

1 Case No. DC-CR-21-202

2 Dept. No. 3

FILED

2021 NOV -8 AM 11:02

4th JUDICIAL DISTRICT COURT
CLERK
Electronically Filed
Nov 16, 2021 11:53 a.m.

Elizabeth A. Brown
Clerk of Supreme Court

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

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 VS.

11 NICHOLAS CHARLES LANZALACA,

12 Defendant.

NOTICE OF APPEAL

13
14
15 TO: The Elko County District Attorney's Office.

16 NOTICE is hereby given that the above-named Defendant, NICHOLAS
17 CHARLES LANZALACA, hereby appeals to the Supreme Court of Nevada from the
18 JUDGMENT OF CONVICTION entered in this action on October 11, 2021.
19

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

21 DATED this 7th day of November, 2021.

22
23 BEN GAUMOND LAW FIRM, PLLC

24
25 By: 

26 BENJAMIN C. GAUMOND, ESQ.

27 Nevada Bar Number 8081

28 495 Idaho Street, Suite 209

Elko, Nevada 89801

(775)388-4875 (phone)

(800)466-6550 (facsimile)

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Honorable Mason Simons
District Court Judge, Department #3
571 Idaho Street
Elko, NV 89801

Aaron Ford
Nevada Attorney General
100 N. Carson Street
Carson City, Nevada 89701-4717

FILED

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4th JUDICIAL DISTRICT COURT

CLERK

1 Case No. DC-CR-21-202

2 Dept. No. 3

3
4 IN THE FOURTH JUDICIAL DISTRICT COURT

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

6
7
8 THE STATE OF NEVADA,)

9 Plaintiff)

10 v.)

11 NICHOLAS CHARLES LANZALACA,)

12 Defendant.)

CASE APPEAL STATEMENT

13
14 1. **Name of appellant filing case appeal statement:** The name of the
15 Appellant is Nicholas Charles Lanzalaca.

16
17 2. **Identify the judge issuing the decision, judgment, or order**
18 **appealed from:** The judge who issued the JUDGMENT OF CONVICTION was the
19 Honorable Mason Simons, Fourth Judicial District Court of the State of Nevada, in
20 and for the County of Elko, Department Three.

21
22 3. **Identify of each appellant and the name and address of counsel**
23 **for each appellant.** The sole appellant in this case is Nicholas Charles Lanzalaca.
24 Counsel for Appellant is Benjamin C. Gaumond, Ben Gaumond Law Firm, PLLC,
25 495 Idaho Street, Suite 209, Elko, Nevada 89801.

26
27 4. **Identify each respondent and the name and address of**
28 **appellate counsel, if known, for each respondent.** The sole respondent in this
29

1 case is the State of Nevada. Counsel for the Respondent are Tyler J. Ingram and
2 Justin Barainca, Elko County District Attorney's Office, 540 Court Street, Second
3 Floor, Elko, Nevada 89801. Also representing the Respondent is Aaron D. Ford,
4 Nevada Attorney General, 100 North Carson Street, Carson City, NV 89701.
5

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

11 **6. Indicate whether appellant was represented by appointed or**
12 **retained counsel in the district court:** Nicholas Charles Lanzalaca was
13 represented by appointed counsel at the district court level.
14

15 **7. Indicate whether appellant was represented by appointed or**
16 **retained counsel on appeal:** Nicholas Charles Lanzalaca is represented by
17 appointed counsel on this appeal.
18

19 **8. Indicate whether appellant was granted leave to proceed in**
20 **forma pauperis, and the date of entry of the district court order granting**
21 **such leave:** Leave to proceed in forma pauperis was granted on October 13, 2021.
22

23 **9. Indicate the date the proceedings commenced in the district**
24 **court:** The Criminal Information was filed in the district court on July 9, 2021. The
25 Amended Criminal Information was filed in the district court on August 3, 2021.
26

