

THE STATE OF NEVADA,

Plaintiff,

Case No. CR20-0117

vs.

Dept. No. 15

NICHOLAS ROCCO TAGLIAMONTE,

Defendant.

/

TRANSCRIPT OF PROCEEDINGS

SENTENCING

Monday, November 2, 2020

Reported by:

EVELYN J. STUBBS, CCR #356

A P P E A R A N C E S

For the State: NICHOLAS GRAHAM, ESQ.
Deputy District Attorney
1 South Sierra Street
Reno, Nevada

For the Defendant: THOMAS E. VILORIA, ESQ.
Attorney at Law
327 California Avenue
Reno, Nevada 89509

For the Division: ERIN LUKL

The Defendant: NICHOLAS ROCCO TAGLIAMONTE

1 RENO, NEVADA; MONDAY, NOVEMBER 2, 2020; 3:55 P.M.

2 --o0o--

3
4 THE COURT: CR20-0117, the State versus Nicholas Rocco
5 Tagliamonte.

6 If you'll come on, please, Mr. Vilorio, Mr. Tagliamonte,
7 and Mr. Graham for the State.

8 This is the time set for entry of judgment and
9 imposition of sentence.

10 Mr. Tagliamonte entered a plea of guilty to the felony
11 charge sale of a controlled substance. I am familiar with the
12 fact narrative set forth in the PSI, including the overdose that
13 led to the social media research. And I anticipate, Mr. Graham,
14 that I'm going to hear Mr. Vilorio argue for some form of
15 suspended or diverted sentence.

16 And without argument, I want to know what your position
17 is, Mr. Graham. I'm struggling because I have a gentleman who
18 has credit for one day credit for time served, and our Diversion
19 Program is going to be almost a whole lot of nothing in the next
20 12 months with our COVID complications. And I don't know if
21 that's a commensurate response, having said that. He has no
22 criminal history and he's somewhat youthful.

23 So save your arguments, but if the State's position, is
24 it just about the diversion request is what I'm looking for.

1 MR. GRAHAM: I will be objecting to the diversion
2 request. And that was going to be part of my argument for the 12
3 to 30 months with no objection to probation. I was going to
4 focus almost entirely, my argument, on why diversion is not
5 appropriate for this case.

6 THE COURT: Thank you.

7 Mr. Tagliamonte, your attorney is going to speak for
8 you in a moment. Before he does, you have the right to address
9 the Court. Is there anything you would like to say?

10 THE DEFENDANT: Just, Your Honor, I know what I've done
11 wrong, and it showed me the path that I was going down, and, you
12 know, I wish to not continue down that path and wish to further
13 better my life and be a better role model for my kids and create
14 a better life and be a better member of this society.

15 And that's all, Your Honor.

16 THE COURT: Thank you.

17 Mr. Vilorio.

18 MR. VILORIA: Thank you, Your Honor.

19 Your Honor, we filed our diversion petition in
20 accordance with either the former 458, which was repealed --
21 although there's some authority that it's the law in effect at
22 the time of the commission of the crime that applies -- but
23 effective July 1, the new provisions came in under 176A230 and
24 240.

1 Mr. Tagliamonte qualifies, Your Honor. He's got severe
2 cocaine use as well as stimulant use. He's been subject to
3 pretrial conditions since January of this year. In relative
4 short order it will be a year. It's my understanding he's been
5 in compliance.

6 He is a young person, and to saddle this young man with
7 a felony is problematic moving forward.

8 He's been a pleasure to actually represent. I've had
9 numerous meetings with Mr. Tagliamonte. He's done everything
10 that I've asked him to do, and some of which he did on his own.
11 I never asked him to go to NA meetings or do those types of
12 things. And I don't do that, because some clients object because
13 of the First Amendment, the religious component of those
14 programs.

15 And so he's done those things. He ought to get some
16 benefit and credit. It's not unusual for young men like him, who
17 begin to use, to sell in small quantities to friends or family or
18 colleagues. In this particular instance it was a sale of five
19 pills. So to make Mr. Tagliamonte a felon over a five-pill sale,
20 I'm not aware that any sales ledgers were found or that this had
21 been going on for a protracted period of time. There's just no
22 evidence of that.

23 And Mr. Tagliamonte had been cooperative, has been hard
24 working at his program. He's got over 20 weeks of counseling in

1 now with Mr. Rubinstein. I'm advised, Your Honor, that
2 Mr. Rubinstein is going to retire March 1st. But this is the
3 kind of thing that diversion is designed for. People who have
4 addictions.

5 Interesting to note, as articulated in the PSI, his
6 personal supply for personal use is found on him at the time of
7 the arrest. So he was using then. And he's done great. I'm
8 really proud of this young man. And he ought to get some benefit
9 of going through over 10 months, or almost 10 months solid now of
10 pretrial compliance, as well as working hard to get his head
11 right and to get himself squared away.

12 So we're asking for the diversion, Your Honor. We
13 think it's appropriate. Someone may have overdosed, and that's
14 referenced. I don't know the number of quantities that that
15 person took. I don't know anything about those facts. If
16 Mr. Tagliamonte was this -- I don't know even know if
17 Mr. Tagliamonte is the seller. All we know is apparently it's
18 the same phone number. It doesn't mean that he's the one that
19 sold these drugs in that instance.

20 One could argue, well, it's the same number, so it must
21 be him. I don't know that to be true and I don't know anything
22 about that other case. Wasn't provided in the discovery. I
23 can't comment on it. But to penalize Mr. Tagliamonte for that
24 is -- it's not fair. If he sold something to somebody, assume he

1 was the seller, and somebody overdosed and overused the products,
2 yes, he put it in the stream, but at some point the end user is
3 accountable for what they take and the number of pills that they
4 take.

5 I don't, again, know that Mr. Tagliamonte is the
6 seller. If the State has that discovery, I would have
7 appreciated it.

8 Having said that, Your Honor, Mr. Tagliamonte is the
9 exact kind of person that the diversion programs are set out for;
10 to give young people who do use, who exercise poor judgment, an
11 opportunity to cure it.

12 And, you know, Your Honor, I've come before you on many
13 occasions and asked for those opportunities, and to date I
14 haven't been wrong. And I'm confident that Mr. Tagliamonte is
15 over the hump. He looks considerably different than he did when
16 I first met him. And I'm proud of him.

17 Having said that, I don't have much else to add.

18 THE COURT: Thank you, Counsel.

19 To the State.

20 MR. GRAHAM: Thank you, Your Honor.

21 I'm going to be, like I said, requesting that the Court
22 impose a suspended sentence of 12 to 30 months in the Nevada
23 State Prison and place the defendant on probation. And why I'm
24 asking for that, I mean this is a big -- it's a one to six,

1 right, and if I was the Court I would be asking why did the State
2 stipulate to recommend a minimum sentence and probation in this
3 case.

4 You know, normally at this point I would ask to
5 approach to talk about some things. And I'm not really sure how
6 we can do that over Zoom.

7 THE COURT: So, and as soon as you ask for that, I
8 understand the theme.

9 MR. GRAHAM: Okay.

10 THE COURT: Are you satisfied that -- are you satisfied
11 that Mr. Tagliamonte should receive some type of analytical
12 benefit?

13 MR. GRAHAM: 100 percent. Based on what I just said,
14 yes, 100 percent.

15 THE COURT: Okay. Well, hold on. Let me just pause
16 and think about that, because, I like your candor, Mr. Graham.
17 None of us create the facts that bring us together day over day,
18 and you just answered not wishy-washy maybe, but 100 percent you
19 can track events which lead you to ask for an in camera
20 conversation.

21 MR. GRAHAM: I can. Yes, I can.

22 THE COURT: Okay. So why are we not talking about some
23 diversion program?

24 MR. GRAHAM: Well, the reason for that is this was a

1 fentanyl-laced product that the defendant was selling, and did
2 sell, and sold to an undercover.

3 Defense counsel is correct, I don't have any proof that
4 he sold the product to the individual that overdosed on it. What
5 happened was that Snapchat account wasn't a phone number, it was
6 a Snapchat account that was used to purchase that. When the
7 undercover -- the undercover officers or the drug enforcement
8 team go and talk to the individual who overdosed, they said, "Hey
9 where did you buy that from?" "I bought it from this Snapchat
10 account."

11 They start using that Snapchat account to get in touch
12 with whoever it's going to be. They don't know who it's going to
13 be. Mr. Tagliamonte is the one who responds and says, "Yeah, I
14 have the pills. Yeah, it's \$20 apiece. I'll meet you at the
15 7-Eleven on Second Street and sell them to you." So that's how
16 he became the focus of interest.

17 Additionally, I don't -- fentanyl -- okay, so then we
18 go back, right. That was one point that Mr. Vilorio had made.
19 The second point is fentanyl is not like marijuana. Fentanyl is
20 not even like oxycodones. Fentanyl is, the doctors say, 50 to
21 100 times more powerful than any other opiate. And that's why so
22 many people overdose on it, is because you cannot gauge the dose.

23 Additionally, I went to a DEA conference, and they
24 indicated at that conference, well, I learned that oftentimes

1 drug dealers will want to lace their product with fentanyl,
2 because it is stronger, and they'll get an overdose, and then
3 other drug users will know: Hey, that's really good stuff. And
4 I want to buy it from that person because of the fentanyl in it,
5 because it is more potent, it is more powerful. You get more
6 bang for your buck. But the dangerousness to the community, as
7 Mr. Vilorio said, to the downstream user is exponentially
8 heightened. Overdoses occur.

9 And we also know that -- what I'm trying to convey is
10 that the sentence that I'm arguing for takes into consideration
11 and is the consideration for other things that occurred. For
12 example, the defendant is getting a separate case dismissed in
13 this case. It's -- I mean pursuant to these negotiations RCR
14 2020-106882 is going to be dismissed. That's the last thing on
15 his -- page 4 of his arrest criminal history: Manufacture,
16 import, possess, use machine gun/silencer.

17 So that case came about in March. So a couple months
18 after the defendant is originally arrested for selling to the
19 undercover cop. I'm not sure if Mr. Vilorio is the defense
20 attorney on that case. But in reviewing the discovery for that
21 case, RPD got information from Fernley that one of the people
22 they were investigating regarding drug sales and large amounts of
23 cash being exchanged had been tracked to Mr. Tagliamonte. RPD
24 says, "Hey, we know Mr. Tagliamonte, because we just arrested him

1 in January for selling to an undercover cop." So they set up on
2 his house. They start seeing what looks to them to be drug
3 trafficking going on. Ultimately end up pulling over
4 Mr. Tagliamonte, find a gun underneath his seat, which had been
5 modified to be fully automatic.

6 Now, we know drugs -- when you run in that circle, it's
7 dangerous, right? It's got a short life expectancy. And so
8 often, if you're dealing drugs, you're carrying a gun for
9 protection.

10 The criminal world kind of revolves in the same
11 circles. And this other police officer had identified
12 Mr. Tagliamonte as a source in his case in Fernley. That case is
13 being dismissed. All right. So as far as consideration, the
14 first thing that I would have talked to you in camera about, big,
15 big item of consideration. The second thing is he's getting
16 another case dismissed, right?

17 So for those reasons --

18 THE COURT: Let me be clear. That first matter we
19 would have discussed in of chambers, it's a big item of
20 mitigation --

21 MR. GRAHAM: Correct.

22 THE COURT: -- for sentencing now or a big item in your
23 resolution of this case?

24 MR. GRAHAM: I think it was -- so I took over this

1 case. And I think it was a big item in -- we didn't know that it
2 had occurred, before it had occurred, if that makes sense. We
3 were not party to that.

4 THE COURT: Okay.

5 MR. GRAHAM: Once we found out it had occurred -- and
6 Mr. Vilorio can correct me if I'm wrong. I think that Mr. Young
7 considered that in the negotiation, and said, you know: Okay,
8 because of this and some of these other things, I'll get rid of
9 the other case, but that's as much consideration as you're going
10 to get due to selling fentanyl.

11 That's why I think, you know, despite Mr. Tagliamonte's
12 age, despite his lack of criminal history, a felony is still
13 appropriate; however, because of those mitigators, probation is
14 definitely appropriate and a minimum 12- to 30-month sentence is
15 appropriate.

16 THE COURT: Mr. Graham, help me construct within the
17 boundaries of your negotiation -- you're not arguing for prison,
18 I'm not asking you to comment upon prison, but I'm troubled a
19 little bit about the balance between the hopeful future and the
20 consequences of the moment. I've got a gentleman who spent one
21 day in the county jail. And I've been thinking, well, maybe as a
22 condition of probation or of diversion he ought to spend time in
23 the county jail. And then I think, I don't know if I want to do
24 that right now. I've thought about the sheriff's work crew

1 program. That's nonoperational right now. I thought about a
2 fine and then have a status hearing. Something that helps me
3 feel more comfortable about the diversion request, you know, some
4 ratcheting of the punitive response, because right now it looks a
5 little too easy for Mr. Tagliamonte.

6 MR. GRAHAM: I guess I would say, Your Honor, that
7 as -- recognizing that if the Court were to convict him of the
8 felony and put him on probation, that would be punitive to a
9 25-year-old.

10 THE COURT: So I'm not looking for additional punitive
11 consequences if I place him on probation. But, you know, I'm
12 asking you to kind of argue against yourself. I'm not sure that
13 a diversionary grant without some -- a separate punitive
14 component satisfies me.

15 MR. GRAHAM: All right. You know --

16 THE COURT: I know I've put you in a difficult
17 situation, because I'm asking you to argue against your position.

18 MR. GRAHAM: I don't want to sound cheeky, but that's
19 why I wouldn't do it. And I think what the result of -- the
20 consequences of fentanyl in our community are so grave, that's
21 why I don't think diversion, even with a punitive aspect, would
22 be sufficient.

23 THE COURT: Do you have any reason to believe that
24 Mr. Tagliamonte knew the fentanyl -- I know the PSI indicates he

1 said, "Hey, this is really -- this is really hardcore stuff, be
2 careful." But do you have any indication that he knew of
3 fentanyl?

4 MR. GRAHAM: Nothing other than what's in the PSI.

5 THE COURT: And then it's interesting how I'm --

6 MR. GRAHAM: Just to elaborate -- oh, I'm sorry.

7 THE COURT: I'm at a disadvantage because of the
8 machine gun silencer negotiation. I don't have an opinion about
9 that negotiation. That's an executive branch function. I know
10 that hearing about it is not highly suspect or impalpable. It's
11 set forth in the PSI. Your explanation is helpful, but I don't
12 want to sentence him based upon a crime that is dismissed. And
13 so I'm not exactly sure how to take that.

