

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

\* \* \* \* \*

TERESA ANN GREVELLE,

Appellant,

VS.

THE STATE OF NEVADA,

Respondent.

Electronically Filed  
Apr 08 2022 03:02 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**Case No. 83579**

**APPELLANT'S OPENING BRIEF**

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\* \* \* \* \*


TERESA ANN GREVELLE,	)	
	)	
Appellant,	)	Case No. 83579
	)	
vs.	)	
	)	
THE STATE OF NEVADA,	)	
	)	
Respondent.	)	

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Miller Law, Inc. and Rendal B. Miller, Esq. are present counsel for Appellant. Miller Law, Inc. has no parent corporations.

Appellant herein was represented by Sherburne Macfarlan, Esq. at trial; Sherburne Macfarlan, Esq. does not have any known parent corporations.

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## **JURISDICTIONAL STATEMENT**

This Court has jurisdiction because this is a direct appeal of a final order, clarifying a previous order, entered by the lower court on September 8, 2021. This appeal is filed pursuant to NRS 34.575.

On May 10, 2019, an Order was filed in the Sixth Judicial District Court, vacating a previously filed *Order Honorably Discharging Appellant*, dated December 18, 2017. Appellant moved to dismiss the new Order, and an ambiguous *Order for Dismissal* was entered on June 21, 2021.

Appellant requested clarification on the *Order for Dismissal*, and a final *Order Clarifying Order for Dismissal Entered June 21, 2021*, was entered on September 8, 2021. Appellant timely noticed her appeal with the *Notice of Appeal*, filed October 4, 2021.

Finally, Appellant asserts that this appeal is from a final order.

## **ROUTING STATEMENT**

This case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(3)-(4) because it is a challenge to the reimposition of probation after Appellant was once discharged, and because the sentence is in excess of the five (5) year limitation imposed by NRS 176A.500(1)(b).

## **STATEMENT OF THE ISSUES**

- I. Whether The District Court Abused Its Discretion by Reimposing Probation on Appellant for Failure to Pay Restitution in Light of Economic Hardship.
- II. Whether The Reimposition of Probation on Appellant Constitutes an Illegal Sentence, Due to Said Reimposition Resulting in a Term of Probation Lasting Longer Than the Limited Five-Year Period Permitted by NRS 176A.500.

## STATEMENT OF THE CASE

This is an appeal from a final *Order Clarifying Order for Dismissal Entered June 21, 2021*, entered by the Sixth Judicial District Court in Humboldt County, Nevada. Ms. Teresa Ann Gravelle retained Sherburne Macfarlan, Esq. to represent her throughout her initial trial for the crime of embezzlement. An *Order Honorably Discharging Appellant* was filed on December 18, 2017.

On May 10, 2019, the Sixth Judicial District Court filed an Order to vacate the previously filed *Order Honorably Discharging Appellant*, after a *Civil Confession of Judgment* was signed and filed against Appellant. Appellant retained Miller Law, Inc. and Rendal B. Miller, Esq. to represent her as she sought to once again be discharged from probation. On August 28, 2019, Appellant motioned the Sixth Judicial District Court to discharge her from probation.

After an evidentiary hearing on May 18, 2021, the Sixth Judicial District Court issued an ambiguous *Order for Dismissal*, dismissing the matter entirely, on June 21, 2021. Appellant motioned the Court for reconsideration and/or clarification on July 27, 2021. The Sixth Judicial District Court provided clarification on September 8, 2021, and issued a final order dishonorably discharging Appellant from probation.

Appellant by and through counsel now appeals the decision of the Sixth Judicial District Court of the State of Nevada and the dishonorable discharge of probation.

## STATEMENT OF THE FACTS

(1) Appellant was convicted of one count of Embezzlement, a category C felony; the Judgement of Conviction (hereinafter "JOC") was filed on August 19, 2014, under case number CR12-6043, in the Sixth Judicial District Court. APPELLANT'S APPENDIX, 2 (hereinafter "APPENDIX").

(2) Appellant was sentenced to serve a minimum of twelve (12) months with a maximum of thirty-two (32) months in the Nevada Department of Corrections (NDOC). The sentence was suspended, and Appellant was placed on probation for sixty (60) months with special conditions. APPENDIX, 3-4.