27 **10. Provide a brief description of the nature of the action and**
28 **result in the district court, including the type of judgment or order being**
29

1 **appealed and the relief granted by the district court:** Defendant Nicholas
2 Charles Lanzalaca appeals from the JUDGMENT OF CONVICTION that the
3 District Court issued on October 11, 2021. The district court sentenced Defendant
4 Michael William Elizondo to a suspended prison term of twelve to thirty (12-30)
5 months and placed Nicholas Charles Lanzalaca on probation for eighteen (18)
6 months. Nicholas Charles Lanzalaca had previously pled guilty to Attempted
7 Possession of a Controlled Substance. The district court elected to adjudicate the
8 case as a category E felony.
9

11 11. **Indicate whether the case has previously been the subject of an**
12 **appeal or original writ proceeding in the Supreme Court and, if so, the**
13 **caption and Supreme Court docket number of the original proceeding:** The
14 case has never been the subject of an appeal or writ proceeding in the Supreme
15 Court.
16

18 12. **Indicate whether this appeal involves child custody or**
19 **visitation:** This appeal does not involve child custody or visitation.
20

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25 ///

26 ///

27 ///

28 ///

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: This is not a civil case.

DATED this 7th day of November, 2021.

BEN GAUMOND LAW FIRM, PLLC

By: BENJAMIN C. GAUMOND, ESQ.
Nevada Bar Number 8081
495 Idaho Street, Suite 209
Elko, Nevada 89801
(775)388-4875 (phone)
(800)466-6550 (facsimile)

CERTIFICATE OF SERVICE

I hereby certify that I am the owner of BEN GAUMOND LAW FIRM, PLLC and that on the 8th day of November, 2021, I served the foregoing CASE APPEAL STATEMENT by hand-delivering a copy of said document to the following:

Elko County District Attorney's Office
540 Court Street
Second Floor
Elko, NV 89801

Honorable Mason Simons
District Court Judge
571 Idaho Street
Elko, NV 89801

///

///

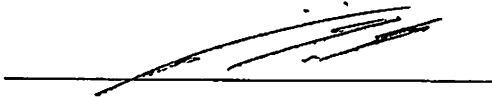
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CERTIFICATE OF MAILING

I hereby certify, pursuant to the provisions of NRAP 25(d), that I am the owner of BEN GAUMOND LAW FIRM, PLLC and that on this 7th day of November, 2021, I mailed, postage prepaid, the foregoing CASE APPEAL STATEMENT to the following:

Aaron Ford
Nevada Attorney General
100 N. Carson Street
Carson City, Nevada 89701-4717

A handwritten signature in dark ink, appearing to read 'Aaron Ford', is written over a horizontal line.

FILED

2021 NOV -8 AM 11:02

4th JUDICIAL DISTRICT COURT
CLERK

1 Case No. DC-CR-21-202

2 Dept. No. 3

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

7)
8 THE STATE OF NEVADA,)

9 Plaintiff)

10 v.)

11 NICHOLAS CHARLES LANZALACA,)

12 Defendant.)
13

REQUEST FOR ROUGH DRAFT

TRANSCRIPTS

14 To: Department Three of District Court and Court Reporter.

15 Nicholas Charles Lanzalaca, Defendant above-named, requests the
16 preparation of a rough draft transcript of certain portions of the proceedings before
17 the district court as follows:
18

19 (1) Date of the proceedings: August 6, 2021

20 Transcript requested: Arraignment hearing
21

22 (2) Date of the proceedings: October 8, 2021

23 Transcript requested: Sentencing hearing
24


25 This notice requests a transcript of only those portions of the district court
26 proceedings that defense counsel reasonably and in good faith believes are necessary
27 to determine whether appellate issues are present. Voir dire examination of jurors,
28
29

1 opening statements and closing arguments of trial counsel, and the reading of jury
2 instructions shall not be transcribed unless specifically requested above.