14 On one hand I wish you wouldn't have dismissed it,
15 because then it makes it really easy for me. But the fact that
16 you did dismiss it almost pushes me toward diversion in --

17 MR. VILORIA: Well, Your Honor -- Your Honor, if I may
18 at some point.

19 THE COURT: Yeah, I'm going to let you come back to it,
20 Mr. Viloria.

21 MR. GRAHAM: One of the things I wanted the Court to
22 know, in full candor to the Court, because I had that exact same
23 question about the fentanyl, whether or not Mr. Tagliamonte knew,
24 and I -- so what I did today in reviewing the file, I called the

1 lab, and I said, "Hey, I saw that a forensic request was done on
2 these pills. How much fentanyl was in there?" And they never
3 had gotten it from RPD. RPD never sent it up.

4 So that was one correction that I have to the PSI. No
5 matter what, there's no charge for the \$60, because that didn't
6 happen.

7 In addition, in all candor to the Court, I said, "Hey,
8 there's this other case that's being dismissed, and one of the
9 issues is whether or not that firearm was fully automatic or not.
10 Whatever happened to the testing?" They said, "Well, we didn't
11 get that from RPD either."

12 So, all candor, I mean, it is what it is. Mr. Vilorio
13 probably saw that in the discovery also, but -- so to answer your
14 question, that's why I can't -- I can't answer your question.

15 THE COURT: All right. Mr. Vilorio.

16 MR. VILORIA: Your Honor, just briefly. There is -- as
17 I understand it, there was no evidence, at least none provided to
18 me, indicating that the pills that he sold had fentanyl. And I
19 guess Mr. Graham is saying that we don't know, because they never
20 concluded the analysis. But I don't have any evidence that it
21 was, in fact, fentanyl.

22 Secondly, with respect to this firearm, what occurred,
23 there's a separate independent proof problem. Mr. Tagliamonte's
24 vehicle had been borrowed by a third party. And I believe he

1 shared the name and identity of that third party in that matter,
2 which would have been the topic for a bench discussion. And
3 Mr. Tagliamonte was not aware that that firearm had been left in
4 his vehicle. He didn't know it was in his vehicle. So that was
5 factored in as well as part of the resolution in this case.

6 So having said that, I appreciate the response that,
7 you know, "Let's make Mr. Tagliamonte a felon," but people don't
8 understand the societal ban and the mark on a felony label.
9 You're relegating somebody to minimum wage employment, unless
10 Mr. Tagliamonte is capable of capital raising and starting his
11 own business. It's just not that -- you know, it's the ever --
12 it's the ever so quick: Let's make him a felon, because we're
13 all better off in the world if Mr. Tagliamonte is a felon. Our
14 community is better off if he's felon.

15 It's absolutely old school thinking. The young man is
16 a legitimate addict. And I want the Court to know his
17 involvement. And what would normally be a chamber discussion,
18 was without my knowledge, unknown to me. Mr. Tagliamonte did
19 that on his own. I had no knowledge of it until after the fact.
20 And certainly had I known that that is what he was doing, I would
21 have set some parameters a little bit more as to what was to be
22 achieved and what benefit. He just did that because it was the
23 right thing to do, and he did it on his own.

24 I wasn't -- still to this day, Your Honor, I don't know

1 all of the details of what transpired. He had counsel at the
2 time, as I understand it, but nobody notified me or requested my
3 involvement. And Mr. Tagliamonte did that because he thought it
4 was the right thing to do.

5 And so young people ought to be given an opportunity.
6 He's never been involved in this system. And he's done well, and
7 there ought to be some recognition for that. And certainly the
8 Court can fashion -- if the Court wants some punitive measure,
9 the Court can certainly place him on diversion and treat him like
10 a probationer. And the Court has broad authority.

11 If the Court wants him to do community service as a
12 punitive, he can. I know I've got lots of clients, Your Honor,
13 that are doing it out at the Safari Zoo right now. Seems to be a
14 popular spot right now because of the COVID restrictions.
15 They're very easily able to work with the animals at the Safari
16 Zoo. If the Court wants to give him a jail sentence, the Court
17 can. I don't know what the impact would be on his current
18 employment. He's working. He's got a good job installing
19 drywall. And maybe Mr. Tagliamonte can speak to that. But I
20 don't know if a 30-day jail sentence or some jail sentence would
21 impact his employment.

22 Having said that, I have said all I needed to say, Your
23 Honor. And again, I think it's important to note, not only is he
24 identified as the person who was the prior sale, he's not, I

1 don't even know if these pills even had fentanyl.

2 THE COURT: I'm not sure how to respond, because I
3 don't want to create an adversarial environment in which I become
4 a bully from the bench and I win because I have the black robe.
5 That's not my desire. I think it -- I think it's inappropriate.
6 I also don't like some of what I just heard. And I want to
7 balance our record, because there is certainly a strong
8 countervailing response to some of what I just heard.

9 Should I just not say anything? I don't want to get --

10 MR. VILORIA: Well, Your Honor, I won't take -- I won't
11 it personal, Your Honor. You've always been more than fair, and
12 you have the right to say what you want.

13 THE COURT: I don't want to get in a fight with any
14 attorney. I guess I'll say I disagree a little bit, because I
15 hear from lots of defense attorneys that there are technical
16 reasons why we shouldn't believe what is probable, and I get a
17 lot of technical arguments about how there should never be any
18 type of punishment.

19 And nobody should be a felon. And the fact is some
20 people make choices that mark them within our community. Here's
21 a gentleman who sold a controlled substance of some dangerous
22 nature based upon an anonymous solicitation over social media.
23 That's unacceptable in our community. And just to pretend that
24 it exists and there isn't a sanction is inappropriate. Now

1 whether that means he's a felon or not is a different question.
2 But we should have a community response.

3 MR. VILORIA: Oh, I agree, Your Honor. I agree with
4 that. I agree with the Court's position on that. That's
5 separate from my argument that Mr. Tagliamonte -- Judge, when
6 you're using as he was, heavily, you get caught up in that world.
7 You don't make good decisions. And he acknowledges that. And I
8 can't undo what he did, nor can he.

9 THE COURT: I understand.

10 MR. VILORIA: Yeah, but I appreciate the Court's
11 remarks, and I agree. I live in this community as well.

12 THE COURT: And I'm not quite done, because I heard
13 defense counsel say that if he's a felon, the best he can do is
14 minimum wage. But week after week I hear that there's this labor
15 shortage, particularly among the trades, as Mr. Tagliamonte is
16 in, as a skilled tradesmen in drywall. I have employers all the
17 time who hire felons, and they pay them substantial money,
18 because they just want someone who will set an alarm clock and
19 come to work and pass a drug test. And Mr. Tagliamonte is
20 probably all of those things. So to say he's going to make
21 minimum wage for the duration of this felony status is not
22 accurate. It is true that being a felon creates two strikes of
23 difficulty in his life.

24 MR. VILORIA: Well, Your Honor, what's been happening,

1 particularly in the construction trades that you just referenced,
2 most employers now, as a construction entity, a portion of their
3 work is either public works or insurance-pay work, whether it's
4 going in following a flood or a fire or -- and all of those
5 employees are having to pass backgrounds. And more and more
6 employers -- and I represent a lot of the tradesmen. They're
7 constantly calling me saying, "Tom, I need to get this sealed,
8 because I'm not able to work." Why can't you work? Well,
9 because the employer's insurance company won't allow that
10 employee to enter the residence to work on a primary residence,
11 if they've got that felony conviction. So it is problematic.

12 And I agree, Your Honor, there certainly are
13 opportunities. Maybe my statement was a bit too hasty and
14 generalization that he will be relegated to minimum wage. My
15 point is, it's very difficult, Your Honor. That's all. And, you
16 know, I get calls weekly from people saying: Hey, I need to get
17 this sealed, and I need to get this sealed in a hurry, or I'm
18 going to lose my job or my employer is going to put me on the
19 yard because I can't go and work this public works job because of
20 my felony or I can't go work at -- I had one recently at Bishop
21 Manogue High School, where my son attends. And my client -- they
22 were doing some millwork there, cabinet and millwork. And my
23 client had an attempted Internet luring from over 15 years ago.
24 The company he works for had to submit all the background

1 credentials, and he was foreclosed from working on that job site
2 because of it. So it still happens.

3 And the real underlying issue for me is, what is
4 gained? I could understand it if Mr. Tagliamonte has a history.
5 To my knowledge there's no history of prolonged sales. There's
6 no sales ledgers in this case. I could understand it if he has
7 prior convictions, and we've kind of gone up the escalating
8 ladder of sanctions. But it's first time in the system, and he
9 ought to be afforded some opportunity to prove us wrong, at least
10 to prove me wrong.

11 THE COURT: Thank you. I'm going to give the last word
12 to Mr. Graham, if he wants it, but not until we all stand for
13 five minutes, darken our videos, mute your microphones. Our
14 reporting had been writing for an hour and 22 minutes, and I'm
15 anxious for her just to stand for a couple of minutes. My
16 computer says 4:22. I'll come back at 4:27.

17 (Recess taken.)

18 THE COURT: Mr. Graham, anything from you?

19 MR. GRAHAM: The only thing I would say, Your Honor, is
20 that I've got another -- in thinking about this, part of
21 diversion would necessarily probably be something like drug
22 court. And I've always been opposed to putting drug dealers in
23 drug court. I recognize that he has a problem, but that would be
24 like putting somebody who has an addiction to gambling and

1 mandating that they work in a casino on the floor. It's just a
2 recipe for disaster.

3 Even on probation, I wouldn't recommend drug court as a
4 condition of probation. In reading his evaluation, I think
5 outpatient would be more beneficial to him, so that he would not
6 be around other users and not giving him the opportunity to get,
7 basically, a business book handed to him.

8 But other than that, I have nothing more.

9 THE COURT: Can I impose a fine?

10 MR. GRAHAM: As part of diversion?

11 THE COURT: Yes, if there's not a judgment of
12 conviction that's entered.

13 MR. GRAHAM: I don't believe so.

14 MR. VILORIA: You can order it as a condition, Your
15 Honor.

16 MR. GRAHAM: Of diversion?

17 MR. VILORIA: Yes. It's been done before by other
18 Courts.

19 THE COURT: So I'm balancing everything that I've
20 heard, and there are few things that work in Mr. Tagliamonte's
21 favor; he is young, and he has no prior history. And I'm going
22 to grant the diversion, but I'm going to impose a \$4,000 fine as
23 a condition of his diversion. I think that's one way we speak
24 directly to his interests. It seems gratuitous to send him to

1 jail to just sit there. Having to pay as a condition of his
2 diversion \$4,000 is a significant sum.

3 I'm also going to have him perform within the next
4 nine months 40 hours of community service. And I don't know how
5 to frame that. I've always disallowed community service outside
6 of the sheriff's work crew program, but I think I'll take defense
7 counsel's suggestion and specifically note it's an animal related
8 charity, whether it be the Humane Society, Animal Ark.

9 Ms. Clerk, I'll let you develop some language about
10 that. And he'll complete that.

11 And then I'm going to have a review hearing 10 months
12 from now, Ms. Clerk, where my only purpose is to check the
13 payment of the money as a condition of diversion and the
14 completion of his volunteer hours.

15 Would you please --

16 MR. VILORIA: Your Honor, does the Court desire that
17 that \$4,000 be paid directly to the Court as the condition?

18 THE COURT: So I don't have my script in front of me
19 about these diversion orders. And I don't know how it's changed
20 in the last legislative session, so I'm being carefully vague.

21 MR. VILORIA: Your Honor, basically what they did is
22 they repealed 458, and instead they put in 176A230 and 176A240.
23 So it's just no judgment enters. He's treated like a probationer
24 with whatever terms and conditions that you desire of probation.

1 Once he completes diversion, then the matter would be dismissed.

2 So it's similar to the old 458 language, Your Honor.
3 And I don't know why they repealed it. It is actually a little
4 bit more all encompassing than the former 458. The only reason I
5 ask, Your Honor, is because we can't -- if I'm going to have to
6 pay it directly to the Court, I need to know that, so I can
7 schedule an in -- they don't process it without an appointment.
8 We have to pay the fine via appointment. So we'll have to figure
9 out when Mr. Tagliamonte can do that, and then schedule an
10 in-person appointment to pay.

11 THE COURT: Ms. Lukl, do you have an answer?

12 MS. LUKL: Your Honor, Erin Lukl on behalf of the
13 Division. As far as -- no, we do not take any kind of fine
14 payment. So it would have to go through the Court. And the
15 duration of the diversion program is 12 months at this point, and
16 then it can be extended through the court diversion program if
17 necessary.

18 THE COURT: All right. So, Ms. Clerk, we'll order that
19 it be paid directly to the Court. I need it to be paid before my
20 status hearing. It sounds like counsel may have a plan to pay it
21 quicker than that. I'm happy to vacate the status hearing if
22 community service and the fine have been paid. I also note that
23 without any detail, that part of my decision was the candor you
24 provided, Mr. Graham, regarding our bench conference. Your

1 reputational capital is far more important in any one case. And
2 don't leave thinking that you harmed your own argument. It is
3 what it is, and I appreciate your disclosure of that critical
4 information for me.

5 MR. GRAHAM: Thank you, Your Honor.

6 THE COURT: So it will be paid through the Court. I'd
7 like to see the status hearing vacated if possible.

8 Ms. Clerk, the date, please.

9 THE CLERK: The probation review hearing will be
10 Monday, August 30th at 3:00 p.m.

11 THE COURT: We lost counsel. Will you make sure you
12 e-mail that. There he goes. He's back.

13 MR. VILORIA: I don't know what happened, Your Honor,
14 but I missed a segment there.

15 THE COURT: Well, I'm inclined to attempt humor, but
16 I've never been funny. And so I'll just move on and say that the
17 clerk was going to say something about we just found a warrant
18 for your client's arrest and he's going to surrender himself
19 immediately in your absence. That's not funny.

20 Ms. Clerk announced the date of the status hearing.

21 MR. VILORIA: Okay. Thank you, Your Honor.

22 THE COURT: Would you go ahead and do that again,
23 please.

24 THE CLERK: Mr. Viloria, the review hearing will be

1 Monday, August 30th at 3:00 p.m.

2 MR. VILORIA: August 30th, 2021, at 3:00 p.m. And he
3 should have his fine paid as well as all community service paid
4 by that date, correct?

5 THE COURT: Yes. And if those two elements are
6 satisfied, we can vacate the hearing.

7 MR. VILORIA: Okay, Your Honor.

8 THE COURT: You're very close, Mr. Tagliamonte. It was
9 very, very close. And I want you to be the person you can
10 become.

11 MR. VILORIA: Does he need to report, Your Honor, with
12 probation or go somewhere? How are they doing that?

13 THE COURT: Ms. Lukl is about to tell us.

14 Ms. Lukl.

15 MS. LUKL: Thank you, Your Honor. He'll receive a date
16 from the clerk for his diversion court hearing. However, you're
17 going to have to contact the Division of Parole and Probation.
18 Usually it's the following Wednesday, but I'm going to put you on
19 November 12th, which is Thursday, since there's a holiday.