(3) The special conditions of the JOC include the following:

a. Special condition number two: "That the Defendant pay the outstanding balance of restitution, in the amount of \$65,000.00, payable through the District Attorney's office, in monthly payments of no less than \$1,500.00." APPENDIX, 4.

b. Special condition number three: "That the Defendant make a payment of \$30,000.00, within 90 days of her probation grant. If the Defendant fails to make this payment a Status Hearing will be set up so Defendant can explain why she has not made her payment." APPENDIX, 4.

c. Special condition number four: "That if the Defendant fails to pay her restitution as ordered than(sic) the Defendant will be violating her



probation grant and it will be reported as a violation of probation.”

APPENDIX, 4.

(4) Appellant did violate the terms of special condition number 3 by failing to pay \$30,000.00 within 90 days of entry of the JOC. APPENDIX, 9.

(5) However, Appellant made a good faith effort to repay the restitution, resulting in approximately \$43,950.00 being paid to the victim. APPENDIX, 129.

(6) Despite Appellant’s violation, the Division of Parole and Probation (hereinafter the “Division”) reported that Appellant maintained regular contact with the Division, had paid all other fees on time, had obtained full-time employment, and was “compliant with the rules and special conditions of her community supervision.” APPENDIX, 9.

(7) The Division also reported that Appellant “has not taken her financial obligations frivolously and has expressed much concern being able to meet this obligation.” APPENDIX, 10.

(8) Due to Appellant’s compliance with all other terms of her probation and after two hearings on the matter, the Court elected to not revoke Appellant’s probation.

(9) The Chief Parole and Probation Officer, as well as the Sixth Judicial District Court Judge signed a *Petition and Order Honorably Discharging*

*Probationer* on December 8, 2017, and filed the *Order* on December 18, 2017. APPENDIX, 14-15.

(10) The *Petition and Order Honorably Discharging Probationer* specifically state that Appellant “has satisfactorily completed all of the conditions of probation or has demonstrated fitness for honorable discharge, but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court.” APPENDIX, 14.

(11) On April 4, 2018, a *Civil Confession of Judgment* was signed and filed with the District Court regarding the unpaid restitution. APPENDIX, 17.

(12) After the *Civil Confession of Judgment* was signed and filed, victim’s counsel sent several letters addressed to the court and the District Attorney, admonishing the court for discharging Appellant prior to paying restitution in full. APPENDIX, 20-24. The letters requested the court set a hearing between the parties. APPENDIX, 20-24.

(13) The letters requested the court set a hearing between the parties, to include “a representative of the Division of Parole and Probation (preferably Ms. Natalie A. Wood), Kevin Pasquale and myself.” APPENDIX, 23. The apparent intention of the letters was to exclude Appellant from the requested hearing entirely. APPENDIX, 23.

(14) On September 11, 2018, a status hearing was held at the victim's request, based on the letters sent by victim's counsel. APPENDIX, 26.

(15) Based on the content of the hearing outlined in the minutes, the purpose of the September 11, 2018, hearing was to determine whether to place Appellant back on probation and how to get money for the victim. APPENDIX, 26.

(16) The record from that status hearing shows that the Deputy District Attorney was present, along with the victim and his counsel, and a representative from the Division of Parole and Probation. APPENDIX, 27.

(17) Appellant was not present during the hearing and was not represented by counsel at the time; at that time, Appellant believed she had been honorably discharged from probation for about one year.

(18) Another status hearing was purported to be held on September 20, 2018. APPENDIX, 67. There is no reference to the hearing on the Court's Docket log on that date. APPENDIX, 235.

(19) On May 10, 2019, the Sixth Judicial District Court filed an Order to vacate the previously filed *Order Honorably Discharging Probationer*, without providing notice to Appellant and without providing Appellant with an opportunity to appear and defend the case. APPENDIX, 69.

(20) Service of the May 10, 2019, Order was only completed on the Division and the District Attorney, who was presumably tasked with providing notice to

Appellant, despite their interests being adverse to those of Appellant.

APPENDIX, 73.

(21) Appellant retained counsel on May 30, 2019, and filed *Defendant's Motion to Discharge from Probation* on August 28, 2019, asking the court to once again discharge Appellant from probation. APPENDIX, 79.

(22) On September 5, 2019, the State opposed Appellant's Motion and argued that Appellant should have her probation revoked and the original prison sentence reinstated because, *inter alia*, "further probation would be in excess of sixty (60) months." APPENDIX, 121.