3
4 I recognize that I must serve a copy of this form on the above-named court
5 reporter and opposing counsel, and that the above-named court reporter shall have
6 twenty (20) days from the receipt of this notice to prepare and submit to the district
7 court the rough draft transcript requested herein.

8
9 DATED this 7th day of November, 2021.

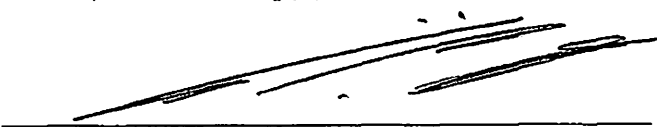
10
11 BEN GAUMOND LAW FIRM, PLLC

12
13 By: 
14 BENJAMIN C. GAUMOND, ESQ.
15 Nevada Bar Number 8081
16 495 Idaho Street, Suite 209
17 Elko, Nevada 89801
18 (775)388-4875 (phone)
19 (800)466-6550 (facsimile)

20
21 CERTIFICATE OF SERVICE

22 I hereby certify that I am the owner of BEN GAUMOND LAW FIRM, PLLC
23 and that on the 8th day of November, 2021, I served the foregoing REQUEST FOR
24 ROUGH DRAFT TRANSCRIPTS by hand-delivering a copy of said document to:

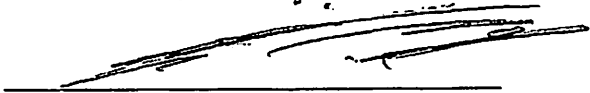
25 Elko County District Attorney's Office
26 540 Court Street, Second Floor, Elko, NV 89801

27 The Honorable Mason Simons
28 District Court Judge, Department No. 3
29 571 Idaho Street, Elko, NV 89801
(with extra copy for court reporter)


CERTIFICATE OF MAILING

I hereby certify, pursuant to the provisions of NRAP 25(d), that I am the owner of BEN GAUMOND LAW FIRM, PLLC and that on the 7th day of November, 2021, I mailed, postage prepaid, the foregoing REQUEST FOR ROUGH DRAFT TRANSCRIPTS to the following:

Aaron Ford
Nevada Attorney General
100 N. Carson Street
Carson City, Nevada 89701-4717



Case Summary

DC-CR-21-202 - STATE OF NEVADA VS. LANZALACA, NICHOLAS CHARLES

Court: DC-CR-21-202

Agency: Elko County Clerk's Office

Type: Criminal
Status: Closed

CaseID: 21-1326
Received Date: 7/9/2021
Status Date: 10/11/2021

Age: 124 days Active Age: 124 days

Involvements

SIMONS, MASON Judge
BARAINCA, JUSTIN Prosecution Attorney
LANZALACA, NICHOLAS Defendant
ELKO COUNTY PUBLIC DEFENDER'S OFFICE, Defense
Attorney, Inactive
BEN GAUMOND LAW FIRM PLLC, Court Appointed Attorney

Filed Charge - Criminal Information

1. NRS 453.336 - POSSESSION OF A SCHEDULE I OR II CONTROLLED SUBSTANCE Occurred: 4/28/2021

Felony Felony - Drugs Category E 7/9/2021 12:00:00 PM

Disposition: Dismissed (Before Trial) Dispo Date: 10/11/2021

Notes: EL-CJ-CR-F-21-2406

Notes: PCN: NVELSO4009578C

1. NRS 453.336.2A - ATTEMPT POSSESS SCHEDULE I OR II CONTROLLED SUBSTANCE LESS THAN 14 GRAMS, FIRST OR SECOND OFFENSE Occurred: 4/28/2021

Felony Felony - Drugs Category E 8/3/2021 12:00:00 PM

Plea: Guilty Plea Date: 8/6/2021 Disposition: Guilty Plea (Before Trial) Dispo Date: 10/11/2021

