

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARTURO MANUEL VALDEZ

Appellant

vs.

THE STATE OF NEVADA,

Respondent

) Supreme Ct No. 83961

) District Ct No. CR 21-7252

) Electronically Filed
) Jan 27 2022 03:24 p.m.
) Elizabeth A. Brown
) Clerk of Supreme Court
)
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)
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APPELLANT'S FAST TRACK APPENDIX

ATTORNEY FOR APPELLANT

Humboldt County Public Defender
Matt Stermitz, NSB # 3610
Drawer 309
Winnemucca, Nevada 89445
775-623-6550

ATTORNEY FOR RESPONDENT

Humboldt County District Atty
Michael Macdonald
Drawer 909
Winnemucca, Nevada 89445
775-623-6363

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1 NO. CR21-7252

2 DEPT. II

FILED

2021 JUN 25 AM 10:35

MMW
TAMI RAE CEFERO
DIST. COURT CLERK

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6 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7
8 IN AND FOR THE COUNTY OF HUMBOLDT.

9 -oOo-

10 STATE OF NEVADA,

11 Plaintiff,

12 vs.

INFORMATION

13 ARTURO MANUEL VALDEZ

14 DOB: 11/24/1990,

15 Defendant(s) ./

16 MICHAEL MACDONALD, District Attorney of Humboldt County,
17 Nevada, in the name and by the authority of the State of Nevada,
18 informs the Court:
19

20 COUNT I

21 POSSESSION OF A CONTROLLED SUBSTANCE,
22 A CATEGORY E FELONY
AS DEFINED BY NRS 453.336

23 That the Defendant did knowingly, willfully, and
24 unlawfully possess a Schedule I Controlled Substance,
25 in the following manner to-wit: That on or about the
26 4th day of February, 2021, at or near the location of
4025 Estate Rd., Winnemucca, County of Humboldt, State
of Nevada, the Defendant possessed a Schedule I
controlled substance, to-wit: heroin.


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1 All of which is contrary to the form of the statute in such
2 cases made and provided and against the peace and dignity of the
3 State of Nevada.

4 That the names of all witnesses who will testify for the
5 State of Nevada in said action that are known to the District
6 Attorney at the time of the filing of this Information are
7 listed with addresses on the annexed Exhibit "A" and the names
8 of all other witnesses who will testify for the State of Nevada
9 that become known to the District Attorney before time of trial
10 will be endorsed hereon by subsequent Exhibit.

11 Furthermore, pursuant to NRS 239B.030, the undersigned hereby
12 affirms this document does not contain the social security
13 number of any person.
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16 KEVIN PASQUALE
17 Chief Deputy District Attorney
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EXHIBIT "A"
INFORMATION
Names and Addresses Known to the
District Attorney at the time of
Filing of the Information

DET. CHRIS SJOBLOM
Humboldt County Sheriff's Office
50 W. Fifth Street
Winnemucca, NV 89445

DET. FERNANDO RODRIGUEZ
Nevada Division of Investigation
3505 Construction Way
Winnemucca, NV 89445

SGT. JOHN DUNCKHORST
Nevada Division of Investigation
3505 Construction Way
Winnemucca, NV 89445

OFFICER JIMMI SANTOS
Winnemucca Police Department
500 E. Winnemucca Blvd.
Winnemucca, NV 89445

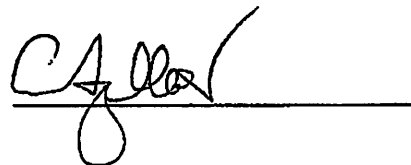
CRIMINALIST
Washoe County Crime Lab
911 Parr Blvd.
Reno, NV 89512

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of
the Humboldt County District Attorney's Office, and that on the
25 day of June, 2021, I delivered a true copy of the
INFORMATION to:

MATT STERMITZ
Humboldt County Public Defender
PO Box 309
Winnemucca, NV 89446

- () U.S. Mail
() Certified Mail
() Hand-delivered
(X) Placed in DCT Box
() Via Facsimile



COPY

FILED

1 Case No. CR21-7252

2 Dept. No. 2

2021 JUN 29 AM 9:05

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4 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN
5 AND FOR THE COUNTY OF HUMBOLDT

6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 ARTURO VALDEZ,

11 Defendant.

12

13 PLEA AGREEMENT

14 I, Arturo Valdez, defendant, hereby agree to plead no contest to one count
15 of possession of a controlled substance, namely, heroin, a category E felony in
16 violation of NRS 453.336.17 My decision to plead no contest is based upon the plea agreement in this
18 case which is as follows: The state will dismiss any other offense, now known to
19 the State of Nevada, to have been committed by me on or about the 4th day of
20 February, 2021.

21

22 CONSEQUENCES OF THE PLEA

23 I understand that by pleading no contest I admit sufficient facts exist to
24 support all the elements of the offense to which I now plead.

25 Possession of a Controlled Substance

26 I understand had the matter gone to trial the State of Nevada would have
27 had to prove beyond a reasonable doubt the following elements:

- 28
1. That the Defendant did knowingly, willfully and unlawfully,
 2. Possess a Controlled Substance, to wit: heroin,

1 3. On or about the 4th day of February, 2021, in Humboldt County, State
2 of Nevada.

3 I understand as a consequence of my plea I could be punished by 1 to 4
4 years in prison and a fine of not more than \$ 5,000.00, and I understand that the
5 law requires me to pay an administrative assessment fee of \$ 25, a DNA fee in
6 the amount of \$ 150.00 and a \$ 3 DNA assessment fee.

7 However, if this is a first or second offense, and if the quantity possessed
8 is less than 14 grams the court shall defer judgment upon my consent. The
9 terms and condition may include payment of restitution; court costs,
10 assessments, costs authorized by law, community service, probation or
11 completion of a specialty court program, i.e. drug court.