(23) On April 23, 2020, the District Court filed an *Order* vacating the hearing set on the matter and requiring parties to submit evidence of restitution payments. APPENDIX, 125.

(24) On May 11, 2020, Appellant submitted a *Delivery of Restitution* to the District Court, showing that she had made a total of \$43,950.00 in restitution payments prior to her discharge. APPENDIX, 129.

(25) Finally, on August 14, 2020, the District Court filed an Order denying Appellant's Motion to Discharge Defendant because "no evidence of any new or additional payments on restitution have been provided." APPENDIX, 150.

(26) On December 17, 2020, Appellant filed a *Petition for Writ of Habeas Corpus* in the District Court. APPENDIX, 154.

(27) On January 28, 2021, Appellant submitted her *Petition for Writ of Habeas Corpus* to the Sixth Judicial District Court judge for decision. APPENDIX, 172.

(28) On March 18, 2021, the Attorney General of the State of Nevada, on behalf of the Division, submitted its response to Appellant's *Petition for Writ of Habeas Corpus*, stating that "[i]t is the Division's position that as of July 7, 2019, any supervision of Appellant is not supported by statutory authority." APPENDIX, 178.

(29) On March 22, 2021, the State submitted its response to Appellant's *Petition for Writ of Habeas Corpus*, requesting denial of Appellant's writ. APPENDIX, 182.

(30) On May 18, 2021, a hearing was held on the Petition. APPENDIX, 191, 195. As a result of that hearing, the court entered an *Order for Dismissal* on June 21, 2021. APPENDIX, 214.

(31) Appellant motioned the Court for reconsideration and/or clarification on July 27, 2021, by filing a *Motion for Reconsideration and/or Clarification*. APPENDIX, 218.

(32) On March 18, 2021, the Attorney General of the State of Nevada, on behalf of the Division, submitted a *Non-Opposition and Joinder to Petitioner's Motion for Reconsideration and/or Clarification*. APPENDIX, 224.

(33) The Sixth Judicial District Court provided clarification on September 8, 2021, and issued a final order dishonorably discharging Appellant from probation, titled *Order Clarifying Order for Dismissal Entered June 21, 2021*. APPENDIX, 228-229.

(34) As a result of the foregoing, Appellant was required to reenter probation on October 15, 2020, and serve an additional one year and seven months, per a telephone call with the Division.

(35) Due to the Sixth Judicial District's order to vacate the previously filed *Order Honorably Discharging Probationer* on May 10, 2019, Appellant was effectively on probation from August 19, 2014, when the JOC was filed, through June 21, 2021, when the court dishonorably discharged Appellant – over seven (7) years.

(36) Appellant filed a *Notice of Appeal* on October 4, 2021. APPENDIX, 232.

## **SUMMARY OF THE ARGUMENT**

Appellant asserts that her rights were violated on two counts, and that said violations should result in reversal of the Sixth Judicial District Court's decision to dishonorably discharge Appellant, entered on September 8, 2021.

First, Appellant asserts that the district court improperly reimposed probation on Appellant after she was honorably discharged for failure to pay restitution in light of economic hardship. At the time of reimposition, the victim in the case had already received reasonable relief in the form of a Confession of Civil Judgment. By reinstating such probation, the court has retained Appellant on probation for an unreasonably long period and remanded private debt collection duties to the Division. Additionally, Appellant is no longer eligible for future probation and must wait an additional four (4) years before she is able to seal her records, pursuant to NRS 179.245(1)(b). The reinstatement is not based on valid legal principles and legal policies and, accordingly, represents an abuse of discretion by the Sixth Judicial District Court.

Second, Appellant asserts that the reimposition of probation on Appellant constitutes an illegal sentence, due to the reimposition resulting in a term of probation lasting longer than the limited five-year period permitted by NRS 176A.500. The Sixth Judicial District Court misinterpreted and overextended the verbiage of this statute, taking it to mean that the five-year maximum probationary period may be broken up and applied piecemeal at the discretion of the court, so long as it does not exceed five years in the aggregate. This reading would permit a court to hold the threat of probation over an individual's head for decades – and clearly cannot be what legislature intended. The district court thus imposed an illegal

sentence when it provided itself with the authority to reinstate Appellant's probation, contrary to relevant legislative intent.