Notes: EL-CJ-CR-F-21-2406

Notes: PCN: NVELSO4009578C

Case History

Date	Event Type Desc	Status
	Awaiting Charging Decision - Case Status	
	Case Status Change	
	Pending - Case Status	
	CRIMINAL INFO FILED	
	Awaiting Return of Original Warrant - Task	
Arraignment Hearing - Event	8/6/2 8/6/2021 10:30 AM 021 10:30 :00 AM	8/6/2021 10:30:00 AM

Case Summary

	Sentencing Hearing - Event	10/8/2021 10:30 AM	10/8/2021 10:30:00 AM
	Closed - Case Status		
	JOC FILED		
4/29/2021	Surety Bond - District Court - BOND	For:	LANZALACA, NICHOLAS CHARLES
	For: LANZALACA, NICHOLAS CHARLES		
	Amount		
	\$5,000.00		
	ELKO BAIL BONDS / BOND EXONERATED CERTIFICATE AS 1394679 MAILED TO AMERICAN SURETY COMPANY P.O. BOX68932 INDIANAPOLIS, IN 46268		
4/29/2021	CRIMINAL COMPLAINT - Document		
4/29/2021	BOOKING SHEET 04.29.2021 - Document		
	BOOKED 04/28/21, ARREST CHARGES		
4/29/2021	WWPD ARREST INFORMATION FORM - Document		
4/29/2021	NPRA QUESTIONNAIRE - Document		
4/29/2021	DECLARATION OF PROBABLE CAUSE - Document		
5/7/2021	RECEIPT FOR BOND RECEIVED - Document		
	SURETY BOND POSTED IN THE AMOUNT OF \$5,000.00 BY ELKO BAIL BONDS		
5/7/2021	SURETY BOND - Document		
	POSTED IN THE AMOUNT OF \$5,000.00 BY ELKO BAIL BONDS		
5/7/2021	SCHEDULE COURT APPEARANCE NOTIFICATION - Document		
6/21/2021	EMAIL FROM DEFENDANT - Document		
6/23/2021	APPLICATION FOR APPOINTMENT OF ATTORNEY - Document		

Case Summary

6/23/2021	ORDER APPOINTING PUBLIC DEFENDER - Document
6/29/2021	EX PARTE MOTION TO WITHDRAW AS COUNSEL OF RECORD AND FOR APPOINTMENT OF NEW COUNSEL - Document
6/30/2021	ORDER GRANTING EX PARTE MOTION TO WITHDRAW AS COUNSEL AND FOR APPOINTMENT OF NEW COUNSEL - Document
7/6/2021	WAIVER OF PRELIMINARY HEARING ON THE ADVICE OF COUNSEL - Document NO PLEA AGREEMENT
7/7/2021	ORDER BINDING OVER TO DISTRICT COURT (OUT OF CUSTODY) - Document
7/9/2021	RECORD OF COURT PROCEEDINGS - Document
7/9/2021	CRIMINAL INFORMATION - Document
8/3/2021	AMENDED CRIMINAL INFORMATION - Document FILE CHECKED OUT AMENDED CI PLACED IN DC3 P/U BOX
8/4/2021	8.6.21 ARRAIGNMENT HEARING - Document
8/5/2021	GUILTY PLEA AGREEMENT- Document FILE CHECKED OUT MOPA PLACED IN DC3 P/U BOX
8/6/2021	DC3 PSI Request - Document
10/8/2021	10.8.21 DC3 SENTENCING MINUTES - Document
10/11/2021	MOTION TO ALLOW DEFENDANT TO PROCEED ON APPEAL IN FORMA PAUPERIS- Document MOTION FOR ORDER SHORTENING TIME ON RESPONSE; PLACED IN DC3 BOX

Case Summary

10/11/2021 SUBMISSION OF ORDER - ORDER
SHORTENING TIME ON RESPONSE TO
MOTION TO ALLOW DEFENDANT TO
PROCEED ON APPEAL IN FORMA PAUPERIS -
Document
COPY PROVIDED BY GAUMOND OFFICE; PLACED IN DC3 BOX

