

1 CASE NO.: DC-CR-20-159
2 DEPT. III

FILED

2021 SEP 28 AM 10:42

4th JUDICIAL DISTRICT COURT
CLERK
Electronically Filed
Oct 06 2021 10:32 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 DARWYN ROSS YOWELL,

13 Defendant.

NOTICE OF APPEAL

14 TO: TYLER INGRAM, Elko County District Attorney

15 NOTICE is hereby given that DARWYN ROSS YOWELL, defendant above named,
16 hereby appeals to the Supreme Court of Nevada from the Judgment of Conviction filed on
17 September 13, 2021, in the above-entitled action.

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

19
20 DATED this 28 day of September, 2021.

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

28 By: 

MATTHEW PENNELL
NV Bar Number 13298

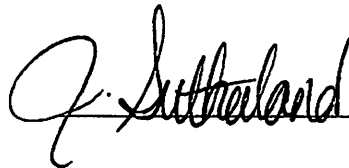
1 CERTIFICATE OF SERVICE

2 I hereby certify, pursuant to the provisions of NRCP 5(b), that on the 28th day of
3 September 2021, I served the foregoing NOTICE OF APPEAL, by delivering or causing to be
4 delivered a copy of said document, to the following:

5 HONORABLE MASON SIMONS
6 District Judge, Department III
7 Elko County Courthouse
8 Elko NV 89801

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

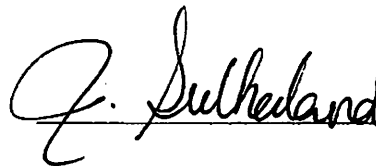
12 OFFICE OF THE ATTORNEY GENERAL
13 100 N. Carson Street
14 Carson City NV 89701-4717

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17 CERTIFICATE OF MAILING

18 I hereby certify, pursuant to the provisions of NRCP 5(b), that on the 28th day of
19 September 2021 I mailed, postage prepaid, a copy of the foregoing NOTICE OF APPEAL, to the
20 following:

21 DARWYN ROSS YOWELL
22 Elko County Jail Inmate

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FILED

CASE NO.: DC-CR-20-159
DEPT. NO.: III

2021 SEP 28 AM 10:41

4th JUDICIAL DISTRICT COURT
CLERK _____ DEPUTY 12

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

THE STATE OF NEVADA,
Plaintiff,

vs.

DARWYN ROSS YOWELL,
Defendant.

CASE APPEAL STATEMENT

1. **Name of appellant filing case appeal statement:** The name of the Appellant is DARWYN ROSS YOWELL

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

3. **Identify each appellant and the name and address of counsel for each appellant:** The sole appellant in this case is DARWYN ROSS YOWELL. Counsel for appellant is MATTHEW PENNELL, Elko County Public Defender, 571 Idaho St. (mailing) 569 Court St. (physical), Elko, Nevada, 89801. Counsel's telephone number is (775) 738-2521.

1 **4. Identify each respondent and the name and address of appellate counsel,**
2 **if known, for each respondent:** The sole respondent in this case is the State of Nevada.
3
4 Counsel for the Respondent is CHAD B. THOMPSON, Criminal Chief Deputy District
5 Attorney, 540 Court St., Elko, Nevada 89801 (775) 738-3101, and Aaron Ford, Attorney
6 General, 100 N. Carson Street, Carson City, Nevada, 89701 (775) 687-3538.

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

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

15
16 **7. Indicate whether appellant was represented by appointed or retained**
17 **counsel on appeal:** Appellant is represented by appointed counsel on appeal.

18
19 **8. Indicate whether appellant was granted leave to proceed in forma**
20 **pauperis, and the date of entry of the district court order granting such leave:** The
21 parties stipulated that appellant may proceed in forma pauperis on appeal. The Court signed
22 the order to proceed in forma pauperis on September 27, 2021.

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

26
27 **10. Provide a brief description of the nature of the action and result in the**
28 **district court, including the type of judgment or order being appealed and the relief**
29 **granted by the district court:** The State of Nevada filed a Criminal Information which

1 charged the Defendant with COUNT I: KIDNAPPING IN THE FIRST DEGREE, A
2 FELONY AS DEFINED BY NRS 200.310(1). (NOC 50051). Or in the alternative to
3 Count I
4

5 COUNT II: KIDNAPPING IN THE SECOND DEGREE, A CATEGORY B
6 FELONY AS DEFINED BY NRS 200.310 AND NRS 200.300. (NOC 50075). Or in the
7 alternative to Counts I and II
8

9 COUNT III: COERCION, A CATEGORY B FELONY AS DEFINED BY NRS
10 207.190(1). (NOC 53159). In addition to Counts I through III
11

12 COUNT IV: DOMESTIC BATTERY RESULTING IN SUBSTANTIAL BODILY
13 HARM, A CATEGORY B FELONY AS DEFINED BY NRS 200.485(5). (NOC 57937).
14 Or in the alternative to Count IV
15

16 COUNT V: BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A
17 CATEGORY C FELONY AS DEFINED BY NRS 200.481. (NOC 50214).
18

19 The Defendant was convicted of COUNT IV: DOMESTIC BATTERY
20 RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY B FELONY AS
21 DEFINED BY NRS 200.485(5). (NOC 57937).
22

23 The District Court sentenced the Defendant on September 10, 2021, on Count IV to
24 a term of seventy-two (72) months in the state prison with minimum parole eligibility after
25 twenty-eight (28) months with 462 days served.
26

27 The Court issued a Judgment of Conviction on September 11, 2021.

28 11. Indicate whether the case has previously been the subject of an appeal to
29 or original writ proceeding in the Supreme Court and, if so, the caption and Supreme

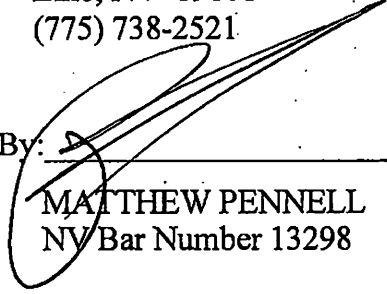
1 **Court docket number of the original proceeding:** This case has not been the subject of an
2 appeal or original writ proceeding.

3
4 **12. Indicate whether this appeal involves child custody or visitation:** This
5 appeal does not involve child custody or visitation.

6
7 **13. If this is a civil case, indicate whether this appeal involves the possibility**
8 **of settlement:** This case involves a criminal action.

9 DATED this 28 day of September, 2021.

10
11 MATTHEW PENNELL
12 ELKO COUNTY PUBLIC DEFENDER
13 569 Court Street (Physical Address)
14 571 Idaho Street (Mailing Address)
15 Elko, NV 89801
16 (775) 738-2521

17 By: 
18 MATTHEW PENNELL
19 NV Bar Number 13298
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HONORABLE MASON SIMONS
District Judge, Department III
Elko County Courthouse
Elko NV 89801

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

J. Sutherland

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DARWYN ROSS YOWELL
Elko County Jail Inmate

J. Sutherland

1 CASE NO.: DC-CR-20-159
2 DEPT. NO.: III

FILED

2021 SEP 28 AM 10:42

4th JUDICIAL DISTRICT COURT
CLERK _____ DEPUTY lf

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

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 DARWYN ROSS YOWELL,

12 Defendant.

ROUGH DRAFT TRANSCRIPT REQUEST

13 TO: MELISSA SCHNOOR

14 DARWYN ROSS YOWELL, Defendant named above, requests preparation of a rough
15 draft transcript of certain portions of the proceedings before the district court, as follows:

16 **JURY TRIAL HELD JUNE 15-17, 2021 INCLUDING SIDEBAR**

17 I recognize that I must personally serve a copy of this form on the above-named court
18 reporter and opposing counsel, and that the above-named court reporter shall have twenty-one (21)
19 days from the receipt of this notice to prepare and submit to the district court the rough draft
20 transcript requested herein.

21 requested herein.

22 DATED this 28 day of September, 2021.

23 MATTHEW PENNELL
24 ELKO COUNTY PUBLIC DEFENDER
25 571 Idaho Street (Mailing Address)
26 Elko, NV 89801

27 By: [Signature]
28 MATTHEW PENNELL
29 NV Bar Number 13298

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J. Suberland

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mate J. Sutherland

1 CASE NO.: DC-CR-20-159
2 DEPT. NO.: III

FILED
2021 SEP 29 AM 10:37
ELKO CO DISTRICT COURT

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

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 DARWYN ROSS YOWELL,

12 Defendant.

AMENDED
ROUGH DRAFT TRANSCRIPT REQUEST

13 TO: MELISSA SCHNOOR

14 DARWYN ROSS YOWELL, Defendant named above, requests preparation of a rough
15 draft transcript of certain portions of the proceedings before the district court, as follows:

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17 I recognize that I must personally serve a copy of this form on the above-named court
18 reporter and opposing counsel, and that the above-named court reporter shall have twenty-one (21)
19 days from the receipt of this notice to prepare and submit to the district court the rough draft
20 transcript requested herein.

21 requested herein.