20 And you're going to contact them via 684-2300. You're
21 to call until you speak to somebody and let them that you were
22 granted diversion court. You'll speak to an officer also in
23 diversion court also when you're there.

24 THE COURT: So there are lots of other oral

1 pronouncements I would typically recite: Administrative order,
2 DNA test fee -- I'm sorry, domestic violence \$3 fee. I'm going
3 to work on the written judgment of conviction, understanding that
4 it supplants any oral pronouncement I make. And I'll make sure
5 that's entered sometime tomorrow. It will have all the standard
6 assessments. They're set forth in the Presentence Investigation
7 Report.

8 Although, I do believe I scratched out the chemical
9 drug analysis fee. And I don't believe I will impose the \$150
10 DNA test fee, because this is a diversionary grant.

11 All right. So thank you for your assistance, Counsel.

12 MR. GRAHAM: Thank you, Your Honor.

13 THE COURT: Yep.

14 Good luck, Mr. Tagliamonte.

15 THE DEFENDANT: Thank you, Your Honor.

16 MR. VILORIA: Do we have a diversion date?

17 THE CLERK: Mr. Tagliamonte, you need to call this
18 phone number. This is will be your specialty court orientation.
19 It's area code (775) 224-5224. Let them know that you were
20 granted diversion, and they'll tell you your first court date.

21 And please call them before 5:00 o'clock today.

22 MR. VILORIA: Did you say 224-5224?

23 THE CLERK: Correct.

24 MR. VILORIA: Okay. Thank you.

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

THE COURT: That's all I have.
Thank you, everybody.
MR. VILORIA: Thank you, Judge.
MR. GRAHAM: Thank you, Your Honor.
THE COURT: All right. Good day.

(Proceedings Concluded)

--o0o--

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, EVELYN J. STUBBS, official reporter of the
5 Second Judicial District Court of the State of Nevada, in and for
6 the County of Washoe, do hereby certify:

7 That as such reporter I was present in Department
8 No. 15 of the above court on MONDAY, NOVEMBER 2, 2020, at the
9 hour of 3:55 p.m. of said day, and I then and there took
10 stenotype notes of the proceedings had and testimony given
11 therein upon the SENTENCING of the case of THE STATE OF NEVADA,
12 Plaintiff, vs. NICHOLAS ROCCO TAGLIAMONTE, Defendant, Case No.
13 CR20-0117.

14 That the foregoing transcript, consisting of pages
15 numbered 1 to 28, inclusive, is a full, true and correct
16 transcript of my said stenotype notes so taken as aforesaid, and
17 is a full, true and correct statement of the proceedings had and
18 testimony given therein upon the above-entitled action to the
19 best of my knowledge, skill and ability.

20 DATED: At Reno, Nevada, this 25th day of June, 2021.

21
22 /s/ Evelyn Stubbs
23 EVELYN J. STUBBS, CCR #356

24 The document to which this certificate is
attached is a full, true and correct copy of the
original on file and of record in my office.

By: ALICIA L. LERUD, Clerk of the Second
Judicial District Court, in and for the County of
Washoe.

29

DA #21-2675

RPD RP21-002943

CODE 1800
Christopher J. Hicks
#7747
One South Sierra Street
Reno, NV 89501
districtattorney@da.washoecounty.us
(775) 328-3200
Attorney for Plaintiff

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

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR21-0636

v.

Dept. No.: D15

NICHOLAS ROCCO TAGLIAMONTE,

Defendant.

INFORMATION

CHRISTOPHER J. HICKS, District Attorney within and for the
County of Washoe, State of Nevada, in the name and by the authority
of the State of Nevada, informs the above entitled Court that, the
defendant above-named, NICHOLAS ROCCO TAGLIAMONTE, has committed the
crime of:

SELL, TRANSPORT, GIVE OR ATTEMPT TO SELL, TRANSPORT, GIVE
SCHEDULE I OR II CONTROLLED SUBSTANCE, FIRST OFFENSE, a violation of
NRS 453.321.2a, a Category C Felony, (62067) in the manner following,
to wit:

That the said defendant, NICHOLAS ROCCO TAGLIAMONTE, on or
about February 17, 2021, did willfully, knowingly, and unlawfully

1 offer to, or attempt to offer to, sell, transport, or give a Schedule
2 I controlled substance, to wit, said defendant did sell cocaine to a
3 confidential informant, all of which occurred at or near 720 East 7th
4 Street, Reno, Nevada.

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

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

14
15
16
17 By: 

AUSTIN LUCIA

18 DEPUTY District Attorney
19
20
21
22
23
24
25
26

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

3 ALAN ARRIAGA
4 SETH FEATHERS
5 JASON GRULLI
6 PAUL HUBBELL
7 NATHAN JANNING
8 TAJGHI ROBERTSON
9 THOMAS WILLIAMS

10 AFFIRMATION PURSUANT TO NRS 239B.030

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

14
15 CHRISTOPHER J. HICKS
16 District Attorney
17 Washoe County, Nevada

18 By: 

AUSTIN LUCIA

19 DEPUTY District Attorney
20
21
22
23
24
25

26 PCN RPD0066869C-TAGLIAMONTE

1 CODE 1785
2 Christopher J. Hicks
3 #7747
4 One South Sierra Street
5 Reno, NV 89501
6 districtattorney@da.washoecounty.us
7 (775) 328-3200
8 Attorney for Plaintiff

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

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR21-0636

15 v.

Dept. No. D15

16 NICHOLAS ROCCO TAGLIAMONTE,

17 Defendant.

18 _____/
19 GUILTY PLEA MEMORANDUM

20 1. I, NICHOLAS ROCCO TAGLIAMONTE, understand that I am
21 charged with the offense of: SELL, TRANSPORT, GIVE OR ATTEMPT TO
22 SELL, TRANSPORT, GIVE SCHEDULE I OR II CONTROLLED SUBSTANCE, FIRST
23 OFFENSE, a violation of NRS 453.321.2a, a category C Felony.

24 2. I desire to enter a plea of guilty to the offense of,
25 SELL, TRANSPORT, GIVE OR ATTEMPT TO SELL, TRANSPORT, GIVE SCHEDULE I
26 OR II CONTROLLED SUBSTANCE, FIRST OFFENSE, a violation of NRS
453.321.2a, a category C Felony, as more fully alleged in the charge
filed against me.

///

///

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

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

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

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

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

12 4. I understand the charge against me and that the
13 elements of the offense which the State would have to prove beyond a
14 reasonable doubt at trial are that on February 17th, 2021, or
15 thereabout, in the County of Washoe, State of Nevada, I did
16 willfully, knowingly, and unlawfully offer to, or attempt to offer
17 to, sell, transport, or give a Schedule I controlled substance, to
18 wit, I did sell cocaine to a confidential informant, all of which
19 occurred at or near 720 East 7th Street, Reno, Nevada.

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

1 written agreement. I understand that any substantive or procedural
2 pretrial issue(s) which could have been raised at trial are waived by
3 my plea.

4 6. I understand that the consequences of my plea of guilty
5 are that I may be imprisoned for a period of 1 to 5 years in the
6 Nevada State Department of Corrections. I am eligible for probation.
7 I may also be fined up to \$10,000.00.

8 7. In exchange for my plea of guilty, the State, my
9 counsel and I have agreed to recommend the following: The parties
10 will be free to argue for an appropriate sentence. The State will
11 not pursue any other criminal charges arising out of this transaction
12 or occurrence.

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

17 9. Where applicable, I additionally understand and agree
18 that I will be responsible for the repayment of any costs incurred by
19 the State or County in securing my return to this jurisdiction.

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

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

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

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

1 13 I understand that this plea and resulting conviction
2 will likely have adverse effects upon my residency in this country if
3 I am not a U S Citizen I have discussed the effects my plea will
4 have upon my residency with my counsel

5 14 I offer my plea freely, voluntarily, knowingly and
6 with full understanding of all matters set forth in the Information
7 and in this Plea Memorandum I have read this plea memorandum
8 completely and I understand everything contained within it

9 15 My plea of guilty is voluntary and is not the result
10 of any threats, coercion or promises of leniency

11 16 I am signing this Plea Memorandum voluntarily with
12 advice of counsel, under no duress, coercion, or promises of
13 leniency

14 17 I do hereby swear under penalty of perjury that all of
15 the assertions in this written plea agreement document are true

16 AFFIRMATION PURSUANT TO NRS 239B (3C)

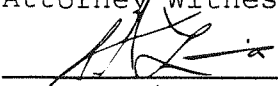
17 The undersigned does hereby affirm that the preceding
18 document does not contain the social security number of any person

19 DATED this 3rd day of May, ____.

20
21 
22 Defendant

23 _____
24 Translator/Interpreter

25 Joe Lamb
26 Attorney Witnessing Defendant s Signature


 Prosecuting Attorney

4185

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

--oOo--

THE STATE OF NEVADA,

Plaintiff,

Case No. CR21-0636

vs.

Dept. No. 15

NICHOLAS ROCCO TAGLIAMONTE,

Defendant.

/

TRANSCRIPT OF PROCEEDINGS

ARRAIGNMENT

Monday, May 10, 2021

Reported by:

EVELYN J. STUBBS, CCR #356

A P P E A R A N C E S

For the State: NATHAN MACLELLAN, ESQ.
Deputy District Attorney
1 South Sierra Street
Reno, Nevada

For the Defendant: LAUB AND LAUB
Attorneys at Law
BY: JOE M. LAUB, ESQ.
630 West Plumb Lane
Reno, Nevada

For the Division: ERIN LUKL

The Defendant: NICHOLAS ROCCO TAGLIAMONTE

1 RENO, NEVADA; MONDAY, MAY 10, 2021; 9:02 A.M.

2 --o0o--

3
4 THE COURT: This is Judge David Hardy in Department 15
5 of the Second Judicial District Court. I conduct this criminal
6 calendar through our Zoom technology.

7 Counsel, lodge your objections, if any, when your case
8 is called.

9 It is first CR21-0636, the State versus Nicholas Rocco
10 Tagliamonte. Your appearances, please, Counsel.

11 MR. MACLELLAN: Good morning, Your Honor. Nate
12 MacLellan on behalf of the State.

13 MR. LAUB: Good morning, Your Honor. Joe Laub on
14 behalf of the defendant.

15 THE COURT: Good morning.

16 All right. Mr. Laub, I have an Information which was
17 file-stamped May 30th, 2021, that charges Mr. Tagliamonte with a
18 Category C felony; sell, transport, give or attempt to sell,
19 transport, give a Schedule I or II controlled substance.

20 Please confirm your client is properly identified,
21 familiar with the contents of the charging document, please
22 declare if you wish the Information to be read in open court, and
23 you may end with any negotiations.

24 MR. LAUB: Thank you, Your Honor.

1 We are waiving formal reading.

2 By the way, there's no objection to appear remotely.

3 Nicholas Rocco Tagliamonte is spelled correctly. I
4 have gone over the contents with the client, and he fully
5 understands it.

6 THE COURT: I'm getting a lot of background noise from
7 somewhere.

8 THE CLERK: Your Honor, it appears to be coming from
9 the jail.

10 THE BAILIFF: Your Honor, it might be the other court
11 session.

12 THE COURT: I don't want to interfere with another
13 judge. Is there a door that can be shut?

14 THE BAILIFF: No, because it's just a partition, like a
15 wall that separates us from the other room.

16 THE COURT: Well, it even sounds like Judge Walker's
17 voice. Is that right?

18 THE BAILIFF: That's correct, Your Honor.

19 THE COURT: That's how much I can hear it right now.

20 All right. Here we go.

21 And negotiations, if any, Mr. Laub.

22 MR. LAUB: One moment please, Your Honor. I'm finding
23 that document.

24 A Guilty Plea Memorandum has been prepared that

1 Mr. Tagliamonte would be pleading guilty to a Category C, NRS
2 453.321.2(a), to sell, transport, give or attempt to sell
3 transport, to give a I or II controlled substance, first offense.
4 Also prepared to plead guilty to a second Category C felony of
5 NRS 453.321.2(a), sale, transport, give or attempt to sell,
6 transport or give schedule -- or a Schedule I or II controlled
7 substance.

8 THE COURT: Okay. Thank you.

9 Counsel, do either one of you know the status of the
10 diversion in CR20-0117?

11 MR. MACLELLAN: Court's indulgence, Judge. I can check
12 the notes.

13 What was the case number again?

14 THE COURT: CR20-0117.

15 My understanding is that he's still in the diversion
16 program. Just trying to decide if I link these two cases up at
17 the time of sentencing, should there be a conviction in this
18 case.

19 MR. MACLELLAN: It appears that he's still actively in
20 the specialty court program, and that there's a status hearing
21 set on August 30th. And I believe that is in Your Honor's
22 courtroom.

23 THE COURT: All right. Thank you.

24 Good morning, Mr. Tagliamonte. Please face my clerk,

1 raise your right hand and be sworn.

2 (Defendant sworn.)

3 THE COURT: Mr. Tagliamonte, has your attorney
4 accurately stated the agreement as you understand it?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Have you had an adequate time to discuss
7 this matter with your attorney?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: My job this morning is to have a brief
10 conversation with you to confirm you're making your own voluntary
11 choice with full information.

12 Mr. Tagliamonte, nothing I say is intended to influence
13 your decision about how you plead. I have no opinion about your
14 plea. My only interest is knowing that you know what you're
15 doing this morning.

16 The State has charged a Category C felony; sell,
17 transport, give or attempt to sell, transport, give a Schedule I
18 or II controlled substance. The elements the State has alleged
19 are that on or about February 17th, 2021, in Washoe County, you
20 willfully, knowingly, and unlawfully offered to or attempted to
21 offer to sell, transport or give a Schedule I controlled
22 substance, in that you did sell cocaine to a confidential
23 informant, this occurring at 720 East Seventh Street in Reno.

24 I'm not asking if you agree or disagree with those

1 elements. I just want to confirm that you understand what the
2 State has alleged. Do you, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: The maximum possible penalty the Court
5 could impose for this conviction is imprisonment in the Nevada
6 Department of Corrections for a range of time not to exceed five
7 years. I could also order you to pay a discretionary fine not to
8 exceed \$10,000. This crime is probation eligible.

9 The reason I'm mentioning this possible sentence,
10 Mr. Tagliamonte, is that if you were guilty of this crime, you
11 would face me for sentencing. At the time of sentencing, I would
12 carefully listen to you, I would listen to your attorney, I would
13 listen to the State's attorney, I would read a report prepared by
14 the Division of Parole and Probation, and then I would make my
15 own independent judgment.

16 I could not promise any outcome this morning. I cannot
17 guarantee any result if you stand before me for sentencing. All
18 options are available to me. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: There are important consequences of your
21 plea. If you plead guilty this morning, you will be
22 incriminating yourself, and the next time I see you will be for
23 sentencing.