10/11/2021 SUBMISSION OF ORDER - ORDER ALLOWING
DEFENDANT TO PROCEED ON APPEAL IN
FORMA PAUPERIS - Document Order Filed
COPIES PROVIDED BY GAUMOND OFFICE; PLACED IN DC3 BOX

10/11/2021 BAIL BOND EXONERATED CERTIFICATE AS5
1394679 - Document
BOND EXONERATED CERTIFICATE AS5 1394679 MAILED TO
AMERICAN SURETY COMPANY
P.O. BOX68932
INDIANAPOLIS, IN 46268

10/11/2021 TRANS CONF RPT - DPS - Document
BOOKING SHEET, AMENDED CRIMINAL INFORMATION AND JOC FAXED TO DPS

10/11/2021 JUDGMENT OF CONVICTION (GUILTY PLEA)
- Document
COUNT 1: ATTEMPTED POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY AS
DEFINED BY NRS 453.336 AND NRS 193.330 (NOC 62074);
\$25 ADMIN FEE; \$3 DNA ADMIN ASSESSMENT;\$60 FEE FOR THE ANALYSIS OF THE CONTROLLED
SUBSTANCE;
\$150 FEE FOR PERFORMING GENETIC MARKER ANALYSIS;
TO SERVE 12 TO 30 MOS IN NDOC FOR CREDIT FOR 16 HOURS SERVED.
SENTENCE SUSPENDED AND PLACED ON 18 MOS PROBATION; TO COMPLY WITH STANDARD
RULES OF PROBATION AND THE FOLLOWING SPECIAL CONDITIONS:
COMPLETE A DRUG AND ALCOHOL EVAL WITHIN 30 DAYS AND COMPLY WITH ANY
RECOMMENDATIONS, NO ALCOHOL, NO MARIJUANA, NO GAMBLING, SUBMIT ANY/ALL DIGITAL
STORAGE MEDIA DEVICES TO SEARCHES,
DEFENDANT TO REPORT TO P&P NO LATER THAN OCTOBER 8, 2021.
4 PGS

10/13/2021 ORDER ALLOWING DEFENDANT TO
PROCEED ON APPEAL IN FORMA PAUPERIS -
Document

10/18/2021 SUBMISSION BY THE STATE OF THE
MOTION TO ALLOW DEFENDANT TO
PROCEED ON APPEAL IN FORMA PAUPERIS -
Document
MOTION FOR ORDER SHORTENING TIME ON RESPONSE

10/18/2021 PROBATION AGREEMENT AND RULES -
Document
PLACED IN DC3 BOX

Case Summary

11/5/2021 REQUEST FOR REVIEW REGARDING
MOTION TO ALLOW DEFENDANT TO
PROCEED ON APPEAL IN FORMA PAUPERIS-
Document

11/8/2021 NOTICE OF APPEAL - Document

11/8/2021 CASE APPEAL STATEMENT- Document

11/8/2021 REQUEST FOR ROUGH DRAFT TRANSCRIPTS
- Document

11/10/2021 CERK'S CERTIFICATE - Document

SIGNED AND SEALED. FILED WITH THE SUPREME COURT. EMAILED TO DA AND BEN GAUMOND.
MAILED COPY TO ATTORNEY GENERAL

Bonds

For	Bond Dt	Bond Type	Bond Status	Modified DT	Amount
1 - NICHOLAS CHARLES LANZALACA	4/29/2021	Surety Bond - District Court	Exonerated	10/11/2021	\$5,000.00

Conditions

Power Number : AS51394679

History

Bond Dt	For	Type	Status	Amount
4/29/2021	NICHOLAS CHARLES LANZALACA	Surety Bond - District Court	Surety Bond Posted	\$5,000.00