22 DATED this 28 day of September, 2021.

23 MATTHEW PENNELL
24 ELKO COUNTY PUBLIC DEFENDER
25 571 Idaho Street (Mailing Address)
26 Elko, NV 89801

27 By: _____

28 MATTHEW PENNELL
29 NV Bar Number 13298

1 CERTIFICATE OF SERVICE

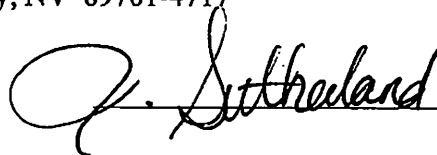
2 I hereby certify, pursuant to the provisions of NRCP 5(b), that I am an employee of the Elko
3 County Public Defender's Office, and that on the 29th day of September, 2021, I served the
4 foregoing ROUGH DRAFT TRANSCRIPT REQUEST, by delivering or causing to be delivered a
5 copy of said document, to the following:

6 MELISSA SCHNOOR
7 Department III
8 Elko County Courthouse
9 Elko NV 89801

10 HONORABLE MASON SIMONS
11 District Judge,
12 Elko County Courthouse
13 Elko NV 89801

14 ELKO COUNTY DISTRICT ATTORNEY'S OFFICE
15 540 Court Street
16 Elko NV 89801

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

20 
21

22 CERTIFICATE OF MAILING

23 I hereby certify, pursuant to the provisions of NRCP 5(b), that I am an employee of the Elko
24 County Public Defender's Office, and that on the 29th day of September 2021, I mailed,
25 postage prepaid, a copy of the foregoing ROUGH DRAFT TRANSCRIPT REQUEST, to the
26 following:

27 DARWYN ROSS YOWELL
28 Elko County Jail Inmate

29 

Case Summary

DC-CR-20-159 - STATE OF NEVADA VS. YOWELL, DARWYN ROSS

Court: DC-CR-20-159

Agency: Elko County Clerk's Office

Prosecution: F-20-01235

CaseID: 20-73730

Type: Criminal

Received Date: 8/19/2020

Status: Closed

Status Date: 9/15/2021

Age: 407 days Active Age: 407 days

Involvements

PORTER, NANCY Judge, Inactive

HILL, KRISTON Judge, Inactive

SIMONS, MASON Judge

THOMPSON, CHAD Prosecution Attorney

YOWELL, DARWYN Defendant

GAUMOND, BENJAMIN Defense Attorney, Inactive

PENNELL, MATTHEW Defense Attorney

Filed Charge - Criminal Information

1. NRS 200.310.1 ~ Kidnapping, First Degree Occurred: 6/5/2020

Felony Felony - Crimes Against Persons Category A 8/21/2020 12:00:00 PM

Plea: Not Guilty Plea Date: 10/5/2020 Disposition: Jury Trial Acquittal Dispo Date: 9/13/2021

Notes: EJC CASE# EL-JC-CR-F-20-2845

Notes: PCN: NVELSO4007731 C

2. NRS 200.310.2 ~ Kidnapping, Second Degree Occurred: 6/5/2020

Felony Felony - Crimes Against Persons Category B 8/21/2020 12:00:00 PM

Plea: Not Guilty Plea Date: 10/5/2020 Disposition: Jury Trial Acquittal Dispo Date: 9/13/2021

Notes: EJC CASE# EL-JC-CR-F-20-2845

Notes: PCN: NVELSO4007731 C

3. NRS 200.485 ~ Domestic Battery With Substantial Bodily Harm Occurred: 6/5/2020

Felony Felony - Domestic Violence Category C 8/21/2020 12:00:00 PM

Plea: Not Guilty Plea Date: 10/5/2020 Disposition: Jury Trial Acquittal Dispo Date: 9/13/2021

Notes: EJC CASE# EL-JC-CR-F-20-2845

Notes: PCN: NVELSO4007731 C

4. NRS 200.481.2b ~ Battery Resulting In Substantial Bodily Harm Occurred: 6/5/2020

Felony Felony - Crimes Against Persons Category C 8/21/2020 12:00:00 PM

Plea: Not Guilty Plea Date: 10/5/2020 Disposition: Jury Trial Conviction Dispo Date: 9/13/2021

Notes: EJC CASE# EL-JC-CR-F-20-2845

Notes: PCN: NVELSO4007731 C

5. NRS 200.481.2b ~ Battery Resulting In Substantial Bodily Harm Occurred: 6/5/2020

Felony Felony - Crimes Against Persons Category C 8/21/2020 12:00:00 PM

Plea: Not Guilty Plea Date: 10/5/2020 Disposition: Jury Trial Acquittal Dispo Date: 9/13/2021

Notes: EJC CASE# EL-JC-CR-F-20-2845

Notes: PCN: NVELSO4007731 C

Case History

Case Summary

Date	Event Type Desc	Status
	Awaiting Charging Decision - Case Status	
	Case Status Change	
	Pending - Case Status	
	CI FILED	
	Awaiting Return of Original Warrant - Task	
	Arraignment Hearing - Event	
10/5/2020	10/5/2020 1:30 PM	10/5/2020 1:30:00 PM
	1:30:00 PM	
	Early Case Conference Hearing - Event	
1/19/2021	1/19/2021 3:00 PM	1/19/2021 3:00:00 PM
	3:00:00 PM	
	motions hearing for trial	
	Jury Trial - Event	
2/2/2021	2/2/2021 9:00 AM	2/2/2021 9:00:00 AM
	9:00:00 AM	
	Status Hearing - Event	
3/26/2021	3/26/2021 8:30 AM	3/26/2021 8:30:00 AM
	8:30:00 AM	
	hearing to see if defendnat would like to particiapte in a criminal settlement conference	
	Early Case Conference Hearing - Event	
5/20/2021	5/20/2021 1:00 PM	5/20/2021 1:00:00 PM
	1:00:00 PM	
	Jury Trial - Event	
6/14/2021	6/14/2021 9:00 AM	6/14/2021 9:00:00 AM
	9:00:00 AM	
	Sentencing Hearing - Event	
9/10/2021	9/10/2021 8:30 AM	9/10/2021 8:30:00 AM
	8:30:00 AM	
	Closed - Case Status	
	Case Status Change	

Case Summary

6/8/2020	BOOKING SHEET 6.8.2020 - Document		
6/8/2020	DECLARATION OF PROBABLE CAUSE - Document		
6/8/2020	NPRA QUESTIONNAIRE - Document		
6/8/2020	NEVADA PRETRIAL RISK ASSESSMENT - Document		
6/8/2020	APPLICATION FOR APPOINTMENT OF ATTORNEY - Document		
6/10/2020	ORDER APPOINTING PUBLIC DEFENDER - Document		
6/15/2020	CRIMINAL COMPLAINT - Document		
	ELKO JUSTICE COURT NUMBER EL-JC-CR-F-20-2845		
8/12/2020	NOTICE OF INTENT TO OFFER CERTIFICATE, AFFIDAVIT, OR UNSWORN DECLARATION - Document		
8/18/2020	COMMITMENT - Document		
8/18/2020	ORDER BINDING OVER - Document		
8/19/2020	EJC CASE SUMMARY - Document		
8/19/2020	NOTE ADDED TO FILE - Case Notes	For: 8/19/2020	5:08 PM
	JUSTICE COURT NUMBER EL-JC-CR-F-20-2845		
8/25/2020	CRIMINAL INFORMATION - Document		
9/28/2020	TRANSCRIPT PRELIMINARY HEARING - Document		
	PRELIMINARY HEARING 8/14/20		
10/5/2020	10.5.20 DC1 Arraignment Minutes - Not Guilty - Document		
10/6/2020	REQUEST FOR DISCLOSURE BY DEFENDANT OF EVIDENCE RELATING TO DEFENSE - Document		

Case Summary

(FILE CHECKED OUT SENT PLEADING TO DC 1)

11/10/2020	PRETRIAL ORDER - Document	
12/1/2020	MOTION FOR GUIDANCE FROM THE COURT AS THE ATTORNEY-CLIENT RELATIONSHIP- Document	
12/9/2020	NOTICE OF INTENT TO OFFER CERTIFICATE, AFFIDAVIT, UNSWORN DECLARATION 911 CALL - Document	
12/9/2020	MOTION TO RELEASE EVIDENCE - Document	
12/9/2020	NOTICE OF INTENT TO OFFER CERTIFICATE, AFFIDAVIT, UNSWORN DECLARATION NNRH - Document	
12/9/2020	NOTICE OF INTENT TO OFFER CERTIFICATE, AFFIDAVIT, UNSWORN DECLARATION U OF U - Document	
12/28/2020	REQUEST FOR REVIEW OF PENDING MOTIONS - Document	Order Filed
	MOTION TO RELEASE EVIDENCE	
1/12/2021	ORDER OF RECUSAL AND REQUEST FOR ASSIGNMENT - Document	
	TO DEPT 3	
1/14/2021	ORDER CONFIRMING PREVIOUSLY SCHEDULED HEARING AND TRIAL SETTING; NOTICE OF CANON 2.11 DISQUALIFICATION ISSUE - Document	
1/15/2021	NOTICE OF WITNESSES - Document	
	FILE CHECKED OUT PLACED IN DC3 P/U BOX	
1/15/2021	SUBMISSION OF STIPULATION AND ORDER TO CONTINUE JURY TRIAL - Document	Order Filed
	3 COPIES PROVIDED BY PUBLIC DEFENDER'S OFFICE FILE CHECKED OUT PLACED IN DC3 P/U BOX	
1/15/2021	REQUEST FOR DISCOVERY - Document	
	FILE CHECKED OUT PLACED IN DC3 P/U BOX	
1/19/2021	STIPULATION AND ORDER TO CONTINUE JURY TRIAL - Document	
	COPIES PLACED IN PUBLIC DEFENDER'S PICKUP BOX @ 4:45 PM	

Case Summary

1/19/2021	1.19.21 DC3 Criminal Hearing Minutes - Document
1/20/2021	ORDER TO RELEASE EVIDENCE - Document
3/26/2021	3.26.21 DC3 Criminal Hearing Minutes - Document EMAILED TO P&P
3/29/2021	REQUEST FOR SENIOR JUDGE ASSIGNMENT - Document FORM COMPLETED BY JUDGE SIMONS
3/29/2021	TRANSMISSION REPORT OF SENIOR JUDGE PROGRAM AOC - Document
3/30/2021	MEMORANDUM OF TEMPORARY ASSIGNMENT - Document SENIOR JUDGE MADDOX ASSIGNED TO SETTLEMENT CONFERENCE. COPIES PROVIDED TO JUDGE MADDOX, DA, AND PUBLIC DEFENDER.
4/19/2021	DC3 CRIMINAL SETTLEMENT CONFERENCE MINUTES - Document
5/20/2021	5.20.21 EARLY CASE CONFERENCE HEARING - Document
6/1/2021	AMENDED NOTICE OF WITNESSES - Document
6/8/2021	State's Exhibit List as of 6.8.2021. - Document
6/11/2021	Defense Exhibit List as of 6.11.2021. - Document
6/14/2021	6.14.21 JURY TRIAL - Document
6/14/2021	JURY LIST - Document FILED IN OPEN COURT 6.14.21
6/16/2021	JUROR QUESTION JUROR #8(1) - Document FILED IN OPEN COURT 6.15.21
6/16/2021	JUROR QUESTION JUROR #13 - Document FILED IN OPEN COURT 6.15.21

Case Summary

6/16/2021 JUROR QUESTION JUROR #10 - Document
FILED IN OPEN COURT 6.15.21

6/16/2021 JUROR QUESTION JUROR #8(2) - Document
FILED IN OPEN COURT 6.15.21

6/16/2021 JUROR QUESTION JUROR #8(3) - Document
FILED IN OPEN COURT 6.16.21 11:44 A.M.