24 Mr. Tagliamonte, it may be appropriate for you to plead

1 guilty because you know what happened, you know your
2 conversations with the with your attorney and you know the
3 State's position, but I have no opinion about your plea. If you
4 wish to plead guilty, I would accept it; but also, if you wish to
5 plead not guilty, I would accept that plea without any comment or
6 judgment.

7 The consequences of pleading not guilty are different.
8 You would be maintaining your presumption of innocence. I would
9 set this matter for a speedy -- for a fair and public trial, and
10 at your request it would be set speedily, meaning sometime within
11 the next 60 days. You would have an effective attorney assisting
12 you at trial. The State would attempt to prove your guilt beyond
13 reasonable doubt. That's a high standard of proof. All members
14 of the jury, all 12, must agree the State had met its burden
15 before you could be convicted. Your attorney would confront the
16 State's witnesses and evidence, attempting to create reasonable
17 doubt in the jurors' minds. If you wished, you could present
18 your own defensive witnesses and evidence. You could choose to
19 testify, but no one can force you to testify.

20 Any questions about what I've said so far,
21 Mr. Tagliamonte?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Do you understand what I've said so far?

24 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Did you read the Guilty Plea Memorandum
2 before you signed it?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you have any questions about its
5 contents?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Is there anything you need to speak to your
8 attorney privately about before I ask for your plea?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. To the felony charge as I've
11 identified, how do you plead?

12 THE DEFENDANT: Guilty, Your Honor.

13 THE COURT: Mr. Tagliamonte, did you do what you're
14 accused of doing?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Has anybody promised anything to you or
17 threatened you in any way to obtain your plea this morning?

18 THE DEFENDANT: No, sir.

19 THE COURT: Thank you. The Court finds the defendant
20 is competent to enter his plea. There is a factual basis to
21 accept his plea. Mr. Tagliamonte understands his rights, which
22 he has waived. He understands the nature of the charge and it's
23 consequences.

24 I'm going to set this matter for entry of judgment and

1 imposition of sentence. I'm also going to set at the same time a
2 hearing on CR20-0117, which is the sell of a controlled substance
3 case for which Mr. Tagliamonte previously received diversion.
4 I'm going to evaluate that diversionary grant and determine if it
5 should continue. Mr. Tagliamonte is susceptible of this Court's
6 revocation of his diversion. I want to hear both at the same
7 time.

8 Ms. Clerk.

9 THE CLERK: That will be on June 28th at 9:00 a.m.

10 And, Your Honor, do you want P & P to file a report in
11 the CR20 case?

12 THE COURT: Yes, I'd like to know his performance in
13 the specialty courts when I consider his sentence.

14 THE CLERK: Thank you, Judge.

15 THE COURT: All right. Anything else, Counsel?

16 MR. LAUB: Yes, Your Honor. As a matter of procedure I
17 wanted to make it an application for diversion for this new
18 charge, but he's also, as the Court is aware, he's already in
19 diversion, so I don't know if this Court would -- and we're
20 waiting for a substance abuse evaluation to assist us. Would the
21 Court prefer there to be an application for diversion on this
22 matter, even though the fact that he's already in diversion?

23 THE COURT: Yes, I would like you to file.

24 MR. LAUB: Thank you, Your Honor.

1 THE COURT: Thank you. Mr. Laub. I appreciate it.

2 MR. LAUB: Thank you.

3 THE COURT: See you in June.

4 THE DEFENDANT: Thank you, Your Honor.

5 THE COURT: Thank you.

6 (Proceedings Concluded)

7 --o0o--

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, EVELYN J. STUBBS, official reporter of the
5 Second Judicial District Court of the State of Nevada, in and for
6 the County of Washoe, do hereby certify:

7 That as such reporter I was present in Department No.
8 15 of the above court on Monday, May 10, 2021, at the hour of
9 9:02 a.m. of said day, and I then and there took stenotype notes
10 of the proceedings had and testimony given therein upon the
11 ARRAIGNMENT of the case of THE STATE OF NEVADA, Plaintiff, vs.
12 NICHOLAS ROCCO TAGLIAMONTE, Defendant, Case No. CR21-0636.

13 That the foregoing transcript, consisting of pages
14 numbered one to 11, inclusive, is a full, true and correct
15 transcript of my said stenotype notes, so taken as aforesaid, and
16 is a full, true and correct statement of the proceedings had and
17 testimony given therein upon the above-entitled action to the
18 best of my knowledge, skill and ability.

19 DATED: At Reno, Nevada, this 28th day of June, 2021.

21 /s/ Evelyn Stubbs
22 EVELYN J. STUBBS, CCR #356

23 The document to which this certificate is
24 attached is a full, true and correct copy of the
original on file and of record in my office.

By: ALICIA L. LERUD, Clerk of the Second
Judicial District Court, in and for the County of
Washoe. 12

4185
SUNSHINE LITIGATION
151 Country Estates Circle
Reno, Nevada 89512

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
BEFORE THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

- o0o -

STATE OF NEVADA,	:	
	:	
Plaintiff,	:	
	:	
vs	:	Case No. CR20-0117
	:	
NICHOLAS ROCCO	:	
TAGLIAMONTE,	:	Dept. No. 15
	:	
Defendant.	:	

=====

TRANSCRIPT OF PROCEEDINGS
VIA AUDIO/VISUAL TRANSMISSION

ARRAIGNMENT

MONDAY, AUGUST 24TH, 2020

Washoe County, Nevada

Reported By: ERIN T. FERRETTO, CCR #281

**. SUNSHINE LITIGATION **._____

A P P E A R A N C E S

FOR THE PLAINTIFF:

ROBERT DELONG, ESQ.
Deputy District Attorney
One South Sierra Street
Reno, Nevada

FOR THE DEFENDANT:

THOMAS E. VILORIA, ESQ.
327 California Avenue
Reno, Nevada

THE DEFENDANT:

Present

PAROLE AND PROBATION:

JILL BERRYMAN

**

SUNSHINE LITIGATION

**

-o0o-

WASHOE COUNTY, NEVADA

MONDAY, AUGUST 24TH, 2020, 3:00 P.M.

-o0o-

THE COURT: Hello, everyone. It's Judge David Hardy, Department 15. This is our criminal docket for the afternoon of August 24, 2020. I appear through the Zoom program, sitting in Washoe County. If at any time, counsel, you object to these proceedings, let me know when I call your case.

* * * * *

THE COURT: First case this morning is CR20-0117, State versus Nicholas Tagliamonte.

I see that Mr. Vilorio is present.

Mr. Tagliamonte, if you'll activate your video, please.

And make sure, Mr. Tagliamonte and Mr. Vilorio, that you are unmuted.

And for the State?

MR. DeLONG: Robert DeLong on behalf of the State, your Honor, appearing in Washoe County, Nevada.

1 THE COURT: Thank you.

2 I have in front of me a Guilty Plea Memorandum,
3 which is not signed. It is the draft of what I expect to
4 occur. I have an Information file-stamped August 18,
5 2020, in which Mr. Tagliamonte is charged with a
6 Category B felony, sale of a controlled substance.

7 Mr. Viloría, if you'll confirm that your client is
8 properly identified and familiar with the contents of the
9 charging of the document, and also if you wish this
10 document to be read open court.

11 MR. VILORIA: Thank you, your Honor.

12 We acknowledge receipt of the Information filed
13 herein on August 18. Mr. Tagliamonte's name is his true
14 and lawful name. It is correctly spelled on line 12. We
15 are familiar, your Honor, with the single count of sale
16 of a controlled substance as alleged therein. We waive
17 the formal reading of the same.

18 At this time, Mr. Tagliamonte is prepared to enter
19 a guilty plea. There is a negotiation. Your Honor, we
20 did file in the Guilty Plea Memorandum, which was signed
21 in my presence this morning by Mr. Tagliamonte and
22 myself. We filed that in at 11:27 a.m. this morning.

23 THE COURT: Thank you. It has not reached its way
24 to my hands. I'm confident it's en route.

**

SUNSHINE LITIGATION

**

1 Mr. DeLong, are you satisfied with the rendition?

2 MR. DeLONG: I didn't hear the negotiations, your
3 Honor.

4 MR. VILORIA: If I may, your Honor, the
5 negotiations, Mr. Tagliamonte will enter a plea to the
6 count of sale of a controlled substance as alleged in the
7 Information. In exchange for his plea, the State will
8 not object to probation and will recommend an underlying
9 suspended sentence of 12 to 30 months in the Nevada State
10 Department of Corrections. The defense and Mr.
11 Tagliamonte will be free to argue for an appropriate
12 sentence to include any diversion program, deferred entry
13 of judgment program or suspension of proceedings pursuant
14 to those new statutes under AB 236. The State will not
15 pursue the separate possession of controlled substance
16 charge in this case, and will further dismiss the
17 proceedings Reno Justice Court, Case No. RCR2020-106882.

18 THE COURT: Thank you. And that's consistent with
19 the paragraph 7 at page three of the Guilty Plea
20 Memorandum.

21 Mr. Tagliamonte, please face my clerk, raise your
22 right hand and be sworn.

23 (Defendant sworn.)

24 THE DEFENDANT: I swear to tell the whole truth

1 and nothing but the truth.

2 THE COURT: Mr. Tagliamonte, you and I are going
3 to have a conversation. I must confirm that you are
4 making your own voluntary informed choice. How you plead
5 is ultimately your decision, and you can surprise
6 everyone and change your plea today. I have no opinion
7 about how you should plead. I want to talk about your
8 plea options and differences and consequences.

9 First, Mr. Tagliamonte, you are presumed innocent,
10 which means that you could be guilty if and only if the
11 State proved your guilt beyond a reasonable doubt or you
12 admitted your guilt. You have no obligation to admit
13 your guilt. You know what's happened, you know your
14 circumstances, you know the State's position, you know
15 your private conversations with counsel, so it may be
16 appropriate for you to plead guilty but that choice is
17 entirely yours.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have you had an adequate time to
21 discuss this matter with your attorney?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: If you plead guilty this afternoon,
24 you will be incriminating yourself and there will not be

1 a trial. The next time I see you will be for sentencing.

2 Are you clear about that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: If you have any concerns and you want
5 to change your mind, I would invite you to talk to your
6 attorney again or plead not guilty. If you pled not
7 guilty, I would not make any comment, I would not make
8 any judgment, but I would set this matter for trial.
9 That trial will be public and fair, set sometime next
10 year, I presume, when the courthouse reopens. You would
11 have an effective attorney assisting you, you could
12 confront the State's witnesses and evidence, you could
13 present your own witnesses and evidence. The jury must
14 all agree -- all 12 members of the jury must agree that
15 you are guilty beyond a reasonable doubt. That is the
16 consequence of pleading not guilty, that you will go to
17 trial.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: I want to visit this negotiation. I
21 like negotiations when presented to the court. They help
22 me but they don't answer all my questions. When I am
23 called upon to sentence you, I will read a report
24 prepared by Division of Parole & Probation, I will listen

1 to anything you have to say, I will listen to your
2 attorney, I will listen to the State's attorney, I'll
3 listen to others who might be affected by this crime, and
4 then I'll make own my independent decision.

5 What I'm saying, Mr. Tagliamonte, is it's nice
6 that your attorney and the State's attorney have bundled
7 up what they think I should do. I might do it but I may
8 not. I can surprise everybody and I reserve that
9 ability.

10 Do you have any questions about that?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: I want to quickly fly over the
13 allegations that the State has alleged against you in the
14 charging document. The State has alleged that on or
15 about January 9, 2020, in Washoe County, you willfully
16 and unlawfully sold a Schedule I or Schedule II
17 controlled substance, this occurring at or near 690 East
18 Second Street in Washoe County; specifically, you sold
19 five Oxycodone or other Fentanyl pills to an undercover
20 detective for \$100.

21 Do you understand what the State has alleged
22 against you?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you have any questions before I ask

1 for your plea?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Do you need time to speak to your
4 attorney privately before I ask for your plea?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Let me ask one more question. You
7 read the Guilty Plea Memorandum before you signed it; is
8 that correct?

9 THE DEFENDANT: Yes, your Honor. Yes, sir.

10 THE COURT: Do you have any of question about its
11 contents?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. To the Category B felony,
14 sale of a controlled substance, how do you plea?

15 THE DEFENDANT: Guilty, your Honor.

16 THE COURT: Did you do when you were accused of
17 doing, Mr. Tagliamonte?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Has anybody promised anything to you
20 or threatened you in any way to obtain your plea?

21 THE DEFENDANT: No, sir.

22 THE COURT: The court concludes that Mr.
23 Tagliamonte is fully informed; he's competent to
24 understand his choice; he understands the nature of the

1 charge; he understands its possible consequences. The
2 court accepts the plea.

3 This matter is set for entry of judgment and
4 imposition of sentence. Ms. Clerk?

5 THE CLERK: That will be Monday, October 26 at
6 3:00 p.m.

7 THE COURT: Let's talk about marijuana.

8 MR. VILORIA: Your Honor, on the 26th I have a
9 conflict. I've got another matter that afternoon. On
10 Monday -- the following Monday, your Honor, November 2nd,
11 I'm wide open.

12 THE COURT: To the State?

13 MR. DeLONG: No objection, your Honor.

14 THE COURT: So ordered.

15 MR. VILORIA: What time would that be?

16 THE CLERK: Three o'clock.

17 MR. VILORIA: Three o'clock.

18 THE COURT: Now can we talk about marijuana?

19 MR. VILORIA: Certainly, your Honor.

20 THE COURT: My understanding is that
21 Mr. Tagliamonte continues to use marijuana, and there is
22 sometimes a disconnect between what is permitted or
23 proscribed in the lower courts and what happens in
24 Department 15. Our Pre-Trial Court Services is on

**

SUNSHINE LITIGATION

**

1 written notice that in Department 15 medical marijuana
2 cards do not apply unless there's a specific proffer of
3 the condition, medical condition which requires that
4 treatment modality, that there is a prescription
5 indicating no other treatment modalities are appropriate,
6 and a prescription which includes the duration and the
7 dosage of the marijuana. It's my way to ferret out those
8 who are using marijuana to watch Oprah and giggle while
9 eating Cheetos on one side versus those who
10 therapeutically and legitimately benefit from its
11 medicinal properties.

12 So I don't feel the need to punish Mr. Tagliamonte
13 right now for his recent use because he didn't hear my
14 speech, but there will be no marijuana between now and
15 the time of sentencing. I will enter an order consistent
16 with my oral pronouncement.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And I will cause Mr. Tagliamonte to be
19 tested at least twice, once immediately before court for
20 sentencing and one other time Pre-Trial Services is going
21 to call him in randomly and request that he produce a
22 specimen.