ELKO BAIL BONDS

Case Obligations

Obligation	Pay By	Due Date	Obligation Amount	Amount Paid	Balance Due
DC3 Admin Assessment Fee: 453.336 NRS 176.062 \$20	1--LANZALACA, NICHOLAS-NRS	11/10/2021	\$20.00	\$0.00	\$20.00
DC3 Admin Assessment Fee: 453.336 NRS 176.062 \$5	1--LANZALACA, NICHOLAS-NRS	11/10/2021	\$5.00	\$0.00	\$5.00
DC3 Genetic Admin Assessment Fee: NRS 176.0623 \$3	1--LANZALACA, NICHOLAS-NRS 453.336	11/10/2021	\$3.00	\$0.00	\$3.00
DC3 Forensic Fee: NRS 453.575 \$60	1--LANZALACA, NICHOLAS-NRS 453.336.2A	11/10/2021	\$60.00	\$0.00	\$60.00
DC3 Genetic Marker Test: NRS 176 .0915 \$150	1--LANZALACA, NICHOLAS-NRS 453.336.2A	11/10/2021	\$150.00	\$0.00	\$150.00

Total Personal Obligation(s):	\$238.00	\$0.00	\$238.00
Total Case Obligation(s):	\$238.00	\$0.00	\$238.00

FILED

2021 OCT 11 AM 10:56

4th JUDICIAL DISTRICT COURT
CLERK _____ DEPUTY _____

CASE NO. DC-CR-21-202

DEPT. NO. 3

FOURTH JUDICIAL DISTRICT COURT
COUNTY OF ELKO, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

JUDGMENT OF CONVICTION

vs.

NICHOLAS CHARLES LANZALACA,

Defendant.

On August 6, 2021, Defendant, NICHOLAS CHARLES LANZALACA (Date of Birth: August 29, 1990; Place of Birth: Salt Lake City, UT) entered a plea of guilty to the crime of **COUNT 1: ATTEMPTED POSSESSION OF A CONTROLLED SUBSTANCE, A CATEGORY E FELONY OR A GROSS MISDEMEANOR AS DEFINED BY NRS 453.336 AND NRS 193.330 (NOC 62074)** which crime occurred on or about April 28, 2021, and sentenced Defendant on October 8, 2021, as follows:

IT IS HEREBY ORDERED that the aforementioned charge is adjudicated as a Category E Felony.

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

IT IS FURTHER ORDERED that Defendant shall pay a DNA administrative assessment fee of \$3.00 pursuant to NRS 176.0623.

IT IS FURTHER ORDERED that Defendant shall pay \$60.00 fee for the analysis of the controlled substance pursuant to NRS 453.575.

1
2 **IT IS FURTHER ORDERED** that the Defendant shall pay a \$150.00 fee
3 for purposes of obtaining a biological specimen from the Defendant
4 and for performing genetic marker analysis of said specimen pursuant
5 to NRS 176.0915.

6 **IT IS FURTHER ORDERED** that for Count 1, Defendant is ordered to
7 serve a sentence of 12 to 30 months in the Nevada Department of
8 Corrections. Defendant has credit for 16 hours previously served, as
9 of October 8, 2021.

10 **IT IS FURTHER ORDERED** that the sentence for Count 1 is suspended,
11 and Defendant is placed on a term of formal probation of 18 months
12 pursuant to NRS 176A.500. While on probation, the Defendant shall
13 comply with the standard rules contained in the Order Admitting
14 Defendant to Probation.

15 In addition, Defendant is required to comply with the following special
16 conditions of probation:

- 17 1. Defendant shall complete a drug and alcohol evaluation within 30
18 days, provide a copy of said evaluation to the Division of Parole
19 and Probation, and shall comply with any recommendations
20 contained in that evaluation, as directed by the Division of Parole
21 and Probation.
- 22 2. Defendant shall not possess or consume any alcoholic beverages.
23 Further, Defendant shall not be present in bars or any other
24 establishment whose primary purpose is the serving of alcoholic
25 beverages, unless required by, and in the scope of, actual
26 employment.
- 27 3. Defendant shall not possess or consume marijuana or marijuana
28 related products. Further, Defendant shall not be present in
marijuana dispensaries or any other establishment whose primary
purpose is the selling of marijuana or marijuana related products.
4. Defendant shall not gamble. Further, Defendant shall not be
present in casinos or any other establishment whose primary
purpose is gambling, unless required by, and in the scope of,
actual employment.
5. Defendant shall submit her digital storage media and any digital
storage devices to which she has access to or uses, including