6/16/2021 JUROR QUESTION JUROR #13(2) - Document
FILED IN OPEN COURT 6.16.21 11:44 A.M.

6/16/2021 JUROR QUESTION JUROR #7 - Document
FILED IN OPEN COURT 6.16.21 3:14 P.M.

6/16/2021 JUROR QUESTION JUROR #14 - Document
FILED IN OPEN COURT 6.16.21 3:14 P.M.

6/17/2021 JURY INSTRUCTIONS - Document
FILED IN OPEN COURT 6.17.21 9:50 A.M.

6/17/2021 VERDICT FORM - Document
FILED IN OPEN COURT 6.17.21 1:44 P.M.

6/17/2021 ORDER FOR COMMITMENT PURSUANT TO
NRS 176.015(1) - CASE TO REMAIN
PENDING UNTIL SENTENCING - Document
DEFENDANT IS ORDERED COMMITTED TO THE ECJ PENDING THE SENTENCING IN THIS MATTER.
A RELEASE OF THE DEFENDANT ON BAIL IN THIS MATTER SHALL NOT BE PERMITTED.

7/12/2021 DC3 PSI Request - Document

7/12/2021 FAX CONFIRMATION- Document
EMAILED AND FAXED TO P&P

7/27/2021 NOTICE OF INTENT TO CALL WITNESS BY
SIMULTANEOUS AUDIOVISUAL
TRANSMISSION EQUIPMENT - Document

8/18/2021 INMATE MAIL RECEIVED, LETTER RE
OBSTRUCTION OF JUSTICE, CONTEMPT OF
COURT AND PERJURY - Document
PLACED IN DC3 P/U BOX WITH FILE @11:13 FOR DC3 TO REVIEW AND DETERMINE IF CLERK IS
TO FILE STAMP THE LETTER

8/23/2021 LETTER FROM DARWYN YOWELL - Document
FILED PER NOTE FROM COURT. FILE STAMPED COPY MAILED TO MR. YOWELL.

9/10/2021 9.10.2021 DC3 SENTENCING MINUTES - Document

Case Summary

9/13/2021 JUDGMENT OF CONVICTION (JURY VERDICT) - Document
CT 4: DOMESTIC BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY B FELONY AS DEFINED BY NRS 200.485(5)(NOC 57937): 28-72 MONTHS NDOC W/CREDIT FOR 462 DAYS SERVED AS OF 9/10/21, \$25 ADMIN FEE, \$3 GENETIC ADMIN FEE, \$150 GENETIC TESTING FEE (3 PGS) (CERT COPY ISSUED)

9/15/2021 TRANSMITTAL CONFIRMATION REPORT - DPS - Document
JOC, CI & BOOKING SHEET FAXED TO DPS

9/21/2021 INMATE MAIL RECEIVED 09.21.2021 - Document
FORWARDED TO DEPT3 FOR FILING DETERMINATION
IF FILED, MAIL COPY TO DARWYN YOWELL#46453, PO BOX 2028, ELKO, NV 89803

9/21/2021 LETTER FROM DEFENDANT - Document
FILE CHECKED OUT DOCUMENT PLACED IN DC3 P/U BOX

9/24/2021 STIPULATION TO ALLOW APPELLANT TO PROCEED IN FORMA PAUPERIS - Document

9/24/2021 SUBMISSION TO ALLOW DEFENDANT TO PROCEED ON APPEAL IN FORMA PAUPERIS- Document
Order Filed
3 COPIES PROVIDED BY THE PUBLIC DEFENDER'S OFFICE

9/27/2021 ORDER TO ALLOW DEFENDANT TO PROCEED ON APPEAL IN FORMA PAUPERIS- Document
3 COPIES PLACED IN PUBLIC DEFENDER'S PICKUP BOX.

9/28/2021 ROUGH DRAFT TRANSCRIPT REQUEST - Document

9/28/2021 NOTICE OF APPEAL - Document

9/28/2021 CASE APPEAL STATEMENT- Document

9/30/2021 CLERK'S CERTIFICATION - Document

Case Obligations

Obligation	Pay By	Due Date	Obligation Amount	Amount Paid	Balance Due
DC3 Admin Assessment Fee: 200.481.2b NRS 176.062 \$20	4--YOWELL, DARWYN-NRS	10/15/2021	\$20.00	\$0.00	\$20.00
DC3 Admin Assessment Fee: 200.481.2b NRS 176.062 \$5	4--YOWELL, DARWYN-NRS	10/15/2021	\$5.00	\$0.00	\$5.00

Case Summary

DC3 Genetic Admin	4--YOWELL, DARWYN-NRS 200.481.2b	10/15/2021	\$3.00	\$0.00	\$3.00
Assessment Fee: NRS 176.0623 \$3					
DC3 Genetic Marker Test:	4--YOWELL, DARWYN-NRS 200.481.2b	10/15/2021	\$150.00	\$0.00	\$150.00
NRS 176 .0915 \$150					
Total Personal Obligation(s):			\$178.00	\$0.00	\$178.00
Total Case Obligation(s):			\$178.00	\$0.00	\$178.00

2020 JUN 10 AM 10:35

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

THE STATE OF NEVADA,

Plaintiff,

vs.

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

Defendant.

Darwyn Yowell

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

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

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

2016 FEDERAL POVERTY LEVEL

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

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

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

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

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

DATED this 8 day of June, 20 20.

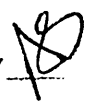
Elis D. Bonner
Justice of the Peace

1 CASE NO. DC-CR-20-159

2 DEPT. NO. 3

3
4 FOURTH JUDICIAL DISTRICT COURT
5 COUNTY OF ELKO, STATE OF NEVADA
6
7

SEP 13 11:12
JUDICIAL DISTRICT COURT

DEPUTY 

8
9 THE STATE OF NEVADA,

10 Plaintiff,

JUDGMENT OF CONVICTION

11 vs.

12 DARWYN ROSS YOWELL,

13 Defendant.
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16 On June 17, 2021, Defendant, Darwyn Ross Yowell (date of birth: 10/13/1983, place of
17 birth: Elko, NV) was found guilty of the crime of **COUNT 4: DOMESTIC BATTERY**
18 **RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY B FELONY AS DEFINED**
19 **BY NRS 200.485(5) (NOC 57937)** which crime occurred on or about June 5, 2020, and
20 sentenced the Defendant on September 10, 2021 as follows:

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22 **IT IS HEREBY ORDERED** that Defendant shall pay an administrative
assessment fee of \$25.00 pursuant to NRS 176.062.

23
24 **IT IS FURTHER ORDERED** that Defendant shall pay a \$3.00 administrative
assessment for obtaining biological specimens and conducting genetic
25 marker analyses pursuant to NRS 176.0623.

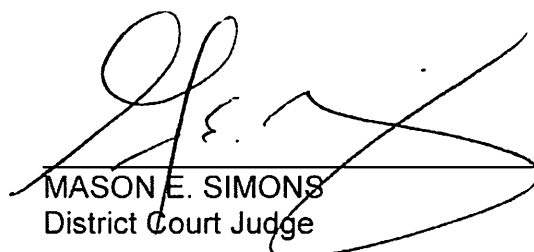
26
27 **IT IS FURTHER ORDERED** that Defendant shall pay a \$150.00 fee for
purposes of obtaining a biological specimen from the Defendant and for
28 performing genetic marker analysis of said specimen pursuant to NRS
176.0915.

1 **IT IS FURTHER ORDERED** for Count 4, Defendant shall be imprisoned in
2 the Nevada Department of Corrections for a term of 28 to 72 months.
3 Defendant shall receive credit for 462 days previously served as of
4 September 10, 2021.

5 At the time Defendant was found guilty, and at the time he was sentenced, he was
6 represented by MATTHEW PENNELL, Esq., Elko County Public Defender.

7 **THEREFORE**, the Clerk of the Court is directed to enter this Judgment of Conviction
8 as part of the record in the above-entitled matter.

9 **DATED** this 11 day of September, 2021.

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13 MASON E. SIMONS
14 District Court Judge
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District
3 Court, Department 3, and that on this 13 day of September, 2021, I served by hand delivery
4 by placing a copy of said document in the agency box located in the Elko County Clerk's Office,
5 a true copy of the foregoing document to:

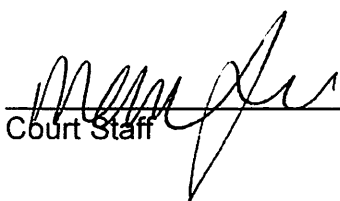
6 Elko County District Attorney

7 Elko County Public Defender

8 State of Nevada, Division of Parole & Probation

9 Elko County Sheriff

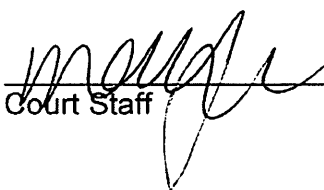
10 Director, Nevada Department of Corrections (copy to accompany Defendant at time of
11 transport)

12
13 
14 Court Staff

15 **CERTIFICATE OF SERVICE**

16 Pursuant to NRCP 5(b), I certify that I am an employee of the Fourth Judicial District
17 Court, Department 3, and that on this 13 day of September, 2021, I served by regular
18 U.S. Mail, a true copy of the foregoing document to:

19 Nevada Department of Corrections
20 Offender Management Division,
21 Sentence Management
22 PO Box 7011
23 Carson City, NV 89702
24 [Via Regular Mail]

25
26 
27 Court Staff
28

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

RECORD OF COURT PROCEEDINGS

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

STATE OF NEVADA,

Plaintiff,

Date: October 05, 2020

VS.

Case No.: DC-CR-20-159

Dept.: 1

DARWYN ROSS YOWELL,

Defendant.