23 Counsel, do you wish to be heard on this issue?

24 MR. VILORIA: No, your Honor. I'm confident

1 Mr. Tagliamonte will comply with this order.

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: It will be a significant piece of
4 information if you do comply with the order.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: It will be a significant piece of
7 information if you do not comply with this order.

8 All right. Thank you, everybody. Good day to you
9 all on this particular case. Call the next one.

10 MR. VILORIA: Your Honor, will the PSI -- will
11 they email to questionnaire to me or give a number for
12 Mr. Tagliamonte to call?

13 THE COURT: Thank you for the question. We're
14 still working our way through Zoom. Let me yield to the
15 court clerk.

16 MR. VILORIA: Okay. You're muted, Ms. Clerk, if
17 you're talking.

18 THE CLERK: Can you hear me now?

19 THE COURT: Perfectly.

20 MR. VILORIA: Yes, I can. It's sort of varies
21 department by department. I've had some of the probation
22 officers email me the questionnaire, provide the
23 telephone number, the defendants will call, we'll
24 complete the questionnaire and submit it. I've had

1 others simply indicate they want the defendant to call a
2 number by a set time, then we go from there. I'm not
3 sure what your Honor's department and, more particularly,
4 what the Probation Department is doing in your
5 department.

6 THE COURT: Typically here the Division announces
7 a telephone number. And thank you for me reminding me
8 because I was bypassing that.

9 Ms. Clerk, is it okay if the Division of Parole &
10 Probation takes over at this point?

11 THE CLERK: Yes. That's what I prefer.

12 THE COURT: Let's see. Who do we have from the
13 Division? Ms. Berryman?

14 MS. BERRYMAN: Good afternoon, your Honor.

15 THE COURT: Hello.

16 MS. BERRYMAN: Mr. Viloría, I can email that
17 questionnaire and contact sheet to you and ask that the
18 defendant gets it back by the end of the week, and then
19 follows up by calling the Division next week. The phone
20 number is on the questionnaire. Will that work for you?

21 MR. VILORIA: That's just fine. I think you've
22 done that similarly and you've got my email,
23 tviloría@renonvlaw.com.

24 MS. BERRYMAN: I believe I do. Thank you.

**

SUNSHINE LITIGATION

**

1 MR. VILORIA: Yes. Thank you so much.

2 Mr. Tagliamonte, you and I will be talking here
3 shortly, but there's some packets and you need to call
4 and schedule a time with the Probation Department. Okay,
5 sir?

6 THE DEFENDANT: Yes, sir.

7 MR. VILORIA: Thank you.

8 * * * * *

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

**.

SUNSHINE LITIGATION

**.

1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3

4 I, ERIN T. FERRETTO, an Official Reporter
5 of the Second Judicial District Court of the State of
6 Nevada, in and for the County of Washoe, DO HEREBY
7 CERTIFY:

8 That I was present in Department No. 15 of
9 the above-entitled Court vis simultaneous audio/visual
10 transmission on MONDAY, AUGUST 24TH, 2020, and took
11 verbatim stenotype notes of the proceedings had upon the
12 matter captioned within, and thereafter transcribed them
13 into typewriting as herein appears;

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

17 That I am not related to or employed by any
18 parties or attorneys herein, nor financially interested
19 in the outcome of these proceedings.

20
21 DATED: This 10th day of January, 2021.

22 The document to which this certificate is
23 attached is a full, true and correct copy of the
original on file and of record in my office.

/s/ Erin T. Ferretto

24 By: ALICIA L. LERUD, Clerk of the Second
Judicial District Court, in and for the County of
Washoe.

ERIN T. FERRETTO, CCR #281

** SUNSHINE LITIGATION **

1 **CODE 3370**

2
3
4
5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

Case No. CR20-0117
SC20-0117

11 **vs.**

12 **NICHOLAS ROCCO TAGLIAMONTE,**
13 **Defendant.**
14 _____/

Dept. No. D3

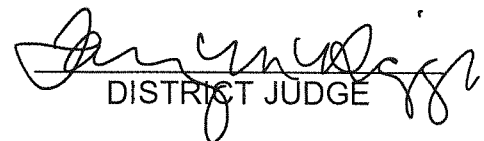
15 **ORDER RETURNING CASE FROM SPECIALTY COURT TO ORIGINAL DEPARTMENT**

16 Based upon the determination of the Specialty Court Judge, jurisdiction in the
17 above-entitled matter is appropriately returned to the original District Judge handling this
18 matter.

19 THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that
20 the Defendant be removed from the Specialty Court Program and be returned to
21 Department No. 15 for all future proceedings. Your next court appearance in Department
22 No. 15 is on June 28, 2021 at 9:00 a.m.

23 IT IS HEREBY FURTHER ORDERED that the Defendant shall remain in
24 custody until seen by Department No. 15.

25 Dated this 26th day of May, 2021.

26
27 
28 **DISTRICT JUDGE**

1 **CODE 1930**

2
3
4
5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

Case No. CR20-0117

Dept. No. 15

12 **NICHOLAS ROCCO TAGLIAMONTE,**

13 **Defendant.**
14 _____/

15
16 **Return Report from Specialty Courts**
17

18 Time Period Covered: The Defendant was formally ordered to the Adult Drug Court
19 program on November 2, 2020. He was formally removed from the program on May 19,
20 2021.
21

22 Reason for Return: The Defendant was removed due to entering a guilty plea to a new
23 felony offense which was committed while participating in the Specialty Courts program.
24

25 Number of Positive Drug Tests: The Defendant submitted no positive drug testing samples
26 while participating in the Adult Drug Court program.
27
28

1 Other Failure to Comply Issues: The Defendant received no sanctions from the Specialty
2 Court team while participating in the Adult Drug Court program. The Specialty Courts team
3 was advised that the Defendant was arrested for new felony offenses on February 22,
4 2021, related to sales of a controlled substance. The Defendant remained in custody
5 pending the outcome of the new offenses. On May 10, 2021, The Defendant entered guilty
6 plea to Sell, Transport, Give or Attempt to Give a Schedule I or II Controlled Substance.
7 Due to the Defendant committing a new felony offense, and also due to the nature of the
8 new offense while participating in in the Adult Drug Court program, the Defendant was
9 unsuccessfully removed from the Adult Drug Court program.

10
11 Fees Owed: The Defendant has no outstanding fines or fees. All fines and fees in cases
12 CR20-0117 and SC20-0117 have been paid in full.

13
14 Recommendation: Continue without the Specialty Courts program.

15
16
17 Dated this 27th day of May, 2021

18
19 Jonathan Black
Jonathan Black

20 Specialty Courts Coordinator II
21
22
23
24
25
26

27 ReturnReport12-10
28

1930

1 Thomas E. Vilorio, Esq.
Nevada Bar No. 003833
2 VILORIA, OLIPHANT,
OSTER & AMAN L.L.P.
3 P.O. Box 62
Reno, Nevada 89504
4 mailtev@renonvlaw.com
(775) 284-8888
5 Attorney for Defendant

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

8 * * *

9 THE STATE OF NEVADA, Case No. CR20-0117
10 Plaintiff, Dept. No. D15
11 vs.
12 NICHOLAS ROCCO TAGLIAMONTE, III,
13 Defendant.

14 _____/
15 **CHARACTER REFERENCE LETTERS**


16 Defendant, NICHOLAS ROCCO TAGLIAMONTE, III, by and through his attorney,
17 Thomas E. Vilorio, Esq. of VILORIA, OLIPHANT, OSTER & AMAN L.L.P., hereby submits
18 character reference letters from Nicholas Tagliamonte's father, Nicholas Tagliamonte; sister
19 Christina Tagliamonte; sister Laura Mueller; and brother Noah Tagliamonte, attached hereto as
20 Exhibit "1."

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

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

24 DATED this 20th day of June, 2021.

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

27 By: 
28 Thomas E. Vilorio, Esq.

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

CERTIFICATE OF SERVICE

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

CHARACTER REFERENCE LETTERS

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

ZACK YOUNG, ESQ. for STATE OF NEVADA
DIV. OF PAROLE & PROBATION

DATED this 28th day of June, 2021.

Marianne Kiley

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

INDEX OF EXHIBITS

EXHIBIT NO. DESCRIPTION NO. PAGES

Exhibit 1 Letters 4

EXHIBIT 1

EXHIBIT 1

From: **The Herald** <superman166nt@gmail.com>
Date: Sat, Jun 26, 2021 at 12:04 PM
Subject: Character letter for Nicholas Tagliamonte
To: bryanda@lawlaub.com <bryanda@lawlaub.com>

To the honorable court,

My name is Nicholas Tagliamonte, and I am the father of Nicholas Tagliamonte, whose case is before you now.

Even before his arrest, my son had expressed to me his desire to find a better path in life. He wanted to make an honest living to provide for his two daughters. I know that sometimes life can lure you down a path to a place you really don't want to go, and I believe that is why he wound up where he is now. I am not trying to make excuses for what he has done, I just believe that this is what happened, because I know that my son is a caring person, and a loving father. Nicholas has been thinking about his future, and how he wants to work towards his goals. Our family is ready to fully support his endeavors, and we beg the court to be merciful in his sentencing, so that he can immediately begin working towards his goals. He has no problem working with the court on completing any program, and checking in with progress reports and accountability. Please, return our son to us, and let him show by his actions that he is dedicated to following the better life.

Thank you for your time,

Nicholas Tagliamonte

To the honorable Washoe county courts,

My name is Christina Tagliamonte, and I am writing to you today on behalf of my little brother Nicholas Tagliamonte. I can say with confidence that Nicholas Tagliamonte is remorseful for his actions, and has learned a valuable lesson. His actions are regrettable. Nicholas is a citizen who cares deeply for others, family and strangers. Nicholas has been here for me and my two sons over the years as a strong male role model after my kid's dad left, and has been a tremendous help to me with projects around my home. He is trustworthy and kind, his actions recently are out of character, and I believe with the resources and support he will get back to his core self- a person of good moral character. I realize that might seem hard to believe given the circumstances, however, it is true nonetheless. I have known Nicky his whole life, and in this time, I have seen him go through difficulties, and all the while I can say with confidence, he is a good person. I know that his role as a father is very important to him, and his deepest desire right now is to be there for his two small daughters, and to work hard to provide for them, therefore, I ask the courts to please have compassion and leniency.

Thank you,

Christina Tagliamonte
775 997 9927,
christinatag14@gmail.com

From: The Herald <superman166nt@gmail.com>
Sent: Saturday, June 26, 2021 1:39 PM
To: Inquiry <Inquiry@renonvlaw.com>
Subject: Re:Character letters from the family of Nicholas Tagliamonte

Wednesday June 23, 2021

Re: Nicholas Tagliamonte

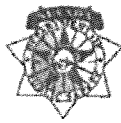
To whom it may concern:

My name is Laura Mueller and Nicholas Roco Tagliamonte is my brother. I understand the seriousness of this matter, but hope that the court will show Nicholas some leniency. I was very surprised and troubled by the news of my brother being arrested and his charges. It has always been my opinion and experience that Nicholas is a whole hearted genuine guy that I can always depend on. Nicholas has expressed to me that his actions are regrettable and he feels remorseful. I know he is ready to accept responsibility for his actions and to come out of this situation a better person. Nicholas is a father of two beautiful young daughters who love him so much and for his daughter's sake he has learned a very important lesson. He looks forward to getting out of jail and getting a job and moving on with his life towards a very positive future for his daughters. It's unfortunate that he has made some unwise decisions in his past. I ask that the court give another chance. I will personally take it upon myself to guide him in life to a better future.

My family and I love him very much and wish for him to be back home with us. I thank you for your time.

Hello, my name is Noah Tagliamonte, the younger brother of Nicholas Rocco Tagliamonte. Prior to his arrest, Nicholas expressed his desire to change the path he was on and come work with me doing security. After speaking with him since his arrest, I know he is remorseful for his actions and still wants to pursue an honest career, and be the father his little girls deserve and need. Nicholas has always been a caring, loving person, not only to his friends and family, but to everybody around him. I believe his recent actions were out of character. Through the years Nicholas has shown me how to be a better father and a better man. Now in his time of need, he will have my full help and support getting a job, complying with the court and getting back on the right track. I ask that the court show him leniency and send him home to his family where he can be there for his girls. With that being said, I know he is very willing and capable of doing whatever he sets out to do including turning himself around and correcting his mistakes.

Thank you for your time.



May 27, 2021

To the Honorable David Hardy
Second Judicial District Court
Department XV

☐ Inmate Program ☐ Parole ☒ Probation

Washoe County, Nevada

Name: Tagliamonte, Nicholas

AKA: Unknown

File #: R21-0201

CC #: CR20-0117

IN HISTORY

Supervision Grant: November 2, 2020

Original Expiration: November 2, 2021

Adjusted Expiration: N/A

Crime: SALE OF A CONTROLLED SUBSTANCE

Sentence: NRS 453 S/S NTE 12 MOS PROB, \$25 AF, \$3 GMA, \$4,000 CONDITION OF DIV COURT, (1 DAY CTS)

I. Violation(s) and Response to Imposed Sanctions:

Directives and Conduct; Laws; Special Condition #1: Defendant shall enter and successfully complete the Washoe County Second Judicial District Diversion Specialty Court or any other Specialty Court subsequently deemed appropriate by the Specialty Court Judge; Defendant shall immediately call Specialty Court Staff at 775-224-5224 for orientation:

On November 2, 2020, Mr. Nicholas Tagliamonte was granted the opportunity to community supervision with the added special condition to enter and successfully complete the Second Judicial District Specialty Court program.

On February 22, 2021, Mr. Tagliamonte was arrested on two counts of possession of a Controlled Substance, two counts of Possession of a Controlled Substance for Sale, and Sell/Transport or Attempt to Sell/Transport a Schedule I or II Controlled Substance. (Directives and Conduct, Laws)

On May 10, 2021, Mr. Tagliamonte entered a guilty plea to Sell/Transport/Give or Attempt to Give a Schedule I or II Controlled Substance. (Directives and Conduct, Laws)

On May 19, 2021, Mr. Tagliamonte appeared in custody for an Order to Show Cause hearing, where it was determined that he would be removed from the Second Judicial District Court Specialty Court program. (Special Condition #1)

II. Custody Status:

Credit for time served is 108 Days

JOC: 1 Day

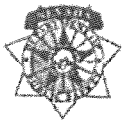
02/22/2021 - 06/08/2021: 107 Days

III. Violation Hearing History:

This is the first Violation Report for Case CR20-0117

IV. Mitigating Factors:

Mr. Tagliamonte was testing clean and appeared to be sober during his time in Specialty Court; however, he was caught committing a new crime while on supervision.



V. Recommendation:

It is recommended that the subject's deferred status be rescinded.