1 computers and handheld devices, and any network applications
2 associated with those devices (including social media and remote
3 storage services), to a search, and shall provide all associated
4 passwords, unlock codes and account information, with or without
a search warrant, to the Division of Parole and Probation or its
designated agent.

5 IT IS FURTHER ORDERED that Defendant shall report to the Division
6 of Parole and Probation for intake no later than close of business on
October 8, 2021, or as directed by the Division of Parole and Probation.

7 IT IS FURTHER ORDERED that the bail bond previously posted in the
8 amount of \$5,000.00 (AS5-1394679) is EXONERATED.

9 At the time Defendant entered his plea of guilty, and at the time he was sentenced, he
10 was represented by Ben Gaumond, Esq.

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

13 DATED this 11 day of October, 2021.

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17 HON. MASON E. SIMONS
18 DISTRICT COURT JUDGE
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Elko County District Attorney's Office
Ben Gaumond, Esq.
State of Nevada, Division of Parole & Probation

Melisse Sehner
Court Staff

1 CASE NO.: DC-CR-21-202

2 DEPT. NO.: 3

FILED

2021 OCT 13 PM 3:47

ELKO CO DISTRICT COURT

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

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 NICHOLAS CHARLES LANZALACA,
12 Defendant.

ORDER ALLOWING DEFENDANT
TO PROCEED ON APPEAL IN
FORMA PAUPERIS

13
14
15 On Monday, October 11, 2021, Defendant NICHOLAS CHARLES LANZALACA
16 filed his MOTION TO ALLOW DEFENDANT TO PROCEED ON APPEAL IN
17 FORMA PAUPERIS. Good cause appearing, IT IS HEREBY ORDERED that
18 Defendant NICHOLAS CHARLES LANZALACA shall be allowed to proceed on
19 appeal in forma pauperis in the above-entitled matter.
20

21 DATED this 13 day of OCT., 2021.

22
23
24
25 THE HONORABLE MASON SIMONS
DISTRICT COURT JUDGE, DEPT. NO. 3

26 Submitted by
27 BEN GAUMOND LAW FIRM, PLLC

28
29 BENJAMIN C. GAUMOND, ESQ.
Nevada Bar Number 8081

**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: August 06, 2021

VS.

Case No.: DC-CR-21-202

Dept.: 3

NICHOLAS CHARLES
LANZALACA,

Defendant.

State of Nevada represented by Justin Barainca, Esq.
Defendant present, out of custody, and represented by
Benjamin Gaumond, Esq.
Court Clerk, Brandi McConnell, present.

ARRAIGNMENT – GUILTY PLEA AGREEMENT

Court convened at 11:23 a.m.

The Court noted the presence of the parties.

This was the date and time set for an arraignment on the Criminal Information filed charging
COUNT 1: ATTEMPTED POSSESSION OF A SCHEDULE I OR II CONTROLLED SUBSTANCE,
A CATEGORY E FELONY OR A GROSS MISDEMEANOR IN VIOLATION OF NRS 453.336.
AND NRS 193.330.

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

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

The name of the Defendant was correctly stated.

Defense counsel waived the formal reading of the Criminal Information.

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

The Defendant entered a plea of guilty to the charge.

The Court canvassed the Defendant regarding his personal information.

The Court noted that a 9-page Memorandum of Plea Agreement was filed August 5, 2021 and canvassed the Defendant concerning the agreement.

The Court canvassed the Defendant regarding the elements of the crime, the potential defenses, and his constitutional rights.