State of Nevada represented by Daniel M. Roche, Esq.
Defendant present, in custody, and represented by
Benjamin Gaumond, Esq.
Division of Parole and Probation represented by Michelle Gavorsky.
Court Clerk, Lani Broxson, present.

ARRAIGNMENT – NOT GUILTY PLEA

Court convened at 2:23 p.m.

The Court noted the presence of the parties.

The matter was before the Court for an arraignment on the charges alleged in a Criminal Information filed on August 21, 2020. All parties indicated they were ready to proceed.

The Court asked if there was a Memorandum of Plea Agreement for the matter.

Defense counsel advised that there was not an Agreement.

A certified copy of the Criminal Information and the formal reading were waived by the defense.

The name of the Defendant was correctly stated.

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

Defendant advised he had been advised by Counsel.

The Court read the charging portion of the Criminal Information and corrected the Information via interlineation.

The Defendant understood the charges, was satisfied with the legal services rendered to date and was ready to proceed.

The Court asked the Defendant to enter pleas to COUNT 1: KIDNAPPING IN THE FIRST DEGREE, A FELONY AS DEFINED BY NRS 200.310(1). (NOC 50051); OR, IN THE ALTERNATIVE TO COUNT1, COUNT 2: KIDNAPPING IN THE SECOND DEGREE, A CATEGORY B FELONY AS DEFINED BY NRS 200.310 AND NRS 200.330, (NOC 50075); OR, IN THE ALTERNATIVE TO COUNTS 1 AND 2, COUNT 3: COERCION, A CATEGORY B FELONY AS DEFINED BY NRS 207.190(1). (NOC 53159); IN ADDITION TO COUNTS 1 THROUGH 3 COUNT 4: DOMESTIC BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY B FELONY AS DEFINED BY NRS 200.485(5). (NOC57937); OR, IN THE ALTERNATIVE TO COUNT 4, COUNT 5: BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY C FELONY AS DEFINED BY NRS 200.481. (NOC 50214).

The Defendant entered a pleas of not guilty.

The Court advised the Defendant of his right to be tried within 60 days.

The Defendant waived the sixty-day rule.

The Court **ORDERED** a 4 day jury trial be set to begin on February 2, 2021 at 9:00 a.m. A status hearing/early settlement conference was set for January 19, 2021 at 3:00 p.m.

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

Court adjourned at 2:30 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable MASON E. SIMONS, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 01-19-2021

VS.

Case No.: DC-CR-20-159

Dept.: 1

DARWYN ROSS YOWELL,

Defendant.

State of Nevada represented by Chad B. Thompson, Esq.
Defendant present, in custody, and represented by
Matthew J. Pennell, Esq.
Court Clerk, Lani Broxson, present.

EARLY CASE CONFERENCE HEARING

Court convened at 3:05 p.m.

The Court noted the presence of the parties.

The matter was before the Court for an early case conference hearing.

The Court disclosed that it had limited involvement in the case while it was in Justice Court.

Defense counsel advised it would need to discuss the matter with the Defendant.

Court recessed at 3:08 p.m.

Court reconvened at 3:11 p.m.

Defense counsel advised that the Defendant waived any conflict.

The Court confirmed with the Defendant that he waived any conflict.

The Court noted the stipulation to continue the trial.

Defense counsel proposed a date it wished to begin the Jury Trial.

The State concurred.

The Court **ORDERED** a 4 day Jury Trial set to begin June 14, 2021 at 9:00 a.m.

The Court noted a motion to release evidence, and a motion for guidance from the court as to the attorney client relationship had been filed.

Defense counsel advised that the motion for guidance from the court as to the attorney client relationship was moot.

The Court inquired as to any opposition to release the vehicle.

Defense counsel advised that the Public Defender's office had no opposition to the motion.

The State requested the Court to release the vehicle to the rightful owner.

The Court **GRANTED** the motion to release evidence.

The State to prepare the order.

The State advised it had not extended any offers.

The Court reviewed the deadlines, and inquired as to the number of jurors' summoned.

The Parties agreed with the pre-trial order.

Court adjourned at 3:19 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable MASON E. SIMONS, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: 03-26-2021

VS.

Case No.: DC-CR-20-159

Dept.: 3

DARWYN ROSS YOWELL,

Defendant.

State of Nevada represented by Walter Fick, Esq.
Defendant present via Zoom, in custody, and represented by
Matthew Pennell, Esq.
Court Clerk, Lani Broxson, present.

STATUS HEARING

Court convened at 8:52 a.m.

The Court noted the presence of the parties.

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

The Court gave a statement in regards to a criminal settlement conference.

Defense counsel gave a statement in regards to the settlement conference and potential offers.

The Court gave a statement in regards to the States participation.

The State gave a statement in regards to the Victim being included in the settlement conference,
and advised it wished to keep the trial date.

The Court inquired of counsel if they had any objection to the settlement conference.

Counsel had no objection.

The Court gave a statement in regards to the settlement conference and a Sr. Judge.

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

Court adjourned at 8:55 a.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable MASON E. SIMONS, District Judge,
and Officers of the Court.

STATE OF NEVADA,

VS.

Plaintiff,

Date: June 14, 2021

Case No.: DC-CR-20-159

Dept.: 3

DARWYN ROSS YOWELL,

Defendant.

State of Nevada represented by Chad Thompson, Esq.
Defendant present, in custody, and represented by
Matthew Pennell, Esq.
Court Clerk, Brandi McConnell, present.

JURY TRIAL
Day One – June 14, 2021

Court convened at 8:32 a.m.

The Court noted the presence of the Parties outside the presence of the potential Jurors.

The State noted that the Parties had stipulated to admitting definitions for the medical terms.

The Court recessed at 8:33 a.m.

Court reconvened at 9:13 a.m.

The Court noted the presence of the Parties and potential jurors.

The Parties stipulated to the presence of the potential Jurors.

This was the date and time set for a jury trial on a Criminal Information filed August 21, 2020, charging COUNT 1: KIDNAPPING IN THE FIRST DEGREE, A FELONY. COUNT 2: KIDNAPPING IN THE SECOND DEGREE, A CATEGORY B FELONY. COUNT 3: COERCION, A CATEGORY B FELONY. COUNT 4: DOMESTIC BATTERY RESULTING IN SUBSTANTIAL

BODILY HARM, A CATEGORY B FELONY. COUNT 5: BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY C FELONY.

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

All prospective jurors were present except as follows: Elaine Adams, Ryan Barnes, Terra Bass, George Bates, Lisa Baysinger, Rosalie Blessing, Sarah Bliss, David Checketts, Li Chin, Gordan Cross, Donna Culley, Zachary Davis, Dianna Dusoleil, Christopher Fuchs, John Gannon, Andrea Gonzales, Jack Greening, Randall Hannink, Jace Howell, Lori Jarrell, Kevin Lutes, Mallorie Patterson, Alexander Pfarr, Mendez Vegaramon, Sandra Velazquez, Trevor Walch, Karen Walther.

The Court instructed the Jury Commissioner to send a letter to all the prospective jurors who failed to appear.

The Clerk read the Criminal Information.

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

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

All prospective jurors were sworn on their voir dire.

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

The potential jurors introduced themselves.

The Court and Counsel had a sidebar to discuss jury selection.

25 Pamela Borda was excused for cause and replaced by Anthony Bauer.

45 Jennifer Huddleston was excused for cause and replaced by John Nelson.

6 Erica Thompson was excused for cause and replaced by Robert Byram.

5 Gonzalez Valdezcirilo was excused for cause and replaced Amanda Johnson.

Juror 13 had a sidebar with the Court and Counsel.

Juror 13 Nelson was excused for cause and replaced by William Hylton.

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

Court recessed at 10:43 a.m.

Court reconvened at 10:57 a.m.

The Court noted the presence of the Parties and potential Jurors.

The Parties stipulated to the presence of the potential Jurors.

Juror 12 Hylton had a sidebar with the Court and Counsel.

Juror 12 Hylton was excused for cause and replaced by 56 Yannett Daines.

Wyatt Riley was excused after a sidebar.

Juror 32 Sanchez had a sidebar with the Court and Counsel.

32 Lupe Sanchez was excused for cause and replaced by 43 Jani Kelly

Juror 43 Jani Kelly was excused for cause and replaced by 21 Jonathan Peterson

The Court concluded general questions.

The State examined the potential jurors on supplemental examination.

Juror 27 Cynthia Arnett had a sidebar with the Court and Counsel.

Juror 31 David Goodrich had a sidebar with the Court and Counsel.

Juror 31 David Goodrich was excused for cause and replaced by Ronnie Barruetabena.

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

Court recessed at 11:54 a.m.

Court reconvened at 1:02 p.m.

The Court noted the presence of the Parties and potential Jurors.

The Parties stipulated to the presence of the potential Jurors.

Defense counsel examined the potential jurors on supplemental examination.

Defense counsel passed the panel for cause.

The State passed the panel for cause.

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

Court recessed at 2:14 p.m.

Court reconvened at 2:16 p.m.

The Court noted the presence of the Parties outside the presence potential Jurors.

Defense Counsel advised they would be doing a challenge to cause for Juror 20 Mary Borden.

The State gave argument to the challenge for cause.

The Court **GRANTED** the challenge of cause of Juror 20, Mary Borden be excused.

The Court recessed at 2:20 p.m.

Court reconvened at 2:26 p.m.

The Court noted the presence of the Parties and potential Jurors.

The Parties stipulated the presence of the potential Jurors.

The Court excused Juror 20, Mary Borden for cause and replaced by Amanda Johnson.
Juror 16, Samantha Cook was excused for cause and replaced by 31, Nancy Blakeman.
The State examined Juror 31 on the previous questions asked.

The State passed the panel for cause.

Defense Counsel passed the panel for cause.

The Court explained the peremptory challenge process to the prospective jury panel, and admonished and excused the panel so that Counsel could exercise their peremptory challenges.

The Court recessed at 2:32 p.m.

Court reconvened at 2:44 p.m. with Counsel and the Defendant present outside the presence of the prospective jurors the purpose of exercising peremptory challenges.

The State's first peremptory challenge was juror number 53, Robert Byram.

Defense counsel's first peremptory challenge was juror number 8, Melinda Lonegran.