VI. Current Level of Supervision:

Minimum

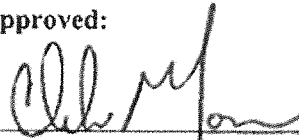
Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

Respectfully submitted:

Approved:



Amanda Spreen, DPS Officer II
Division of Parole and Probation
aspreen@dps.state.nv.us
(775) 684-2355



Chuck Monson, DPS Sergeant
Division of Parole and Probation
cmonson@dps.state.nv.us
(775) 684-2311

STATE OF NEVADA
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PAROLE AND PROBATION

PRIOR NOTICE OF CHARGES AND RECEIPT FOR DOCUMENTS

I, Nicholas Tagliamonte do hereby acknowledge that the following charges have been brought against me:

Alleged Violations

Directives and Conduct; Laws; Special Condition #1: Defendant shall enter and successfully complete the Washoe County Second
Judicial District Diversion Specialty Court or any other Specialty Court subsequently deemed appropriate by the Specialty Court
Judge; Defendant shall immediately call Specialty Court Staff at 775-224-5224 for orientation;

I, Nicholas Tagliamonte do hereby acknowledge that I have been informed that due to one or more of the following reasons listed below, my violation case is not entitled to be heard at an informal preliminary inquiry, but will be taken directly before the Court/Parole Board for a formal revocation hearing.

1. ☒ Defendant is not being held in detention by Parole and Probation on any of the violations charged above.
2. ☐ Defendant has one or more new convictions, which are included in the violations charged above. (NRS 176A.580 (4) / NRS 213.1511 (4))
3. ☒ Other (*Describe*) Subject is not being held in detention by the Division

I, Nicholas Tagliamonte do hereby acknowledge that I have received the following documents:

- (1) A copy of the Violation Report, and
- (2) A copy of the Prior Notice of Charges and Receipt of Documents.

Witness

Defendant

Date

1 **3975**

2 Joe M. Laub, Esq.
3 Nevada Bar No. 3664
4 LAW FIRM OF LAUB & LAUB
5 630 E. Plumb Lane
6 Reno, Nevada 89501
7 Telephone: (775) 333-5282
8 Facsimile: (775) 323-3699
9 Email: criminal@lawlaub.com
10 Attorney for Defendant

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

13 THE STATE OF NEVADA,
14 Plaintiff,

Case No. CR21-0636

15 vs.

Dept. No. 15

16 NICHOLAS TAGLIAMONTE,
17 Defendant.

DEFENDANT'S STATEMENT OF
MITIGATION

18 COMES NOW, Defendant, NICHOLAS TAGLIAMONTE ("Nicholas"), by and through
19 his counsel of record, Joe M. Laub, Esq., hereby submits the following Statement in Mitigation in
20 connection with the Defendant's Sentencing scheduled for June 28, 2021, at 9:00 a.m. This
21 Statement in Mitigation encourages this Court to follow the Guilty Plea Memorandum as agreed
22 upon between Nicholas and the Washoe County District Attorney's Office ("District Attorney's
23 Office"). This Statement in Mitigation will be supplemented with additional argument at the
24 Sentencing.

25 Nicholas plead guilty to the charge of Sell, Transport, Give or Attempt to Sell, Transport,
26 Give Schedule I or II Controlled Substance, first offense, a violation of NRS 453.321.2(a), a
27 Category C felony by way of a Guilty Plea Memorandum, filed on May 10, 2021. This offense is
28 eligible for probation. Nicholas is facing consequences of imprisonment for a period of 1 to 5
years in the Nevada State Department of Corrections with a fine up to \$10,000. Pursuant to the
Guilty Plea Memorandum, the parties are free to argue for an appropriate sentence.

1 Accordingly, Nicholas requests that this Court consider probation while simultaneously
2 ordering Nicholas to a residential inpatient treatment program. Nicholas has taken the steps and
3 has been accepted into the Salvation Army's Northern Nevada Rehabilitation Program. *See*,
4 acceptance and program information, attached hereto as Exhibit 1. As this Court will review,
5 Nicholas was accepted into the 6–12-month residential rehabilitation program through the
6 Salvation Army. It is the undersigned's understanding that Nicholas will be accepted directly by
7 Salvation Army upon his release, should this Honorable Court allow.

8 In the alternative, if this Court denies Nicholas' request to enter the Salvation Army
9 Residential Program, Nicholas would request that he be allowed to complete a program through
10 the Washoe County Drug/Diversion Court. Nicholas filed an Application for Assignment to a
11 Program of Treatment Pursuant to NRS 484C.340(1) ("Application"), filed with this Court on
12 May 25, 2021. As included in the Application, Nicholas obtained a Substance Abuse Evaluation
13 recommending that Nicholas attend "Adult Drug Court." *See*, Substance Abuse Evaluation,
14 attached hereto as Exhibit 2 (filed under seal due to its confidential nature). The Substance Abuse
15 Evaluation diagnosed Nicholas as meeting the "DSM-5 diagnostic criteria for Stimulant Use
16 Disorder, Amphetamine-type substance, Severe 304.40...DSM-5 diagnostic criteria for Stimulant
17 Use Disorder, Cocaine, Severe 304.20...DSM-5 diagnostic criteria for Cannabis Use Disorder,
18 Severe, 304.30." *See*, Exhibit 2, p. 2. Accordingly, Nicholas meets the diagnosis requirements for
19 the Washoe County Drug/Diversion Court.

20 It is evident through Nicholas' extensive criminal history that he struggles with addiction
21 issues. Accordingly, Nicholas is a prime candidate for the Washoe County Drug/Diversion Court
22 as it relates to his severe drug addiction. While Nicholas understands he was enrolled in the
23 Washoe County Drug/Diversion Court at the time of his arrest on this offence, Nicholas reports
24 that he was struggling financially. Due to this, Nicholas made the irresponsible choice to return to
25 selling drugs. A decision Nicholas immensely regrets as he was progressing through the Washoe
26 County Drug/Diversion Court and really becoming a contributing member of society again.
27 Nicholas is confident that if faced with the same financial struggles, he will not elect to sell drugs,
28 but instead will obtain gainful employment.

1 Nicholas would like to point out to this Court that prior to his arrest, he was in compliance
2 and did not have any positive drug tests while enrolled with the Washoe County Drug/Diversion
3 Court as evidenced by Nicholas' Presentence Investigation Report, filed with this Court on June 7,
4 2021. Additionally, Nicholas understands that if he does not successfully complete the Washoe
5 County Drug/Diversion Court, this Honorable Court will NOT allow him another opportunity and
6 he will be sentenced directly to prison.

7 As this Honorable Court has no doubt seen time and time again, some young males take
8 longer to "wake up" and mature than others. Nicholas appears to be one of those young men.
9 Even though he has a somewhat extensive criminal history of charges and violations, his
10 arrogance outweighed his level of acceptance. As a result of this most recent offense and
11 incarceration, Nicholas has humbled himself and decided to take a hard look at his life/future. In
12 fact, while incarcerated, Nicholas has been focused on turning his life around and addressing his
13 substance abuse addictions by attending and successfully completing a Substance Abuse Program
14 through American Comprehensive Counseling Services. *See*, Certificate of Completion, attached
15 hereto as Exhibit 3. Consequently, Nicholas is aware that if he continues to leave his substance
16 abuse untreated and elects to participate in criminal behaviors, his future will involve being in and
17 out of prison. Nicholas is ready to address his substance abuse issues (hopefully through the
18 Salvation Army or Washoe County Drug/Diversion Court) and turn his life around for the better.

19 As anyone struggling with substance abuse addiction is aware, a support system is one of the
20 most important parts of sobriety. With that, Nicholas informs the undersigned that if this Honorable
21 Court allows, Nicholas will be living with his father in Reno, Nevada. Mr. Tagliamonte is supportive
22 of Nicholas turning his life around and getting away from the criminal behaviors he participated in
23 prior to his arrest. Along with his father, Nicholas remains close with his mother, who is also in the
24 Reno area, as well as his 4 siblings. Additionally, Nicholas has 2 minor children that he misses very
25 much. Prior to his arrest, Nicholas had visitation of the minor children every weekend. Nicholas is
26 excited to see his children again. Nicholas is more excited to provide his minor children with a positive
27 role model as he knows he has not been that for them historically. Nicholas' sobriety will aid in
28 repairing any damage his addictions may have caused during this absence from his children's lives. It
seems Nicholas will have a mountain of family support throughout this process.

1 WHEREFORE, it is respectfully requested that this Court impose a sentence of probation
2 while simultaneously ordering Nicholas to residential inpatient treatment program through the
3 Salvation Army, or in the alternative, order Nicholas to complete the Washoe County Drug/Diversion
4 Court for the charge of Sell, Transport, Give or Attempt to Sell, Transport, Give Schedule I or II
5 Controlled Substance, first offense, a violation of NRS 453.321.2(a), a Category C felony.
6 Nicholas is hopeful this Honorable Court will provide him one more opportunity to show that he is
7 ready to accept responsibility and put in the work necessary to be a productive/contributing member
8 of society. It is requested Nicholas receive credit for time served in the amount of 127 days.
9 Nicholas and the undersigned thanks this Honorable Court for their review and consideration.

10 **AFFIRMATION**
11 **Pursuant to NRS 239B.030**

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

14 DATED this 16th day of June, 2021.

15
16 LAW FIRM OF LAUB AND LAUB

17 By: 

18 Joe M. Laub, Esq.
19 Nevada State Bar No. 3664
20 Attorney for Defendant
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Firm of Laub & Laub and on the date set forth below, I caused to be served a true copy of the foregoing document on the party(ies) identified by below by:

 x Via E-flex:

Washoe County District Attorney

DATED this 22nd day of June, 2021.

By:



Employee of Laub and Laub

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

EXHIBIT LIST

- Exhibit 1: Salvation Army Rehabilitation acceptance and program information, 4/29/2021, 4 pages
Exhibit 2: Substance Abuse Evaluation (filed under seal), 5/15/2021, 3 pages
Exhibit 3: Certificate of Completion, 5/28/2021, 1 page

1 **3975**

2 Joe M. Laub, Esq.
3 Nevada Bar No. 3664
4 LAW FIRM OF LAUB & LAUB
5 630 E. Plumb Lane
6 Reno, Nevada 89501
7 Telephone: (775) 333-5282
8 Facsimile: (775) 323-3699
9 Email: criminal@lawlaub.com
10 Attorney for Defendant

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

13 THE STATE OF NEVADA,
14 Plaintiff,

Case No. CR21-0636

15 vs.

Dept. No. 15

16 NICHOLAS TAGLIAMONTE,
17 Defendant.

DEFENDANT'S SUPPLEMENTAL
STATEMENT OF MITIGATION

18 COMES NOW, Defendant, NICHOLAS TAGLIAMONTE ("Nicholas"), by and through
19 his counsel of record, Joe M. Laub, Esq., hereby submits the following character witness letters,
20 attached hereto as Exhibit 1, to supplement his Statement of Mitigation, filed June 22, 2021.

21 **AFFIRMATION**
22 **Pursuant to NRS 239B.030**

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

25 DATED this 28th day of June, 2021.

LAW FIRM OF LAUB AND LAUB

26 By: 

27 Joe M. Laub, Esq.
28 Nevada State Bar No. 3664
Attorney for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Firm of Laub & Laub and on the date set forth below, I caused to be served a true copy of the foregoing document on the party(ies) identified by below by:

 x Via E-flex:

Washoe County District Attorney

DATED this 28th day of June, 2021.

By:



Employee of Laub and Laub

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

EXHIBIT LIST

Exhibit 1: Character Witness Letters, 4 pages, various dates

1 **3975**

2 Joe M. Laub, Esq.
3 Nevada Bar No. 3664
4 LAW FIRM OF LAUB & LAUB
5 630 E. Plumb Lane
6 Reno, Nevada 89501
7 Telephone: (775) 333-5282
8 Facsimile: (775) 323-3699
9 Email: criminal@lawlaub.com
10 Attorney for Defendant

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

13 THE STATE OF NEVADA,
14 Plaintiff,

Case No. CR21-0636

Dept. No. 15

15 vs.

16 NICHOLAS TAGLIAMONTE,
17 Defendant.

DEFENDANT'S SUPPLEMENTAL
STATEMENT OF MITIGATION

18 COMES NOW, Defendant, NICHOLAS TAGLIAMONTE ("Nicholas"), by and through
19 his counsel of record, Joe M. Laub, Esq., hereby submits the following character witness letters,
20 attached hereto as Exhibit 1, to supplement his Statement of Mitigation, filed June 22, 2021.

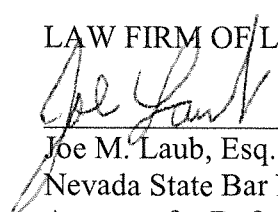
21 **AFFIRMATION**
22 **Pursuant to NRS 239B.030**

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

25 DATED this 28th day of June, 2021.

LAW FIRM OF LAUB AND LAUB

By:


Joe M. Laub, Esq.
Nevada State Bar No. 3664
Attorney for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Firm of Laub & Laub and on the date set forth below, I caused to be served a true copy of the foregoing document on the party(ies) identified by below by:

 x Via E-flex:

Washoe County District Attorney

DATED this 28th day of June, 2021.

By:



Employee of Laub and Laub

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

EXHIBIT LIST

Exhibit 1: Character Witness Letters, 4 pages, various dates

1 Code #4185
SUNSHINE LITIGATION SERVICES
2 151 County Estates Circle
Reno, Nevada 89511
3
4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7 HONORABLE DAVID A. HARDY, DISTRICT JUDGE

8 -o0o-

9 THE STATE OF NEVADA, Case No. CR20-0117
10 Plaintiff, CR21-0636
11 vs. Dept No. 15
12 NICHOLAS ROCCO TAGLIAMONTE,
13 Defendant.
14 _____/

15
16
17 TRANSCRIPT OF PROCEEDINGS
18 MOTION FOR PROBATION REVOCATION AND SENTENCING

19 JUNE 28, 2021

20 RENO, NEVADA
21
22
23

24 REPORTED BY: CORRIE L. WOLDEN, NV CSR #194, RPR, CP
25 JOB NO. 775555

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

A P P E A R A N C E S

FOR THE PLAINTIFF: WASHOE COUNTY DISTRICT ATTORNEY'S
OFFICE
BY: NICKOLAS GRAHAM, ESQ.
One South Sierra Street
Reno, Nevada 89520
775-328-3200
tlucia@da.washoecounty.us

FOR THE DEFENDANT: LAUB & LAUB
BY: JOE LAUB, ESQ.
630 E. Plumb Lane
Reno, Nevada 89502
775-333-5282
joe@lawlaub.com

WASHOE COUNTY ALTERNATE PUBLIC
DEFENDER
BY: MELISSA A. ROSENTHAL, ESQ.
350 S. Center Street, 6th Flr
Reno, Nevada 89501
775-328-3967
mrosenthal@washoecounty.us

FOR THE DIVISION OF AMANDA SPREEN
PAROLE AND PROBATION:

FOR PRETRIAL SERVICES: LORI PITT

1 RENO, NEVADA, MONDAY, JUNE 28, 2021, 9:15 A.M.

2 -o0o-

3

4 THE COURT: Thank you, Deputy. It's nice to see
5 everybody on my spectator and participant gallery.
6 Sometimes Zoom is unwieldy and I've actually never had
7 people stand during Zoom and I appreciate the respect to
8 the office I occupy. Let's proceed.