For the foregoing reasons, this Honorable Court should reverse the decision made by the Sixth Judicial District Court in its *Order Vacating Order to Honorably Discharge Probationer and Set Hearing* filed on May 10, 2019, and instead reinstate the court's previous decision to honorably discharge Appellant from probation, effective December 18, 2017.

## **STANDARDS OF REVIEW**

### **Abuse of Discretion in Sentencing**

The standard of review for appellate review of a district court's sentencing decision is abuse of discretion. "The sentencing judge has wide discretion in imposing a sentence, and that determination will not be overruled absent a showing of abuse of discretion." *See Deveroux v. State*, 96 Nev. 388, 390, 610 P.2d 722, 723 (1980). Substantial deference must be accorded legislatures and sentencing courts when a reviewing court conducts a proportionality analysis of a sentence. *Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). The reviewing court should only find that discretion was abused when the decision made is not supported by the appropriate legal principles and legal policies, relevant to the issue being decided. *See generally id.*



## **Illegal Sentence**

The standard of review for a claim of illegal sentencing is abuse of discretion. Abuse of discretion may be shown by failing to comply with the controlling sentencing statute. An illegal sentence is one that is “at variance with the controlling sentencing statute,’ or ‘illegal’ in the sense that the court goes beyond its authority by acting without jurisdiction or imposing a sentence in excess of the statutory maximum provided.” *Haney v. State*, 124 Nev. 408, 411, 185 P.3d 350, 352 (2008). Questions of statutory interpretation are reviewed de novo. *State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). Whether a sentence is considered illegal is a matter of statutory interpretation.

## **ARGUMENT**

Appellant asserts that her rights were violated at the trial on two counts, and that said violations should result in reversal of the Sixth Judicial District Court’s decision to dishonorably discharge Appellant, as entered on September 8, 2021. First, Appellant asserts that the district court improperly reimposed probation on Appellant after she was honorably discharged for failure to pay restitution in light of economic hardship. Second, Appellant asserts that the reimposition of probation on Appellant constitutes an illegal sentence, due to the reimposition resulting in a term

of probation lasting longer than the limited five-year period permitted by NRS 176A.500, in effect through June 30, 2020.

Appellant has been significantly harmed by the Sixth Judicial District Court's decision to dishonorably discharge her from probation. Not only does the decision revoke Appellant's eligibility to receive probation in the future, such decision automatically subjects her to prison time, should she have any future infractions. Furthermore, Appellant must wait until September of 2026 before she is eligible to seal records pursuant to NRS 179.245(1)(b) – nearly four (4) years after she would have initially been eligible, based on her initial discharge date.

Appellant submits to this Court that the improper reimposition of probation and the resulting illegal sentence inflicted as a result of the reimposition should support a finding of judicial abuse of discretion sufficient to warrant a reversal of the Sixth Judicial District Court's decision to dishonorably discharge Appellant, as entered on September 8, 2021.

**I. Whether The District Court Abused Its Discretion by Reimposing Probation on Appellant for Failure to Pay Restitution in Light of Economic Hardship.**

Appellant first asserts that the district court improperly reimposed probation on Appellant after she was honorably discharged for failure to pay restitution in light

of economic hardship. As the procedural history will show, Appellant was sentenced on July 7, 2014, and the JOC was filed August 19, 2014, more than one month later. APPENDIX at 2-3. Appellant made significant payments to the victim in an attempt to comply with the special conditions of her probation, but due to a property deal falling through, could not meet the ninety-day deadline imposed by the court to remit \$30,000.00 to the victim. Nevertheless, Appellant made good faith efforts while on probation and ultimately paid \$43,950.00 in restitution payments by the time of her discharge in December of 2017. APPENDIX, 129. The District Court Judge's reliance on Appellant's failure to pay restitution should not be the basis to reinstate probation and potentially subject Appellant to prison time.

The reimposition of probation in this case is not driven by society's interests in rehabilitation or even retribution; instead, this manifest injustice is driven by the victim, who is not even a party to the case. The District Court Judge received a letter from victim's counsel indicating that the victim had not received outstanding restitution in the amount of \$22,700.00. APPENDIX, 20. Said letter requested a status hearing be set to determine, *inter alia*, the financial hardship of defendant (now Appellant). The letter further requested that the Division, the District Attorney, and John Doyle, Esq., counsel for the victim, be present.