The State's second peremptory challenge was juror number 11, Hiliana Gonzalez.

Defense counsel's second peremptory challenge was juror number 36, Rebecca Hansen.

The State's third peremptory challenge was juror number 48, Amanda Johnson.

Defense counsel's third peremptory challenge was juror number 42, Raechelle Bogdon.

The State's fourth peremptory challenge was juror number 1, Julius Stieger.

Defense counsel's fourth peremptory challenge was juror number 51, Anthony Bauer.

The State's fifth peremptory challenge was juror number 2, Tricia Evans.

Defense Counsel's fifth peremptory challenge was juror number 44, Toril Tapia.

The State's sixth peremptory challenge was juror number 15, Anna Taylor.

Defense Counsel's sixth peremptory challenge was juror number 4, William Wilkinson.

The State's seventh peremptory challenge was juror number 35, Mary Seal.

Defense Counsel's seventh peremptory challenge was juror number 19, Cassy Meade.

The State's eighth peremptory challenge was juror number 27, Cynthia Arnett.

Defense Counsel's eighth peremptory challenge was juror number 39, Kody Kirby.

The State's alternate peremptory challenge was juror number 24, Cornelius Brooke.

Defense counsel's alternate peremptory challenge was juror number 41, Nancy Blakeman.

The Court recessed at 2:58 p.m.

Court reconvened at 2:59 p.m.

The potential jurors entered the courtroom.

The Parties stipulated to the presence of the potential Jurors.

The Clerk called the names of the 12 trial jurors and the 2 alternates, to wit: David Gubler, Jennifer Bondelie, Ronnie Barruetbena, Shanna Stevenson, Yannett Daines, Theresa Nutting, Jared Moffit, Steven Gress, Rhonda Powrie, Rye Mckay, James Kennedy, Kenneth Griswold, Daniel Kough, Jonathan Peterson.

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

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

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

The Court recessed at 3:14 p.m.

Court reconvened at 3:40 p.m.

The Court noted the presence of the Parties outside the presence of the Jury.

The Court noted the Criminal Information needed to have some corrections made.

The Parties had no objection.

The Criminal Information was corrected via interlineation.

The Court recessed at 3:41 p.m.

Court reconvened at 3:44 p.m.

The Court noted the presence of the Parties and Jury Panel.

The Parties stipulated to the presence of the Jurors and Alternates.

The Clerk read the entire Criminal Information.

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

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

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

The Court invoked the rule of exclusion of witnesses and admonished and excused all potential witnesses from the courtroom.

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

The Court recessed at 3:58 p.m.

JURY TRIAL
Day Two – June 15, 2021

Court reconvened at 9:02 a.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The State advised that the Parties had reached a stipulation on the Facts and had marked it as Exhibit 90.

The Court recessed at 9:02 a.m.

Court reconvened at 9:04 a.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The State presented opening statement.

Defense Counsel presented opening statement.

The Court directed the State to call its first witness Mikala Green.

The Witness was sworn in and took the Witness stand.

The State examined the Witness on direct.

The Witness identified the Defendant in court.

The State offered Exhibit 1(CD- 911 Call 6/5/20) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 1(CD-911 Call 6/5/20) admitted.

The State offered Exhibit 8(Jean Ortega at scene 6/5/20) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 8(Jean Ortega at scene 6/5/20) admitted.

Defense Counsel examined the Witness on cross.

The State examined the Witness on redirect.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court and Counsel had a sidebar to discuss the Jury question.

The Court posed the question to the Witness.

The State asked follow-up questions regarding the Juror question.

The Court inquired if the Witness needed to be retained or if she could be excused.

The State advised the Witness would be retained by phone.

The State called its next Witness Trey Green.

The Witness was sworn in by the Court Clerk and took the stand.

The State examined the Witness on direct.

The Witness identified the Witness in court.

Defense Counsel examined the Witness on cross.

The State examined the Witness on redirect.

Defense Counsel examined the Witness on re-cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court and Counsel had a sidebar to discuss the Jury question.

The Court posed the question to the Witness.

Defense Counsel asked follow-up questions regarding the Juror question.

The Court inquired if the Witness needed to be retained or if she could be excused.

The Witness was excused.

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

The Court recessed at 10:31 a.m.

Court reconvened at 10:47 a.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 10:47 a.m.

Court reconvened at 10:48 a.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The State called its next Witness Melva Jackson.

The Witness was sworn in and took the stand.

The State examined the Witness on direct.

The Witness identified the Defendant in court.

The State offered Exhibit 60(University of Utah Medical Records Jean Ortega) and Exhibit 61(NNRH Medical Records Jean Ortega) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 60(University of Utah Medical Records Jean Ortega) and Exhibit 61(NNRH Medical Records Jean Ortega) admitted.

Defense Counsel examined the Witness on cross.

The State objected to the relevance of the question from Defense.

The Court and Counsel discussed the matter further.

The Court sustained the objection.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court inquired if the Witness needed to be retained or if she could be excused.

Defense Counsel asked that she be retained.

The State called its next Witness Jean Ortega.

The Witness was sworn in and took the stand.

The State examined the Witness on direct.

The Witness identified the Defendant in court.

Defense Counsel objected to the Defendant not answering the question.

The State restated the question.

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

The Court recessed at 11:47 a.m.

Court reconvened at 1:05 p.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 1:07 p.m.

Court reconvened at 1:08 p.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The Court reminded the Defendant that she was still under oath.

The State continued direct examination of the Witness.

The State offered the following Exhibits to the Defendant for review Exhibit 75(Hotel room from outside the door), 76(Photo-Bed from outside), 77(Photo-Couch and side of bed), 78(Photo-Bed and Rolling Chair), 79(Photo-End of bed chair and bathroom), 80(Photo-Pizza, soda box and bathroom), 81(Photo-Bed and door to the outside), 82(Photo-Bed with personal items), 83(Photo-Sunglasses), 84(Photo-Phone and earbuds), 85(Photo-Phone and plastic bag), 86(Photo-Couch with personal belongings), 87(Photo-Hat).

The State offered the following Exhibits to the Defendant for review Exhibit 88(Cellular Phone with cover), 89(Cellular Phone without case).

The State offered Exhibit 90(Stipulation of Facts) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 90(Stipulation of Facts) admitted.

Defense Counsel examined the Witness on cross.

The State objected to the relevance of the question from the Defense.

Defense Counsel gave argument to the objection.

The Court permitted the testimony.

Defense Counsel continued cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court inquired if the Witness needed to be retained or if she could be excused.

The State objected as to relevance.

The Court sustained the objection.

The State asked for a sidebar for further discussion.

The Court and Counsel had a sidebar to discuss the objection further.

Defense Counsel continued cross examination.

The State examined the Witness on redirect.

Defense Counsel examined the Witness on re-cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court and Counsel had a sidebar to discuss the Juror question.

The Court posed the question to the Witness.

Defense Counsel posed questions to the Witness regarding the Jury question.

The Court inquired if the Witness needed to be retained or if she could be excused.

The State asked that she be retained.

The State called its next Witness Chief Andrew Neff.

The Witness was sworn in and took the stand.

The State examined the Witness on direct.

The Witness identified the Defendant in court.

The State offered Exhibit 4(DVD-Neff's Body camera without sound) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 4(DVD-Neff's Body camera without sound) admitted.

Defense Counsel examined the Witness on cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court inquired if the Witness needed to be retained or if she could be excused.

The Witness was excused.

The State called its next Witness Deputy Brenda Cortez.

The Witness was sworn in and took the stand.

The State examined the Witness on direct.

The State offered Exhibit 32(Car photo June 5 at scene taken by Cortez), Exhibit 33(Car, at scene, middle front seats), Exhibit 34(Car at the scene gear shifter), Exhibit 35(Car at scene driver's door), Exhibit 36(Car at scene driver's door handle), Exhibit 37(Car at scene driver's door lock), Exhibit 38(Car at scene passenger's door handle and window switch), Exhibit 39(Car at scene back middle seat), Exhibit 40(Car at scene back seat back portion of seat) and Exhibit 9(Jean Ortega's left hand at scene), Exhibit 10(Jean in back of ambulance at scene) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 32(Car photo June 5 at scene taken by Cortez), Exhibit 33(Car, at scene, middle front seats), Exhibit 34(Car at the scene gear shifter), Exhibit 35(Car at scene driver's door), Exhibit 36(Car at scene driver's door handle), Exhibit 37(Car at scene driver's door lock), Exhibit 38(Car at scene passenger's door handle and window switch), Exhibit 39(Car at scene back middle seat), Exhibit 40(Car at scene back seat back portion of seat) and Exhibit 9(Jean Ortega's left hand at scene), Exhibit 10(Jean in back of ambulance at scene) admitted

The State continued direct examination.

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

The Court recessed at 2:31 p.m.

Court reconvened at 2:43 p.m.

Court recessed at 2:43 p.m.

Court reconvened at 2:44 p.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 2:44 p.m.

Court reconvened at 2:46 p.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The Court advised the Witness that she was still under oath.

Defense Counsel examined the Witness on cross.

The State examined the Witness on redirect.

Defense examined the Witness on re-cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court inquired if the Witness needed to be retained or if she could be excused.

The Parties advised she could be excused.

The State called its next Witness Detective Nicholas Stake.

The Witness was sworn in and took the stand.

The State examined the Witness on direct.

The State offered Exhibit 75(Hotel room from outside the door), 76(Photo-Bed from outside), 77(Photo-Couch and side of bed), 78(Photo-Bed and Rolling Chair), 79(Photo-End of bed chair and bathroom), 80(Photo-Pizza, soda box and bathroom), 81(Photo-Bed and door to the outside), 82(Photo-Bed with personal items), 83(Photo-Sunglasses), 84(Photo-Phone and earbuds), 85(Photo-Phone and plastic bag), 86(Photo-Couch with personal belongings), 87(Photo-Hat) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 75(Hotel room from outside the door), 76(Photo-Bed from outside), 77(Photo-Couch and side of bed), 78(Photo-Bed and Rolling Chair), 79(Photo-End of bed chair and bathroom), 80(Photo-Pizza, soda box and bathroom), 81(Photo-Bed and door to the outside), 82(Photo-Bed with personal items), 83(Photo-Sunglasses), 84(Photo-Phone and earbuds), 85(Photo-Phone and plastic bag), 86(Photo-Couch with personal belongings), 87(Photo-Hat) admitted.