9 Because of our pandemic, our dwindling pandemic,
10 we continue to participate through Zoom. I don't need to
11 hear anything about your knowledge or consent unless you
12 object. I would invite you to object at the appropriate
13 time when your case is called.

14 We have a busy calendar this morning and I will
15 strive to be as efficient as possible while giving everyone
16 an opportunity to be heard. We carefully managed the order
17 in which these cases will be called according to our own
18 department formulas. So, counsel, thank you for your
19 indulgence.

20 Next case is Mr. Tagliamonte. Would you come on,
21 please, counsel, in CR20-0117 and CR21-0636.

22 MR. GRAHAM: Nick Graham for the state.

23 MR. LAUB: Joe Laub on behalf of Mr. Tagliamonte.

24 THE COURT: So my practice is to review all files
25 before I take the bench. I devoted some time to

1 Mr. Tagliamonte's cases early this morning. Just seconds
2 ago after the last case, I was handed a Supplemental
3 Statement in Mitigation, which was apparently e-mailed and
4 not filed.

5 I haven't read it, so I don't know what to do,
6 counsel. I want to give Mr. Tagliamonte the benefit of
7 every argument, but I have a really deep calendar and I
8 just can't take time to pause now to read what should have
9 been filed previously.

10 MR. LAUB: I understand, Your Honor. We are
11 prepared to proceed. I will be able to give a very, very
12 quick, brief summary of the character reference letters
13 from his father and from his siblings, and I will be able
14 to summarize in probably one or two sentences. And, I
15 apologize, we did receive these character letters last
16 minute, and we have submitted them to the Court for filing.

17 THE COURT: Okay. Thank you.

18 MS. ROSENTHAL: Your Honor, can I just clarify if
19 Mr. Laub is appearing on both cases, because my
20 understanding is that the Alternate Public Defender was
21 still appointed on CR20-0117, so I just wanted to clarify.

22 THE COURT: Sure. I think that's an appropriate
23 clarification. I would like to set it up. The 0117 case
24 is the probation revocation proceeding and Mr. Laub appears
25 on the new cases, I'm sorry, the new case that occurred

1 while Mr. Tagliamonte was in the Specialty Court.

2 Mr. Laub, do you also make an appearance on
3 behalf of the revocation case?

4 MR. LAUB: I do not, Your Honor.

5 THE COURT: Okay. I would like to hear from both
6 attorneys before I make any decision. Well, I'm going to
7 hear from the state's attorney, too, so all three
8 attorneys, but I'm going to combine these proceedings and
9 not take them consecutive.

10 In the CR20-0117 case, Ms. Rosenthal, good
11 morning. I have a copy of the Non-Technical Violation
12 Report, which is file stamped on June 2nd. I want to
13 confirm that you also and your client have received that
14 and you are familiar with it. My request is that you
15 indicate whether your client contests or concedes the
16 content of that violation report.

17 As a predicate to your participation,
18 Ms. Rosenthal, I want you and your client and the state's
19 attorney to know that I have reviewed this entire file to
20 include the Presentence Investigation Report and the
21 transcript of proceedings in which Mr. Vilorio represented
22 Mr. Tagliamonte. Mr. Graham was present at the time of
23 sentencing.

24 This was the case that involved the Fentanyl, the
25 Snapchat, Mr. Graham's participation in a national drug

1 conference in examining the role of Fentanyl in drugs and
2 so forth. So with that, Ms. Rosenthal, you may begin.

3 MS. ROSENTHAL: Thank you, Your Honor. First
4 off, I would like to say I'm located in Washoe County,
5 Nevada. I have received the notices mentioned by the Court
6 and I have no objection to proceeding in this manner this
7 morning.

8 I did have an opportunity to go over the
9 violation report with Mr. Tagliamonte, and he would be
10 admitting to the violations as referenced in the case and
11 it is apparent that he has accepted responsibility for
12 that. Your Honor, he is asking to be reinstated on
13 probation with Drug Court as a condition. I think that's
14 emphasizing Mr. Laub's argument for that new case.

15 THE COURT: Ms. Rosenthal, you concede that he
16 was placed in Drug Court at the time he committed these
17 offenses?

18 MS. ROSENTHAL: I understand.

19 THE COURT: I'm trying to understand how
20 returning him to Drug Court having just been kicked out of
21 Drug Court makes analytical sense.

22 MS. ROSENTHAL: Your Honor, that's just
23 Mr. Tagliamonte's ask of the Court that he be given another
24 opportunity at Drug Court.

25 THE COURT: Okay. And, Mr. Tagliamonte, you will

1 have a right to address the Court. I'm going to wait until
2 I hear from Mr. Laub and then I will turn to you.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Mr. Graham, anything on the 0117 case
5 or do you wish to just be heard all at once?

6 MR. GRAHAM: I think I just would like to be
7 heard all at once.

8 THE COURT: All right. Mr. Laub.

9 MR. LAUB: Thank you, Your Honor. And, yes, it
10 is true that my client on this last violation was in
11 Specialty Court at the time, and as we know with some
12 people, or almost most, when they have an addiction it is
13 not a linear healing. There is many, many setbacks and he
14 has had that setback. And unfortunately he was doing well
15 in Diversion Court and he was, there was no positive tests
16 and he was fully compliant, but yet he has a setback and
17 there may be future setbacks.

18 When there is a man with this type of addiction
19 at this level, it's going to be a struggle and, quite
20 frankly, he has struggled his whole life. He has had
21 difficulties his whole life, and essentially what the
22 family character references are from his father and from
23 his brothers and sisters talks about what a difficult life
24 he has had, but yet that he is changing. He is improving.

25 He is wanting to be a father to his two children

1 and that he is overall going in the right direction, and we
2 are asking the Court to be as patient with him as possible
3 and there may be another future setback.

4 As we know, as I mentioned, it's not a, rarely is
5 it ever a linear healing from A to Z. It is getting to F,
6 and then back to D, and then moving forward maybe to P, and
7 then moving back. And, I mean, I don't know if the
8 alphabet is the appropriate analogy, but it seems from
9 studying him and his life, as well as talking to him as
10 many times as I have and getting a good sense of him, that
11 he is someone who is seriously desiring to make a better
12 life, but yet he has continued to make bad decisions.

13 And, I mean, I'm convinced that he has not hit
14 bottom and that he is looking for that one last chance.
15 But just because his attorney believes that, I know the
16 Court may have a different opinion and I may be wrong, but
17 I do sense that he is sincerely desiring, and every single
18 time I speak to him he is bright-eyed, he is staring at me
19 and he is, he is sharing with me a deep sincerity to try to
20 stay away from any and all drugs.

21 And the fact that he, he was going the right
22 direction is a good indicator. We just need to keep him
23 going in that direction, and so I have asked that he either
24 be put into the, allowed to continue into the Diversion
25 Program or alternatively go into the 6 to 12 month program

1 of the Salvation Army, whatever the Court believes is
2 appropriate.

3 He does have shared custody of his two kids, his
4 two children, which is very, very important to him, and
5 hoping that maybe with a combination of his continued
6 testing and being free of drugs and not testing positive,
7 because once he tests dirty, the direction is going to be
8 completely wrong for him again. And is this bottom for
9 him? Hopefully, it is.

10 And with that, and I know that the Court, this
11 Court does a very thorough job in reading the PSI, the
12 statements in mitigation, and so I don't want to overly
13 repeat, and I thank you for being prepared as you have each
14 and every time. And we are making the plea not only does
15 Mr. Tagliamonte express his desire to get into the
16 Diversion Program or the Salvation Army and is sincere
17 about being successful, I also am making that request based
18 upon my interactions with him.

19 And he seems to be very, very positive, and I
20 have dealt with a lot of people over the years, and
21 hopefully this is his bottom and I am really believing him
22 that this time could be different and he does understand
23 the consequences. If he fails, he knows he is going
24 straight to prison. He will not have another opportunity,
25 Your Honor. Thank you.

1 THE COURT: Thank you. Well done, counsel, to
2 both of you.

3 Mr. Tagliamonte, do you wish to be hard?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Please.

6 THE DEFENDANT: Your Honor, during my time being
7 incarcerated, I have had a lot of time to reflect on my
8 actions and their consequences, and I regret my actions
9 immensely and I wasted a lot of time in here without my
10 daughters and it's been the hardest thing that I have had
11 to deal with.

12 There is nothing more I would like to do than to
13 get back to my family and my daughters and start being the
14 father that they believe and are proud of and they can look
15 up to. And, you know, I don't want to go to prison. I
16 don't want to live my life in and out of prison. I want to
17 prove that I have changed.

18 I know the Drug Court Program, Diversion Program
19 is a long, hard program, but I'm asking for the opportunity
20 to prove that I can pass it with flying colors, I can turn
21 my life around, and I would like to be, you know, a
22 functioning member of society and not someone who is going
23 to wind up back in jail, back in prison. And that's it,
24 sir. Thank you for your time.

25 THE COURT: Let's pause for a moment. I want to

1 think about what you said, please, and what I heard from
2 counsel.

3 THE DEFENDANT: Okay.

4 THE COURT: As a Judge sitting on this bench, I'm
5 vested with great authority and it's critical for me to
6 remember everyday, every moment that I am not the king of
7 the universe. I should never be a bully. I should not
8 confront and demean people who appear in front of me.

9 In fact, I have a duty to be patient, dignified,
10 and courteous to all and it's not my job to be anybody's
11 friend or enemy. I must directly confront facts, events,
12 hopefully doing so in a respectful way.

13 And I need to confront what you just said a
14 little bit, because your statement was wonderful, but it
15 completely ignored the fact that we did this once before.
16 It's as if you are telling me how important your daughters
17 are and you understand the importance of Specialty Court.

18 But let's be clear, Mr. Tagliamonte. We had a
19 spirited sentencing proceeding, spirited. You remember
20 what Mr. Vilorio said, you remember what Mr. Graham said,
21 and I gave you the privilege of Specialty Courts, and there
22 is no more structured therapeutic help than Specialty
23 Courts. That's the most we have. There is no Specialty
24 Courts plus one.

25 And while in Specialty Courts for selling drugs,

1 Fentanyl-laced drugs probably, you are selling drugs still.
2 So help me understand a little more why you just bypass all
3 of that and go right to I need Specialty Court.

4 You are going to have to help me understand what
5 happened before that led to your failure which won't happen
6 in the future, otherwise it's not good for you. So think
7 about what I have said and collect your thoughts and see if
8 you have anything else to say.

9 THE DEFENDANT: Yes, Your Honor. I did, you
10 know, violate my Specialty Courts by selling drugs again
11 and I can't give you a valid reason of why I did it. I
12 don't know why I made that choice, but I regret it more
13 than I regretted anything in my life. I wish I wouldn't
14 have made that choice.

15 But I want to change, Your Honor. I truly do. I
16 vow never to go near drugs again and never try and sell
17 drugs again or use drugs again. Given this last
18 opportunity, I want to prove that I can be a better man
19 and, you know, that I can change my life.

20 I made that mistake selling drugs again and I
21 don't have a valid reason for why I did, because there is
22 no good reason for why someone would do that. And I do
23 apologize for messing up the opportunity you gave me the
24 first time, and I know it's a slim chance that I get
25 another opportunity at the Specialty Courts, and I just

1 want to thank you for the first opportunity and hope for
2 the best, and I apologize for messing up the first time.

3 THE COURT: Thank you.

4 Mr. Graham, it's difficult, because I join the
5 chorus of voices that seek to provide therapeutic
6 intervention for addicts as opposed to punitive
7 consequences for addicts who trip over their addictions
8 everyday, but I'm struggling here mightily.

9 Three weeks ago, I attended the funeral of a
10 young McQueen High School graduate, college degree,
11 engineering degree, who took a Fentanyl-laced product on a
12 weekend and it killed him. And I see this, I'm not trying
13 to exaggerate, time and again on the bench here, and so how
14 do I separate the addict who I want to help from the person
15 who enables the addict? If I listen to Mr. Laub, this
16 gentleman is an addict who needs my attention. And now
17 it's your turn. I'm struggling here to know what to do.

18 MR. GRAHAM: Well, perhaps I can help with that,
19 and the defendant actually helped with that as well. He
20 provided information on page 6 when he gave a statement to
21 Parole and Probation. Page 6, defendant's statement,
22 second sentence, "Regarding the incident offense, the
23 defendant indicated he was not using controlled substances,
24 but was struggling financially and knew he could make more
25 money selling controlled substances than in his current

1 employment."

2 I basically fact checked that against how he was
3 doing in Specialty Court and he was doing good. He wasn't
4 having any slip-ups, and the notes that I have from
5 Rebecca Druckman indicate that he was doing well, and so in
6 my mind this becomes a decision that he made to start
7 selling cocaine again.

8 Drawing the Court's attention back to the
9 original case where he was selling the Fentanyl-laced
10 pills, in that case there was an undercover investigation
11 into him after an overdose and he agreed to sell in that
12 case to an undercover police officer.

13 So, in my mind, you know, you are doing well and
14 by your own admission you are not using drugs, which cuts
15 against everything in the mitigation statement provided to
16 the Court, and you decide, hey, I'm going to try to get
17 more money for myself.

18 Despite having the history of getting caught, you
19 go ahead and you start selling that cocaine, you use two
20 separate sales or you consummate one sale to a confidential
21 informant and then you go forward and you agree to do a
22 second and when you get caught on that one you have the
23 drugs in your groin.

24 The police go back to his house. He had more
25 drugs set up to sell, and I believe there was 19 gross

1 grams of cocaine back at his house. The defense argument
2 is akin to saying, Judge, let's put the fox in the
3 henhouse. Let's put the drug dealer with the drug users.

4 The defendant by his own admission was doing well
5 and not using drugs when he committed the incident offense.
6 His actions are completely at odds with the evaluation done
7 by Dr. Paula Chung.

8 The Court gave the defendant a tremendous
9 opportunity based on his age to rectify his decisions. He
10 was put into Diversion Court. He was not even sentenced on
11 that case. There is no suspended sentence and no sentence
12 at all.

13 Based on what the defendant is doing, and it
14 should be clear time and time again on these PCS-type cases
15 the victims, excuse me, the defendants come in and they use
16 the fact that they are on drugs as a mitigating factor and
17 sometimes it's true, sometimes it's not. But the defendant
18 in both of his cases is the one providing drugs to people,
19 providing drugs to the community, and creating more issues
20 than we can deal with.