The court did grant the hearing, and as alluded to earlier, did not notice Appellant, did not advise Appellant to retain counsel, did not furnish the contents of

the letter to Appellant, and otherwise took no action to include Appellant in the hearing. This was a secret meeting called by someone who was not a party to the case, to the exclusion of someone who was a party to the case – and the court improperly entertained such an event. This “status hearing” resulted in an Order vacating a prior decision to honorably discharge Appellant from probation, and placed Appellant back on for mere failure to pay restitution due to documented economic hardship. In short, Appellant’s resentencing took place at the behest of a private individual. Still worse yet, this individual had already been granted reasonable relief by the court and was entitled to a Confession of Civil Judgment so that he could collect the outstanding amount owed. APPENDIX, 17.

The court’s actions effectively turned the Division into a debt collection agency at the request of a private citizen. The Division noted that Appellant had been making good faith payments, had been gainfully employed, and was zealously pursuing the restitution payments. APPENDIX, 9-10. This is not a situation where an individual remained intentionally unemployed to deprive the victim of restitution, was not cooperative with the Division, or was otherwise acting in bad faith and requiring supervision. Appellant was, by all accounts, a model probationer – she simply did not have more than \$43,950.00 by which to pay the victim. Imposing probation on Appellant that includes a monetary amount due when the court knows she will be unable to pay is simply a way to retain Appellant on probation for an

unreasonably long period, and use the Division as a debt collector, rather than pursuing legitimate avenues for collection.

Furthermore, the court's actions have had a significant, ongoing, detrimental impact on Appellant. Due to the dishonorable discharge entered on September 8, 2021, Appellant is no longer eligible for probation and, instead, will be automatically subject to prison time, should she acquire any future infractions. Subjecting an otherwise model probationer to mandatory prison time for future infractions, due to a mere inability to pay the entirety of a judgment, is undeniably contrary to society's interests in rehabilitation. Appellant will also be unable to seal records related to the conviction, pursuant to NRS 179.245(1)(b), until September of 2026 – nearly four (4) years after she would have otherwise been able to, based on her initial discharge date.

A court abuses its discretion when the decision made is not supported by the appropriate legal principles and legal policies, relevant to the issue being decided. Here, the District Court relied on Appellant's failure to pay full restitution to reinstate probation and potentially subject Appellant to prison time, despite the victim already obtaining reasonable relief via the filing of a *Confession of Civil Judgment*. APPENDIX, 17. By reinstating such probation, the Court has retained Appellant on probation for an unreasonably long period (over seven (7) years total at the time of dishonorable discharge), in violation of probationary statutory periods,

and remanded debt collection duties to the Division – two actions that are undeniably not supported by statute or outstanding legislative policies. This abuse of discretion warrants a reversal of the Sixth Judicial District Court’s decision to dishonorably discharge Appellant, as entered on September 8, 2021.

**II. Whether The Reimposition of Probation on Appellant Constitutes an Illegal Sentence, Due to Said Reimposition Resulting in a Term of Probation Lasting Longer Than the Limited Five-Year Period Permitted by NRS 176A.500.**

Appellant next contends that the reimposition of probation on Appellant constitutes an illegal sentence, due to the reimposition resulting in a term of probation lasting longer than the limited five-year period permitted by the terms of NRS 176A.500, effective through June 30, 2020. The statute provides:

**NRS 176A.500 [Effective through June 30, 2020.]**

1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

- (a) Three years for a:
  - (1) Gross misdemeanor; or
  - (2) Suspension of sentence pursuant to NRS 176A.260, 176A.290 or 453.3363; or
- (b) Five years for a felony.

NRS 176A.500 has since been amended to provide for a significantly shorter maximum probationary period for Category C felonies of two years:

**NRS 176A.500 [Effective July 1, 2020]**

1. Except as otherwise provided in subsection 2, the period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

- (a) Twelve months for a:
  - (1) Gross misdemeanor; or
  - (2) Suspension of sentence pursuant to NRS 176A.240, 176A.260, 176A.290 or 453.3363;
- (b) Eighteen months for a category E felony;
- (c) Twenty-four months for a category C or D felony;
- (d) Thirty-six months for a category B felony; or
- (e) Notwithstanding the provisions of paragraphs (a) to (d), inclusive, 60 months for a violent or sexual offense as defined in NRS 202.876 or a violation of NRS 200.508.

Though the new provisions are not determinative in the outcome of this case, they do provide evidence of legislature's intention to limit the probationary period for felonies to a maximum of five (5) years.