The State offered Exhibit 88(Cellular phone with cover) and Exhibit 89(Cellular phone without case) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 88(Cellular phone with cover) and Exhibit 89(Cellular phone without case) admitted.

The Witness identified the Defendant in court.

The State offered Exhibit 41(Car photos daylight during search warrant taken by stake), Exhibit 42(Steering Wheel), Exhibit 43(Center console on driver's side), Exhibit 44(Passenger seat right side), Exhibit 45(backseat), Exhibit 46(Front middle of backseat with blood) and Exhibit 47(Back rest of back seat with blood) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 41(Car photos daylight during search warrant taken by stake), Exhibit 42(Steering Wheel), Exhibit 43(Center console on driver's side), Exhibit 44(Passenger seat right side), Exhibit 45(backseat), Exhibit 46(Front middle of backseat with blood), and Exhibit 47 (Back rest of back seat with blood) admitted.

The State offered Exhibit 11(Jean at S.O taken by Stake), Exhibit 12(Back of Jean's hands and arms), Exhibit 13(P – Palms of Jean's hands and arms), Exhibit 14(P – Jean's left arm), Exhibit 15(P – Jean's right arm), Exhibit 16(P – Jean's right arm at the inside elbow), Exhibit 17(P – Jeans' right bicep), Exhibit 18(P – Jean's face front shot), Exhibit 19(P – Jean's right side face), Exhibit 20(P – Jean's left side face), Exhibit 21(P – Jean's lower left side face), Exhibit 22(P – Jean's left side head), Exhibit 23(P – Jean's right side head), Exhibit 24(P – Jean's inside upper lip), Exhibit 25(P – Jean's inside lower lip), Exhibit 26(P – Jean's right eye), Exhibit 27(P – Jean's right eye with measuring device), Exhibit 28(P – Jean's left eye with measuring device), Exhibit 29(P – Jean's right jaw with measuring device), Exhibit 30(P – Jean's left jaw with measuring device), Exhibit 31(P - Jean's mouth with measuring device) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 11(Jean at S.O taken by Stake), Exhibit 12(Back of Jean's hands and arms), Exhibit 13(P – Palms of Jean's hands and arms), Exhibit 14(P – Jean's left arm), Exhibit 15(P – Jean's right arm), Exhibit 16(P – Jean's right arm at the inside elbow), Exhibit 17(P – Jeans' right bicep), Exhibit 18(P – Jean's face front shot), Exhibit 19(P – Jean's right side face), Exhibit 20(P – Jean's left side face), Exhibit 21(P – Jean's lower left side face), Exhibit 22(P – Jean's left side head), Exhibit 23(P – Jean's right side head), Exhibit 24(P – Jean's inside upper lip), Exhibit 25(P – Jean's inside lower lip), Exhibit 26(P – Jean's right

eye), Exhibit 27(P – Jean’s right eye with measuring device), Exhibit 28(P – Jean’s left eye with measuring device), Exhibit 29(P – Jean’s right jaw with measuring device), Exhibit 30(P – Jean’s left jaw with measuring device), Exhibit 31(P - Jean’s mouth with measuring device) admitted.

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

The Court recessed at 3:45 p.m.

Court reconvened at 4:02 p.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 4:04 p.m.

Court reconvened at 4:05 p.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The Court advised the Witness he was still under oath.

The State continued direct examination.

Defense Counsel examined the Witness on cross.

Defense Counsel offered Exhibit J (Photo-Back seat) to be admitted.

The State had no objection.

The Court **ORDERED** Exhibit J (Photo-Back seat) admitted.

Defense Counsel continued cross examination.

The State examined on redirect.

Defense Counsel examined on re-cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court and Counsel had a sidebar to discuss the Juror question.

The Court posed the question to the Witness.

The State asked to follow up questions to the Juror question.

The Court inquired if the Witness needed to be retained or if she could be excused.

The Witness was retained.

The State called its next Witness Deputy

The Witness was sworn in by the Court Clerk and took the Witness stand.

The State examined the Witness on direct.

The Witness was identified in court.

The State offered Exhibit 48(P – of Defendant upon arrest ,Defendant’s palms), Exhibit 49(P – Full front body), Exhibit 50(P – Full back body), Exhibit 51(P – Full left side body), Exhibit 52(P – Left outside bicep with injury), Exhibit 53(P – Lower back), Exhibit 54(P – left shoulder), Exhibit 55(P – Left side face), Exhibit 56(P – Right side face), Exhibit 57(P – Right hand), Exhibit 58(P – Belly button area), 59(P – Left arm and wrist) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 48(P – of Defendant upon arrest ,Defendant’s palms), Exhibit 49(P – Full front body), Exhibit 50(P – Full back body), Exhibit 51(P – Full left side body), Exhibit 52(P – Left outside bicep with injury), Exhibit 53(P – Lower back), Exhibit 54(P – left shoulder), Exhibit 55(P – Left side face), Exhibit 56(P – Right side face), Exhibit 57(P – Right hand), Exhibit 58(P – Belly button area), 59(P – Left arm and wrist) admitted.

Defense Counsel examined the Witness on cross.

Defense Counsel offered Exhibit A (Darwyn Yowell face), Exhibit B (Darwyn Yowell Arm-Full), Exhibit C (Darwyn Yowell Shoulder), and Exhibit D (Darwyn Yowell Arm-Partial) to be admitted.

The State had no objection.

The Court **ORDERED** Exhibit A (Darwyn Yowell face), Exhibit B (Darwyn Yowell Arm-Full), Exhibit C (Darwyn Yowell Shoulder), and Exhibit D (Darwyn Yowell Arm-Partial) admitted.

The State examined the Witness on redirect.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court inquired if the Witness needed to be retained or if she could be excused.

The Parties advised the Witness could be excused.

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

The Court recessed at 4:55 p.m.

JURY TRIAL
Day Three – June 16, 2021

The Court reconvened at 9:06 a.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.
The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 9:08 a.m.

Court reconvened at 9:09 a.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The State gave a statement regarding Exhibit 62(Yowell statement June 6, 2020) and offered the Exhibit to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 62(Yowell statement June 6, 2020) admitted.

The State called its next Witness Deputy Douglas Holladay.

The Witness was sworn in by the Court Clerk and took the stand.

The State examined the Witness on direct.

The Witness identified the Defendant in court.

The State offered Exhibit 63(Yowell statement 5/14/21) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 63(Yowell statement 5/14/21) admitted.

The State offered Exhibit 7(DVD-Holladay's body camera at jail 5/21/20) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 7(DVD-Holladay's body camera at jail 5/21/20) admitted.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court inquired if the Witness needed to be retained or if she could be excused.

The Witness was excused.

The State called its next Witness Sergeant Calvern Williams.

The Witness was sworn in and took the stand.

The State examined the Witness on direct.

The State offered Exhibit 2(DVD- William's body camera at scene) to be admitted.

Defense Counsel requested a side bar.

The State made a statement regarding the redacted body camera.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 2(DVD- Williams's body camera at scene) admitted.

The State offered Exhibit 3(William's body camera at NNRH) to be admitted.

Defense Counsel requested a sidebar.

The Court **ORDERED** Exhibit 3(William's body camera at NNRH) admitted.

The State offered Exhibit 5(William's body camera at jail 6/6/20) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 5(William's body camera at jail 6/6/20) admitted.

The State offered Exhibit 6(DVD-William's body camera at jail 6/13/20) to be admitted.

Defense Counsel had no objection.

The Court **ORDERED** Exhibit 6(DVD-William's body camera at jail 6/13/20) admitted.

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

The Court recessed at 10:32 a.m.

Court reconvened at 10:49 a.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court noted that there was a Juror that had contact with the Witness.

Juror number 7, Jared Moffit was brought in to the Court to be canvassed by the Court.

The Court recessed at 10:53 a.m.

Court reconvened at 10:54 a.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The State continued direct examination.

Defense Counsel examined the Witness on cross.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court and Counsel had a sidebar to discuss the Juror question.

The Court read the Juror question posed to the Witness from the Juror.

The State examined the Witness on redirect.

Defense counsel examined the Witness on re-cross.

The Court noted another Juror question.

The Court and Counsel had a sidebar to discuss the Juror question.

The Court inquired if the Witness needed to be retained or if he could be excused.

The Parties advised the Witness needed to be retained.

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

The Court recessed at 11:43 a.m.

Court reconvened at 1:08 p.m.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court canvassed the Defendant regarding his right to testify.

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

The Defendant advised he would like to provide testimony.

The Court recessed at 1:11 p.m.

Court reconvened at 1:12 p.m.

The Court noted the presence of the Parties, Jurors and Alternates.

The Parties stipulated to the presence of the Jurors and Alternates.

The State rested its case-in-chief at 1:12 p.m.

Defense counsel called his first witness Darwyn Yowell.

The Defendant was sworn in by the Court Clerk and took the stand.

Defense Counsel examined the Witness on direct.

The State objected to the statements made by the Witness.

Defense Counsel restated the question.

The State objected to the statements made by the Witness.

The Court sustained the objection.

Defense Counsel restated the question.

The State objected to the statements made by the Defendant.

The Court and Counsel discussed the matter further.

The State examined the Witness on cross.

The State offered Exhibit 62(Yowell statement June 6, 2020) and 63(Yowell statement 5/14/21) to the Witness to review.

Defense Counsel objected to the question posed by the State.

The Court overruled the objection.

The State restated the question.

Defense Counsel objected to the question posed by the State.

The Court overruled the objection.

Defense Counsel examined the Witness on re-direct.

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

Court recessed for break at 2:54 p.m.

Court reconvened at 3:05 p.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 3:06 p.m.

Court reconvened at 3:07 p.m.

The Court noted the presence of the parties.

Counsel stipulated to the presence of the Jury and the Alternates

Defense Counsel continued re-direct.

The Court inquired if there were any Juror questions to be posed to the Witness.

The Court and Counsel had a sidebar to discuss the Juror questions.