21 The defendant himself is a clear danger to the
22 community. He is on diversion for selling drugs and gets
23 caught selling more drugs. Based on that and based on his
24 willful disregard to the Court's orders, I'm asking for
25 24 to 60 on CR20-0117 and a 24 to 60 on CR21-0636.

1 And I just want to be clear, in that CR20-0117
2 case the defendant got a massive bargain for his, for his
3 guilty plea, and I think it's important for the Court to
4 know that pursuant to negotiations in that case,
5 RCR-2020-106882 was dismissed pursuant to negotiations.
6 That case, Your Honor, was predicated on an investigation
7 where the police officers were looking into the defendant
8 for selling cocaine again.

9 They pull him over in his 2011, I believe it was
10 a Camaro, and underneath the seat is a Glock. They bring
11 the Glock back, they examine it, and it turns out it was
12 fully automatic and it was loaded.

13 And so the defendant is not, I mean, he got a
14 massive benefit from that case being dismissed with the
15 drugs and dangerousness, specifically a firearm, and in
16 this case he just added to it. That's why I believe the
17 24 to 60 on both consecutive should be, he should be
18 sentenced to that in this case.

19 THE COURT: I want to turn back to Ms. Rosenthal.
20 The caption on my cover sheet is Motion - Probation
21 Revocation, and the violation report lists the sentence as
22 not to exceed 12 months probation, but it follows the 453
23 diversion order, and so I want you to be, I want you to
24 have an opportunity to be heard on the underlying sentence
25 as I consider revoking this diversionary grant, if you

1 wish.

2 MS. ROSENTHAL: Thank you, Your Honor. If the
3 Court is not inclined to place Mr. Tagliamonte back on
4 probation with Drug Court, we would ask that the Court
5 impose a sentence of 12 to 36 months, specifically for the
6 reason that this would be Mr. Tagliamonte's first prison
7 sentence, his first actual arrest in any regard. He has
8 zero felonies, zero gross misdemeanors, zero misdemeanors
9 and never been incarcerated before, so this is his first
10 offense.

11 I would also ask Your Honor to get updated credit
12 for time served and that would be what we would ask based
13 off of his criminal history in this case if the Court is
14 going to not grant him probation.

15 THE COURT: Thank you. I would like to have just
16 a moment, please. I'm looking for one sentence from the
17 previous sentencing proceeding.

18 Let me turn back to Mr. Graham. With your own
19 words, Mr. Graham, from November 2nd, 2020, I'm asking you
20 to either confirm or clarify with the passage of time or
21 repudiate these words on page 21 of the transcript.

22 "I have always been opposed to putting drug
23 dealers in Drug Court. I recognize he has a problem, but
24 that would be like putting someone with an addiction to
25 gambling and mandating they work on the floor of a casino.

1 It is just a recipe for disaster."

2 "Even with probation I would not recommend Drug
3 Court as a condition. Outpatient would be more beneficial
4 to him so he would not be around other users, not giving
5 him an opportunity to get basically a book of business
6 handed to him." That's 8 months ago your opinion. Has
7 that evolved over time?

8 MR. GRAHAM: No. I think I just kind of used a
9 different analogy today, but I believe the same thing.

10 THE COURT: The reason why I ask is that one of
11 the options is the Salvation Army Program. I agree with
12 you that I am not going to return Mr. Tagliamonte to
13 Specialty Court.

14 Not only has he rejected the opportunity given to
15 him through short-sighted first steps and not linear
16 progression, I'm not going to send him right back to the
17 court that just kicked him out, so I only have probation,
18 which is far less supervised than Drug Court. I'm not
19 going to do that.

20 I can only see two remaining options, intensive
21 residential through the Salvation Army Program or prison.
22 Of course, I'm inclined to send him to prison, you should
23 know that as I ask for your remarks, but the Salvation Army
24 Program is identified as an option which somehow brokers
25 his improvement while removing him, not allowing him to be

1 in the Specialty Courts. Why not Salvation Army?

2 MR. GRAHAM: Because he was by his own admission
3 not using drugs. Per his own admission to the P & P
4 officer, he was doing good in the program. He was not
5 using drugs.

6 He had passed that corner it seems and he was not
7 doing this to support a drug habit. He was doing it to
8 make money for himself. That type of person is praying on
9 those who are, and for those reasons that's why I don't
10 think that program would be beneficial, but taking him out
11 of the community would.

12 THE COURT: To the Division, what is the credit
13 for time served in CR20-0117?

14 MS. SPREEN: Yes, Your Honor. If all of the
15 credit for time served goes to this case, it would be 128
16 days.

17 THE COURT: Thank you. In CR20-0117,
18 Mr. Tagliamonte is revoked as to his diversionary status.
19 He is adjudicated guilty of the offense. He has previously
20 been ordered to pay the \$25 administrative assessment fee
21 and the \$3 genetic marker fee. He has previously been
22 ordered to pay the \$500 attorney's fees.

23 To the Division, do you know if he paid any
24 portion of the \$4,000 fine?

25 MS. SPREEN: I can double-check, Your Honor, but

1 it was my understanding that he was paid in full with
2 Specialty Court.

3 THE COURT: Well, at the time of sentencing I
4 went on and on and on about a punitive response because he
5 had one day, so in addition to the Diversion Court and its
6 fees I ordered a \$4,000 fine. I also ordered community
7 service. My sense is through prior counsel that that fine
8 was paid immediately and I just want to confirm that.

9 MS. SPREEN: It was my understanding that it was
10 paid, but I would have to look into it to give a definite
11 answer, Your Honor.

12 THE COURT: Okay. Ms. Clerk, do you have access?

13 THE CLERK: Your Honor, according to the court
14 records that I just pulled up, the defendant's fees and the
15 \$4,000 fine were paid in full.

16 THE COURT: Thank you.

17 For this felony adjudication should there be a
18 \$150 DNA test fee? Is there a chemical drug analysis fee
19 that I have missed?

20 MR. GRAHAM: No, Your Honor.

21 Yes, Your Honor, there is.

22 THE COURT: Which of the two?

23 MR. GRAHAM: Chemical drug analysis.

24 MS. ROSENTHAL: Your Honor, I believe the DNA
25 would be appropriate, too, if adjudicated guilty.

1 THE COURT: I'm also ordering the \$150 DNA test
2 fee and the \$60 chemical drug analysis fee.

3 In the 0117 case, Mr. Tagliamonte is given credit
4 for time served in the amount of 128 days. I'm sentencing
5 him to a minimum of 19 months and a maximum of 48 months in
6 the Nevada Department of Corrections. The reason why I'm
7 doing the 19 to 48 is that if this case came to me right
8 out of the blocks, first felony prison, it would have
9 likely been a 12 to 30.

10 I often consider Drug Court nonperformance and
11 amplify the sentence knowing that we have done our best to
12 provide resources and that the defendant has chosen not to
13 improve with that resource assistance and that's how I
14 landed at 19 to 48. I think the 24 to 60 sentence urged by
15 the state would be imposing upon Mr. Tagliamonte the
16 consequences of the subsequent offense. I can't imagine
17 this would have been a 24 to 60 first felony out of the
18 gate, so that's a 19 to 48.

19 However, in CR21-0636, Mr. Tagliamonte will
20 serve, excuse me, is adjudicated guilty of the offense.
21 His request for diversion and probation is denied, request
22 for diversion or probation are denied.

23 He will pay a \$25 administrative assessment fee.
24 He will pay a \$3 genetic marker fee. There is not an
25 attorney's fee that is ordered. There is a chemical drug

1 analysis fee of \$60, and I do agree with the state that a
2 24 to 60 in the Nevada Department of Corrections is
3 appropriate.

4 It's difficult for me to construct this fact
5 pattern. The man sells drugs, dangerous drugs, and is the
6 target of law enforcement scrutiny. He has another case
7 involving a firearm dismissed. There is some mitigation
8 that counsel typically talks about in camera which
9 influences the diversion decision.

10 While sitting in Specialty Courts testing clean,
11 he chooses to sell drugs again for financial purposes and
12 that must be disapproved in our community. He is to serve
13 24 to 60 months in the Nevada Department of Corrections.
14 It is consecutive to 0117. There is no credit for time
15 served.

16 Counsel, am I missing anything?

17 MR. GRAHAM: Not from the state. Thank you,
18 Your Honor.

19 MR. LAUB: Thank you, Your Honor. I believe you
20 covered everything extremely thoroughly.

21 THE COURT: Thank you, Mr. Laub.

22 -o0o-

23

24

25

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

STATE OF NEVADA)
) ss.
WASHOE COUNTY)

I, CORRIE L. WOLDEN, an Official Reporter of the
Second Judicial District Court of the State of Nevada, in
and for Washoe County, DO HEREBY CERTIFY;

That I am not a relative, employee or independent
contractor of counsel to any of the parties; or a relative,
employee or independent contractor of the parties involved
in the proceeding, or a person financially interested in the
proceeding;

That I was present in Department No. 15 of the
above-entitled Court on June 28, 2021, and took verbatim
stenotype notes of the proceedings had upon the matter
captioned within, and thereafter transcribed them into
typewriting as herein appears;

That the foregoing transcript, consisting of pages 1
through 23, is a full, true and correct transcription of my
stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 21st day of November,
2021.

/s/Corrie L. Wolden

CORRIE L. WOLDEN
CSR #194, RPR, CP

1 **CODE 1850**

2
3
4
5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

Case No. CR20-0117

11 **vs.**

Dept. No. 15

12 **NICHOLAS ROCCO TAGLIAMONTE,**

13 **Defendant.**
14 _____/

15 **JUDGMENT**

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

18 That Nicholas Rocco Tagliamonte is guilty of the crime of Sale of a Controlled
19 Substance, a violation of NRS 453.321, a category B felony, as charged in the Information, and that
20 he be punished by imprisonment in the Nevada Department of Corrections for the maximum term of
21 forty-eight (48) months with the minimum parole eligibility of nineteen (19) months, with credit for
22 one hundred twenty-eight (128) days time served.

23 It is further ordered that the Defendant shall submit to a DNA analysis test for the
24 purpose of determining genetic markers and pay a testing fee in the amount of One Hundred Fifty
25 Dollars (\$150.00), and that he shall pay a chemical analysis fee in the amount of Sixty Dollars
26 (\$60.00). The Court finds that the previously imposed fine in the amount of Four Thousand Dollars
27 (\$4,000.00); the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, the Three
28 Dollar (\$3.00) administrative assessment fee for obtaining a biological specimen and conducting a

1 genetic marker analysis, and the Five Hundred Dollars (\$500.00) for legal services rendered, have
2 been paid in full by the Defendant.

3 It is further ordered that the fees shall be subject to removal from the Defendant's
4 books at the Washoe County Jail and/or the Nevada Department of Corrections. Any fine, fee,
5 administrative assessment, or restitution ordered today (as reflected in this Judgment) constitutes a
6 lien, as defined in NRS 176.275. Should the Defendant not pay these fines, fees, assessments, or
7 restitution, collection efforts may be undertaken against him.

8 Dated this 28th day of June, 2021.

9
10 
11 _____
12 DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **CODE 1850**

2
3
4
5
6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

Case No. CR21-0636

11 **vs.**

Dept. No. 15

12 **NICHOLAS ROCCO TAGLIAMONTE,**

13 **Defendant.**
14 _____/

15 **JUDGMENT**

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

18 That Nicholas Rocco Tagliamonte is guilty of the crime of Sell, Transport, Give or
19 Attempt to Sell, Transport, Give Schedule I or II Controlled Substance, First Offense, a violation of
20 NRS 453.321(2)(a), a category C felony, as charged in the Information, and that he be punished by
21 imprisonment in the Nevada Department of Corrections for the maximum term of sixty (60) months
22 with the minimum parole eligibility of twenty-four (24) months, to be served consecutively to the
23 sentence imposed in case number CR20-0117, with credit for zero (0) days time served.

24 It is further ordered that the Defendant shall pay the statutory Twenty-Five Dollar
25 (\$25.00) administrative assessment fee; that he shall pay the Three Dollar (\$3.00) administrative
26 assessment fee for obtaining a biological specimen and conducting a genetic marker analysis; and
27 that he shall pay a chemical analysis fee in the amount of Sixty Dollars (\$60.00).

28 ///

1 It is further ordered that the fees shall be subject to removal from the Defendant's
2 books at the Washoe County Jail and/or the Nevada Department of Corrections. Any fine, fee,
3 administrative assessment, or restitution ordered today (as reflected in this Judgment) constitutes a
4 lien, as defined in NRS 176.275. Should the Defendant not pay these fines, fees, assessments, or
5 restitution, collection efforts may be undertaken against him.

6 Dated this 28th day of June, 2021.

7
8 
9 _____
10 DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Nicholas Tagliamonte
(Name)

2102013
(Inmate ID)

Northern Nevada Correctional Center
Post Office Box 7000
Carson City Nevada 89702

IN THE 15 JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Washoe

<u>Nicholas Tagliamonte</u>	Petitioner
V.	
<u>Nicholas Tagliamonte</u>	Respondent

CR21-0636
Case Number: CR20-0117
Department Number 15

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that I, Nicholas Doro Tagliamonte III appeal the Judgment/ Order entered on the 28th day of June, 2021 by this court.

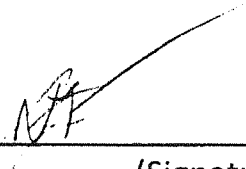
Dated this 22nd day of July, 2021.

[Signature]
(Signature)

CERTIFICATE OF SERVICE BY MAIL

Pursuant to NRCR Rule 5(b), I hereby certify that I am the Defendant named herein and that on this 22nd day of July, 2021, I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the following:

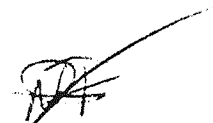
Washoe County District Attorney,
NICK G-Halam


(Signature)

AFFIRMATION PURSUANT TO NRS 239B.030

**I certify that the foregoing document DOES NOT contain the social security numbers of any persons.

7-22-21
(Date)


(Signature)

CERTIFICATE OF SERVICE

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

X E-Flex delivery service of the Nevada Supreme Court (D.A.'s office)

X mailing, First Class Mail, a true copy thereof through the United States Postal Service at Reno, Nevada. (Client)

addressed as follows:

CHRIS HICKS, ESQ., DISTRICT ATTORNEY
Washoe County District Attorney's Office
One South Sierra Street, Fourth Floor
Reno, NV 89501
ATTN: Marilee Cate, Esq.

Nicholas Tagliamonte
Stewart Conservation Camp
P. O. Box 5005
Carson City, NV 89702-5005

DATED this 24th day of January, 2022.



KARLA K. BUTKO, ESQ.