The Sixth Judicial District Court misinterpreted and overextended the verbiage of NRS 176A.500 that was in effect at the time of its decision. The issue at hand appears to be the calculation of time – when it begins and when time is tolled. Under the District Court's apparent reading, the five-year maximum probationary

period may be broken up and applied piecemeal at the discretion of the court, so long as it does not exceed five years in the aggregate.

Such an interpretation cannot be upheld. A judge would be able to place an individual on probation for years, discharge that person, and then reinstate probation years later by revoking the prior order. Probation and the threat thereof, which includes the possibility of prison time for any violations, could last for a decade or more. The legislature could not reasonably have intended such a result. A reasonable interpretation of NRS 176A.500 (effective prior to June 30, 2020) would be that probation must terminate five years from the date of sentencing or entry of the JOC or thereabouts.

As noted previously, the current version of the statute, applicable July of 2020 onward, reinforces the proposition that the legislature does not intend to retain defendants on probation for a decade. The current version of NRS 176A.500 provides that an individual may not be on probation longer than twenty-four (24) months for a category C felony, the type of which Appellant herein was convicted of. Simply put, a brief look at the statute will show that the Order vacating Appellant's honorable discharge is contrary to both the law applicable at the time, and the ongoing intent of the legislature.

Furthermore, even if the legislature did intend a five-year aggregate probationary period, it should not matter. The District Court vacated its prior order



discharging Appellant from probation, thereby rendering the underlying Order void. Since the Order was void, Appellant was never actually discharged from probation, until the *Order Clarifying Order for Dismissal Entered June 21, 2021*, was entered on September 8, 2021. Appellant's time on probation therefore ran from the initial sentencing date in August of 2014, until September of 2021 – over seven (7) years in total. Seven (7) years is undisputedly more than the five (5) years permitted by the statute at the time probation was reimposed, and significantly more than the two (2) years permitted by the current statute for Category C felonies. The District Court's interpretation is flawed and Appellant should be permanently discharged on these grounds alone.

### **III. Conclusion**

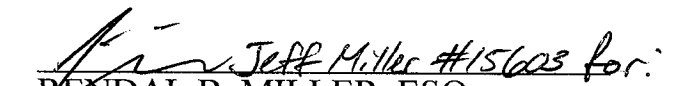
In Conclusion, Appellant submits to this Court a plea for relief from the Order entered by the lower court on the basis of 1) abuse of discretion for its reimposition of probation on Appellant for failure to make all restitution payments due to economic hardship, and 2) imposition of an illegal sentence due to Appellant's ultimate probationary term exceeding the permitted five-year period allowed pursuant to NRS 176A.500, effective through June 30, 2020.

Appellant has shown to the best of her ability that the Sixth Judicial District Court abused its discretion when it reimposed her probation sentence, effectively

keeping her on probation for an unreasonably long period of time (in excess of the five-year maximum probationary period) and remanding private debt collection duties to the Division. Further, Appellant has shown that the Sixth Judicial District Court's decision is contrary to prevailing legislative policy, and based on a misinterpretation of relevant statutory authority.

Appellant therefore prays from this Honorable Court that it reverse the decision made by the Sixth Judicial District Court in its *Order Vacating Order to Honorably Discharge Probationer and Set Hearing* filed on May 10, 2019, and instead reinstate the court's previous decision to honorably discharge Appellant from probation, effective December 18, 2017.

DATED this 8 day of April, 2022.

  
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## ATTORNEY'S CERTIFICATION OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Times New Roman type style, 14 pt.

I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 5,168 words.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, NRAP 28, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.

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I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 8 day of April, 2022.

 Jeff Miller #15603 For:  
RENDAL B. MILLER, ESQ.  
Attorney for : Appellant  
Nevada Bar No. 12257  
115 West 5th Street  
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## CERTIFICATE OF MAILING

I, CRISTAL MCDADE, certify that I am a legal assistant to RENDAL B. MILLER, ESQ. and on the 8<sup>th</sup> day of April, 2022, I deposited a true and correct copy of the foregoing Appellant's Opening Brief and Appellant's Appendix, in the U.S. Mail, first class postage, prepaid pursuant to NRCP 59(b), addressed to the following:

Humboldt County District Attorney  
P.O. Box 909  
Winnemucca, Nevada 89445  
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