The Court read the questions posed to the Witness.

Defense counsel rested its case in chief at 3:12 p.m.

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

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

Court recessed at 3:14 p.m.

JURY TRIAL
Day Four – June 17, 2021

Court reconvened at 9:11 a.m. with Counsel and the Defendant present outside the presence of the Jury and the Alternates for the purpose of settling the Jury Instructions and Verdict Forms.

The Court noted it had a packet of Jury Instructions numbered 1 through 47 and inquired if Counsel had any objection.

The Court inquired if Counsel had any proposed jury instructions.

The Court noted it had 1 Form of Verdict.

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

Counsel had no proposed forms of verdict.

The Court advised that it would not provide copies of the Jury Instructions to the jury to follow along during the reading of the Instructions and further advised that they would be provided copies of the Jury Instructions during deliberation. It further advised that it would not read Jury Instructions No. 1 and No. 2, as they had been previously read.

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

Court recessed at 9:14 a.m.

Court reconvened at 9:16 a.m.

The Court noted the presence of the parties.

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

The Court advised that the Jury Instructions and Forms of Verdict had been settled in Open Court.

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

The Court read Jury Instructions No. 3 through No. 47.

The State presented closing argument.

The Court inquired about one of the Jury Instructions.

The State added the correct instruction.

Defense Counsel objected to the States statement.

The State restated the statement.

Defense Counsel presented closing argument.

The State gave rebuttal argument.

The Court disclosed that Daniel Kough and Jonathan Peterson were the alternate jurors and instructed them to remain available via telephone.

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

Court recessed at 11:17 a.m. subject to the call of the Jury.

A call was received at 1:14 p.m. that the Jury had reached a verdict.

The Court reconvened at 1:32 p.m.

The Court noted the presence of the Parties outside the presence of the Jurors and Alternates.

The Court inquired if there was anything that needed to be discussed before bringing in the Jurors.

The Court recessed at 1:32 p.m.

Court reconvened at 1:34 p.m. at the call of the Jury.

The Court noted the presence of the parties.

The Clerk called the roll of the Jury.

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

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

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

The Clerk read the Verdict: **NOT GUILTY OF COUNT 1: KIDNAPPING IN THE FIRST DEGREE, A FELONY AS DEFINED BY NRS 200.310(1). (NOC 50051). GUILTY COUNT 2: BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY C FELONY AS DEFINED BY NRS 200.481. (NOC 50214).**

Both the State and Defense counsel waived the polling of the jury.

The Court thanked and excused the Jury.

The Court **ORDERED** a Presentence Investigation Report due on or before August 27, 2021. Sentencing was set for September 10, 2021, at 8:30 a.m.

The Court **ORDERED** the Defendant be remanded to the custody of the Elko Sheriff's Department.

Court adjourned at 1:39 p.m.

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

RECORD OF COURT PROCEEDINGS

Present - Honorable MASON E. SIMONS, District Judge,
and Officers of the Court.

STATE OF NEVADA,

Plaintiff,

Date: September 10, 2021

VS.

Case No.: DC-CR-20-159

Dept: 3

DARWYN ROSS YOWELL,

Defendant.

State of Nevada represented by Tyler Ingram, Esq.
Defendant present, via video in custody, and represented by
Matthew Pennell, Esq.
Court Clerk, Kristy Day, present.
Hearing video recorded.

SENTENCING HEARING

Court convened at 9:51 a.m.

The Court noted the presence of the parties.

This was the date and time set for sentencing.

The Court noted a letter filed by the defendant. All Parties had received this letter.

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

The State made corrections to the report.

Defense counsel made corrections to the report.

No objection to correction by interlineation.

The Court made the corrections via interlineation.

The State advised there was Victim Impact Testimony and called his first Witness, Ms. Jean Ortega.

The Witness was sworn.

The State examined the Witness on direct.

Defense counsel examined the Witness on cross.

The Witness was excused.

The State called its next Witness, Ms. Melva Jackson.

The Witness was sworn.

The State examined the Witness on direct.

Defense counsel examined the Witness on cross.

The Witness was excused.

The State presented its position for sentencing.

Defense counsel presented a recommendation on behalf of the Defendant.

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

The Defendant addressed the Court.

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

The Court **ORDERED** a Judgment of Conviction be entered against the Defendant finding the Defendant guilty of COUNT 1: DOMESTIC BATTERY RESULTING IN SUBSTANTIAL BODILY HARM, A CATEGORY B FELONY AS DEFINED BY NRS 200.485

The matter being submitted;

1. The Court **ORDERED** the Defendant to pay a \$25.00 administrative assessment fee, \$3.00 genetic administrative assessment fee, \$150.00 genetic testing fee, and be sentenced to serve a maximum of 72 months in the Nevada Department of Corrections with minimum parole eligibility after 28 months with credit for 462 days previously served. The Defendant was remanded to the custody of the Elko County Sheriff's Department.

Court adjourned at 10:35 a.m.

Number	Description	Location	Marked Dt	Admitted Dt
001 - PRELIM	DEPUTY WILLIAMS REPORT	Elko County Clerk's Office	8/14/2020	
001 - TRIAL	CD - 911 CALL 6/5/20	Elko County Clerk's Office	6/8/2021	6/15/2021
002 - PRELIM	PHOTO OF WOMAN FROM SIDE	Elko County Clerk's Office	8/14/2020	
002 - TRIAL	DVD – Williams' body camera at scene	Elko County Clerk's Office	6/8/2021	6/16/2021
003 - PRELIM	PHOTO OF WOMAN FROM FRONT	Elko County Clerk's Office	8/14/2020	
003 - TRIAL	DVD – Williams' body camera at NNRH	Elko County Clerk's Office	6/8/2021	6/16/2021
004 - PRELIM	PHOTO OF SIDE OF FACE	Elko County Clerk's Office	8/14/2020	
004 - TRIAL	DVD – Neff's body camera without sound	Elko County Clerk's Office	6/8/2021	6/15/2021
005 - PRELIM	PHOTO OF EYE AREA	Elko County Clerk's Office	8/14/2020	
005 - TRIAL	DVD – Williams' body camera at jail 6/6/20	Elko County Clerk's Office	6/8/2021	6/16/2021
006 - PRELIM	PHOTO OF EYE	Elko County Clerk's Office	8/14/2020	
006 - TRIAL	DVD – Williams' body camera at jail 6/13/20	Elko County Clerk's Office	6/8/2021	6/16/2021
007 - PRELIM	PHOTO OF BLOOD	Elko County Clerk's Office	8/14/2020	
007 - TRIAL	DVD – Holladay's body camera at jail 5/21/20	Elko County Clerk's Office	6/8/2021	6/16/2021
008 - PRELIM	PHOTO OF BLOOD DROPS	Elko County Clerk's Office	8/14/2020	
008 - TRIAL	Photo (P) – Jean Ortega at scene 6/5/20(8-10)	Elko County Clerk's Office	6/8/2021	6/15/2021
009 - PRELIM	PHOTO OF BLOOD DROPS	Elko County Clerk's Office	8/14/2020	
009 - TRIAL	P – Jean Ortega's (Jean) left hand at scene	Elko County Clerk's Office	6/8/2021	6/15/2021
010 - PRELIM	PHOTO OF SEAT	Elko County Clerk's Office	8/14/2020	
010 - TRIAL	P – Jean in back of ambulance at scene	Elko County Clerk's Office	6/8/2021	6/15/2021
011 - PRELIM	PHOTO OF DOOR FRAME	Elko County Clerk's Office	8/14/2020	
011 - TRIAL	P - Jean at S.O. taken by Stake (11-31) 6/10/20 full body shot	Elko County Clerk's Office	6/8/2021	6/15/2021
012 - PRELIM	PHOTO OF SEATBELT AREA	Elko County Clerk's Office	8/14/2020	
012 - TRIAL	P - Back of Jean's hands and arms	Elko County Clerk's Office	6/8/2021	6/15/2021
013 - PRELIM	PHOTO OF BLOOD DROP	Elko County Clerk's Office	8/14/2020	

013 - TRIAL	P – Palms of Jean's hands and arms	Elko County Clerk's Office	6/8/2021	6/15/2021
014 - PRELIM	PHOTO INSIDE VEHICLE	Elko County Clerk's Office	8/14/2020	
014 - TRIAL	P – Jean's left arm	Elko County Clerk's Office	6/8/2021	6/15/2021
015 - PRELIM	PHOTO OF BLOOD ON SEAT	Elko County Clerk's Office	8/14/2020	
015 - TRIAL	P – Jean's right arm	Elko County Clerk's Office	6/8/2021	6/15/2021
016 - PRELIM	MEDICAL RECORDS	Elko County Clerk's Office	8/14/2020	
016 - TRIAL	P – Jean's right arm at the inside elbow	Elko County Clerk's Office	6/8/2021	6/15/2021
017 - PRELIM	BODY CAM VIDEO @ NNRH	Elko County Clerk's Office	8/14/2020	
017 - TRIAL	P – Jeans' right bicep	Elko County Clerk's Office	6/8/2021	6/15/2021
018 - PRELIM	BODY CAM VIDEO	Elko County Clerk's Office	8/14/2020	
018 - TRIAL	P – Jean's face front shot	Elko County Clerk's Office	6/8/2021	6/15/2021
019 - TRIAL	P – Jean's right side face	Elko County Clerk's Office	6/8/2021	6/15/2021
020 - TRIAL	P – Jean's left side face	Elko County Clerk's Office	6/8/2021	6/15/2021
021 - TRIAL	P – Jean's lower left side face	Elko County Clerk's Office	6/8/2021	6/15/2021
022 - TRIAL	P – Jean's left side head	Elko County Clerk's Office	6/8/2021	6/15/2021
023 - TRIAL	P – Jean's right side head	Elko County Clerk's Office	6/8/2021	6/15/2021
024 - TRIAL	P – Jean's inside upper lip	Elko County Clerk's Office	6/8/2021	6/15/2021
025 - TRIAL	P – Jean's inside lower lip	Elko County Clerk's Office	6/8/2021	6/15/2021
026 - TRIAL	P – Jean's right eye	Elko County Clerk's Office	6/8/2021	6/15/2021
027 - TRIAL	P – Jean's right eye with measuring device	Elko County Clerk's Office	6/8/2021	6/15/2021
028 - TRIAL	P – Jean's left eye with measuring device	Elko County Clerk's Office	6/8/2021	6/15/2021
029 - TRIAL	P – Jean's right jaw with measuring device	Elko County Clerk's Office	6/8/2021	6/15/2021
030 - TRIAL	P – Jean's left jaw with measuring device	Elko County Clerk's Office	6/8/2021	6/15/2021
031 - TRIAL	P - Jean's mouth with measuring device	Elko County Clerk's Office	6/8/2021	6/15/2021
032 - TRIAL	P - Car photo June 5 at scene taken by Cortez (32-40), front seat and steering wheel	Elko County Clerk's Office	6/8/2021	6/15/2021
033 - TRIAL	P - Car, at scene, middle front seats	Elko County Clerk's Office	6/8/2021	6/15/2021
034 - TRIAL	P – Car at scene gear shifter	Elko County Clerk's Office	6/8/2021	6/15/2021
035 - TRIAL	P – Car at scene driver's door	Elko County Clerk's Office	6/8/2021	6/15/2021