Defense counsel placed the terms of the Plea Agreement on the record. All parties concurred.

The State cited the elements of the crime and the potential penalties involved.

The Court advised the Defendant that sentencing was wholly within the discretion of the Court.

The Court reviewed the Defendant's Constitutional Rights, and the Defendant waived the same.

The Defendant presented an explanation of the crime alleged in the Criminal Information.

The Court found that the Defendant's plea was offered voluntarily, knowledgeably, and intelligently, with full knowledge of his Constitutional Rights, and there was a factual basis for the plea, and the Defendant understood the consequences of his plea.

The Court **ORDERED** a Presentence Investigation Report due on or before September 24, 2021. Sentencing was set for October 8, 2021, at 10:30 a.m.

The Court instructed the Defendant to cooperate with the Division in the preparation of the presentence investigation report.

Court adjourned at 11:37 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: October 08, 2021

Case No.: DC-CR-21-202

Dept: 3

NICHOLAS CHARLES
LANZALACA,

Defendant.

State of Nevada represented by Mercedes Martinez, Esq.
Defendant present, out of custody, and represented by
Benjamin Gaumond, Esq.
Court Clerk, Kristy Day, present.

SENTENCING HEARING

Court convened at 8:23 a.m.

The Court noted the presence of the parties.

This was the date and time set for a sentencing hearing.

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

The State did not make any corrections to the report.

Defense counsel made corrections to the report.

No objections by the State or Parties to making correction via interlineation.

The Court advised the Defendant had credit for 16 hours previously served.

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 did not address 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: ATTEMPTED POSSESSION OF A SCHEDULE I OR II CONTROLLED SUBSTANCE, A CATEGORY E FELONY.

The matter being submitted;

The Court **ORDERED** the Defendant to pay a \$25.00 administrative assessment fee, \$3.00 genetic administrative assessment fee, \$60.00 chemical analysis fee, \$150.00 genetic testing fee, submit to testing to determine his genetic markers, and be sentenced to serve a maximum of 30 months in the Nevada Department of Corrections with minimum parole eligibility after 12 months with credit for 16 hours previously served. Said sentence was suspended and the Defendant was placed on probation for 18 months under the standard terms and conditions of probation with the following special conditions:

1. The Defendant to abstain from the use of alcohol or being present in any establishment that serves alcohol unless required to be so present for employment.
2. The Defendant to abstain from gambling or being present in any gaming establishment unless required to be so present for employment.
3. The Defendant to abstain from the use of marijuana and marijuana products.
4. The Defendant to obtain a substance abuse evaluation within 30 days and if deemed necessary by the Division enter and complete a program at his own expense.
5. The Defendant to submit all digital media storage devices to the Division of Parole and Probation with or without a search warrant.
6. The Defendant shall contact Parole and Probation by the close of business on October 8, 2021.

The Court **ORDERED** the previously posted bail bond be exonerated.

Court adjourned at 8:38 a.m.

FILED

Case No. DC-CR-21-202

Dept. No. 3

2021 NOV 10 PM 3:11

ELKO CO DISTRICT COURT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

IN AND FOR THE COUNTY OF ELKO, STATE OF NEVADA

CLERK _____ DEPUTY AM

NICHOLAS CHARLES LANZALACA,
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-21-202, Dept.3, NICHOLAS CHARLES LANZALACA, 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 November 10, 2021.

KRISTINE JAKEMAN, ELKO COUNTY CLERK

By

Annette Marshall

Annette Marshall, DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that I caused to be sent electronically and/or mailed a certified copy of the annexed documents in Case No. DC-CR-21-202, Dept.3, NICHOLAS CHARLES LANZALACA, 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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Aaron Ford
Nevada Attorney General
Attn: Criminal Division
100 North Carson Street
Carson City, NV 89701-4717

DATED this 10th, day of November, 2021.



Annette Marshall, Deputy Clerk