036 - TRIAL	P – Car at scene driver's door handle	Elko County Clerk's Office	6/8/2021	6/15/2021
037 - TRIAL	P – Car at scene driver's door lock	Elko County Clerk's Office	6/8/2021	6/15/2021
038 - TRIAL	P – Car at scene passenger's door handle and window switch	Elko County Clerk's Office	6/8/2021	6/15/2021
039 - TRIAL	P – Car at scene back seat middle	Elko County Clerk's Office	6/8/2021	6/15/2021
040 - TRIAL	P – Car at scene back seat back portion of seat	Elko County Clerk's Office	6/8/2021	6/15/2021
041 - TRIAL	P – Car photos daylight during search warrant taken by Stake (41-47)	Elko County Clerk's Office	6/8/2021	6/15/2021
042 - TRIAL	P – Steering wheel	Elko County Clerk's Office	6/8/2021	6/15/2021
043 - TRIAL	P – center console on driver's side	Elko County Clerk's Office	6/8/2021	6/15/2021
044 - TRIAL	P – passenger seat right side	Elko County Clerk's Office	6/8/2021	6/15/2021
045 - TRIAL	P – backseat	Elko County Clerk's Office	6/8/2021	6/15/2021
046 - TRIAL	P – front middle of backseat with blood	Elko County Clerk's Office	6/8/2021	6/15/2021
047 - TRIAL	P – back rest of back seat with blood	Elko County Clerk's Office	6/8/2021	6/15/2021
048 - TRIAL	P – of Defendant upon arrest (48-59)Defendant's palms	Elko County Clerk's Office	6/8/2021	6/15/2021
049 - TRIAL	P – Full front body	Elko County Clerk's Office	6/8/2021	6/15/2021
050 - TRIAL	P – Full back body	Elko County Clerk's Office	6/8/2021	6/15/2021
051 - TRIAL	P – Full left side body	Elko County Clerk's Office	6/8/2021	6/15/2021
052 - TRIAL	P – Left outside bicep with injury	Elko County Clerk's Office	6/8/2021	6/15/2021
053 - TRIAL	P – Lower back	Elko County Clerk's Office	6/8/2021	6/15/2021
054 - TRIAL	P – left shoulder	Elko County Clerk's Office	6/8/2021	6/15/2021
055 - TRIAL	P – Left side face	Elko County Clerk's Office	6/8/2021	6/15/2021
056 - TRIAL	P – Right side face	Elko County Clerk's Office	6/8/2021	6/15/2021
057 - TRIAL	P – Right hand	Elko County Clerk's Office	6/8/2021	6/15/2021
058 - TRIAL	P – Belly button area	Elko County Clerk's Office	6/8/2021	6/15/2021
059 - TRIAL	P – Left arm and wrist	Elko County Clerk's Office	6/8/2021	6/15/2021
060 - TRIAL	University of Utah Medical Records Jean Ortega	Elko County Clerk's Office	6/8/2021	6/15/2021
061 - TRIAL	NNRH Medical Records Jean Ortega	Elko County Clerk's Office	6/8/2021	6/15/2021
062 - TRIAL	Yowell statement June 6, 2020	Elko County Clerk's Office	6/8/2021	6/16/2021
063 - TRIAL	Yowell statement 5/14/21	Elko County Clerk's Office	6/8/2021	6/16/2021

064 - TRIAL	Deputy Williams reports	Elko County Clerk's Office	6/8/2021	
065 - TRIAL	Deputy Cortez report	Elko County Clerk's Office	6/8/2021	
066 - TRIAL	Chief Neff report	Elko County Clerk's Office	6/8/2021	
067 - TRIAL	Deputy Bear Report	Elko County Clerk's Office	6/8/2021	
068 - TRIAL	Det. Stake report	Elko County Clerk's Office	6/8/2021	
069 - TRIAL	Deputy Douglas Holladay report	Elko County Clerk's Office	6/8/2021	
070 - TRIAL	Preliminary Hearing Transcript 8/14/2020	Elko County Clerk's Office	6/8/2021	
071 - TRIAL	Full Dispatch recordings	Elko County Clerk's Office	6/8/2021	
072 - TRIAL	Full Neff body camera	Elko County Clerk's Office	6/8/2021	
073 - TRIAL	Full Williams body camera at scene	Elko County Clerk's Office	6/8/2021	
074 - TRIAL	Full Holladay body camera	Elko County Clerk's Office	6/8/2021	
075	PHOTO-HOTEL ROOM FROM OUTSIDE THE DOOR	Elko County Clerk's Office	6/14/2021	6/15/2021
076	PHOTO-BED FROM OUTSIDE DOOR	Elko County Clerk's Office	6/14/2021	6/15/2021
077	PHOTO-COUCH AND SIDE OF BED	Elko County Clerk's Office	6/14/2021	6/15/2021
078	PHOTO-BED AND ROLLING CHAIR	Elko County Clerk's Office	6/14/2021	6/15/2021
079	PHOTO-END OF BED, CHAIR AND BATHROOM	Elko County Clerk's Office	6/14/2021	6/15/2021
080	PHOTO-PIZZA, SODA BOX AND BATHROOM	Elko County Clerk's Office	6/14/2021	6/15/2021
081	PHOTO-BED AND DOOR TO THE OUTSIDE	Elko County Clerk's Office	6/14/2021	6/15/2021
082	PHOTO-BED WITH PERSONAL ITEMS	Elko County Clerk's Office	6/14/2021	6/15/2021
083	PHOTO-SUNGLASSES	Elko County Clerk's Office	6/14/2021	6/15/2021
084	PHOTO-PHONE AND EARBUDS	Elko County Clerk's Office	6/14/2021	6/15/2021
085	PHOTO-PHONE AND PLASTIC BAG	Elko County Clerk's Office	6/14/2021	6/15/2021
086	PHOTO-COUCH WITH PERSONAL BELONGINGS	Elko County Clerk's Office	6/14/2021	6/15/2021
087	PHOTO-HAT	Elko County Clerk's Office	6/14/2021	6/15/2021
088	CELLULAR PHONE WITH COVER	Elko County Clerk's Office	6/14/2021	6/15/2021
089	CELLULAR PHONE WITHOUT CASE	Elko County Clerk's Office	6/14/2021	6/15/2021
090	STIPULATION OF FACTS	Elko County Clerk's Office	6/15/2021	6/15/2021
A - TRIAL	PHOTO - DARWYN YOWELL FACE	Elko County Clerk's Office	6/10/2021	6/15/2021
B - TRIAL	PHOTO - DARWYN YOWELL ARM - FULL	Elko County Clerk's Office	6/10/2021	6/15/2021
C - TRIAL	PHOTO - DARWYN YOWELL SHOULDER	Elko County Clerk's Office	6/10/2021	6/15/2021
D - TRIAL	PHOTO - DARWYN YOWELL ARM - PARTIAL	Elko County Clerk's Office	6/10/2021	6/15/2021
E - TRIAL	PHOTO - DARWYN YOWELL DEFENSIVE POSITION	Elko County Clerk's Office	6/10/2021	
F - TRIAL	PHOTO - CAR - BEHIND	Elko County Clerk's Office	6/10/2021	

G - TRIAL	PHOTO - DRIVER'S DOOR - PARTIAL	Elko County Clerk's Office	6/10/2021	
H - TRIAL	PHOTO - DRIVER'S DOOR - FULL	Elko County Clerk's Office	6/10/2021	
I - TRIAL	PHOTO - DRIVER'S DOOR - CIGARETTES	Elko County Clerk's Office	6/10/2021	
J - TRIAL	PHOTO - BACK SEAT	Elko County Clerk's Office	6/10/2021	6/15/2021
K - TRIAL	JUDGMENT IN A CRIMINAL CASE - JEAN ANGELA ORTEGA	Elko County Clerk's Office	6/11/2021	

Case No. DC-CR-20-159

Dept. No. 3

FILED

2021 SEP 30 PM 1:59

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

ELKO CO DISTRICT COURT
CLERK _____ DEPUTY am

DARWYN ROSS YOWELL,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent,

CLERK'S CERTIFICATION

I, KRISTINE JAKEMAN, the duly elected, acting and qualified County Clerk and Ex-Officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed are true, full and correct copies of certain documents in Case No. DC-CR-20-159 Dept. 3, DARWYN TOSS YOWELL, Appellant, vs. STATE OF NEVADA, Respondent, as appears on file and of record in my office.

WITNESS My Hand and Seal of said Court on September 30, 2021.

KRISTINE JAKEMAN, ELKO COUNTY CLERK

By 
Annette Marshall, DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that I caused to be sent electronically and/or mailed a certified copy of the annexed documents in Case No. DC-CR-20-159 Dept. 3, DARWYN TOSS YOWELL, Appellant, vs. STATE OF NEVADA Respondent, as appears on file and of record in this Court, to the following:

Elko County District Attorney
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Nevada Attorney General
Attn: Criminal Division
100 North Carson Street
Carson City, NV 89701-4717

DATED this 30th, day of September, 2021.

Annette Marshall, Deputy Clerk