12 I understand that, if appropriate, I will be ordered to make restitution to
13 the victim of the offenses to which I am pleading to and to the victim of any
14 related offense which is being dismissed or not prosecuted pursuant to this
15 agreement, I will also be ordered to reimburse the State of Nevada for expenses
16 related to my extradition, if any.

17 I understand that I may be eligible for probation for the offense too which I
18 plead.

19 I understand that whether I receive probation for the offense to which I
20 plead is in the discretion of the sentencing judge.

21 I understand that if more than one sentence of imprisonment is imposed
22 and I am eligible to serve the sentences concurrently, the sentencing judge has
23 the discretion to order the sentences served concurrently or consecutively.

24 I understand that information regarding charges not filed, dismissed
25 charges or charges to be dismissed pursuant to this agreement may be
26 considered by the judge at sentencing.

27 I have not been promised or guaranteed any particular sentence by
28 anyone. I know that my sentence is to be determined by the court within the

1 limits prescribed by statute. I understand that if my attorney or the State of
2 Nevada or both recommend any specific punishment to the court, the court is not
3 obligated to accept the recommendation.

4 I understand that the division of parole and probation of the department of
5 public safety may or will prepare a report for the sentencing judge before
6 sentencing. This report will include relevant matters relating to sentencing,
7 including my criminal history. I understand that this report may contain hearsay
8 information regarding my background and criminal history. My attorney and I will
9 each have the opportunity to comment on the information in the report at
10 sentencing.

11 I understand that if the State of Nevada has agreed to recommend a
12 particular sentence or agreed not to present argument regarding the sentence,
13 such agreement is contingent upon my appearance in Court on the initial
14 sentencing date. I understand that if I fail to appear for any future scheduled
15 court date in regards to this case or I commit a new criminal offense prior to
16 sentencing, the State of Nevada is released from any agreement as to sentence
17 and would regain the full right to argue for any lawful sentence.

18 I understand that, if I am not a citizen of the United States, a collateral
19 consequence of my plea of guilty and the resulting conviction, I may be deported
20 from the United States of America, excluded from admission to the United States
21 of America, or denied naturalization.

22 WAIVER OF RIGHTS

23 By entering my plea, I understand that I have waived the following rights
24 and privileges:

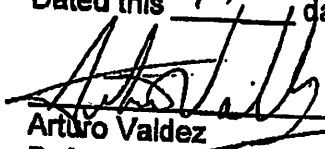
25 1. The constitutional privilege against self-incrimination, including the
26 right to refuse to testify at trial, in which event the prosecution would not be
27 allowed to comment to the jury about my refusal to testify.
28

1 I am signing this agreement voluntarily, after consultation with my
2 attorney and I am not acting under duress or coercion by virtue of any promises
3 of leniency, except for those set forth in this agreement.

4 I am not now under the influence of intoxicating liquor or a drug, which
5 may impair my ability to comprehend or understand this agreement or the
6 proceeding surrounding my entry of plea.

7 My attorney has answered all my questions regarding this plea agreement
8 and its consequences to my satisfaction and I am satisfied with the services
9 provided by my attorney.

10 Dated this 17 day of June, 2021.

11
12 
13 Arturo Valdez
14 Defendant

15 Dated this 17 day of June, 2021.

16
17 
18 Deputy District Attorney

19 **CERTIFICATE OF COUNSEL**

20 I, the undersigned, as the attorney for the defendant named herein and as
21 an officer of the court hereby certify:

22 1. I have fully explained to the defendant the allegations contained in
23 the charges to which a plea is entered.

24 2. I have advised the defendant of the penalties for each charge and
25 the restitution that the defendant may be ordered to pay.
26
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1 3. All pleas offered by the defendant pursuant to this agreement are
2 consistent with all the facts known to me and are made with my advice to the
3 defendant are not in the best interest of the defendant.

4 4. To the best of my knowledge and belief, the defendant;

5 (a) Is competent and understands the charges and the consequences
6 of pleading guilty as provided in this agreement.

7 (b) Executed this agreement and will enter all guilty pleas pursuant
8 hereto voluntarily.

9 (c) Was not under the influence of intoxicating liquor, a controlled
10 substance or other drug at the time of the execution of this agreement.

11 Dated this 17th day of June, 2021.

12 Matt Stermitz
13 Matt Stermitz
14 Attorney for the Defendant
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1 CASE NO. CR 21-7252

2 DEPT. NO. 2

FILED

2021 JUN 30 AM 9:19

TAMI RAE SPERS
DIST. COURT CLERK3
4 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA.
5 IN AND FOR THE COUNTY OF HUMBOLDT
6

7 STATE OF NEVADA,

8 Plaintiff,

9 VS

APPLICATION FOR ASSIGNMENT TO
PROGRAM OF TREATMENT FOR
ALCOHOL OR OTHER SUBSTANCE
ABUSE, PURSUANT TO NRS
176A.230 - 176A.24510
11
12 ARTURO VALDEZ,13 Defendant.
1415 Arturo Valdez, by and through her attorney, the Humboldt County Public
16 Defender, makes this application for assignment to program of treatment for alcohol or
17 other substance abuse pursuant to NRS 176A.230 - NRS 176A.245.
18

HUMBOLDT COUNTY PUBLIC DEFENDER

19 Matt Sternitz20 Matt Sternitz Date:
21 Humboldt County Public Defender
22 Drawer 309
23 Winnemucca, Nevada 89446
24 775-623-8650
25
26
27
28

Arturo Valdez

POINTS AND AUTHORITIES

Pursuant to NRS 176A.230, a court may establish an appropriate program for the treatment of alcohol or other substance use disorders, to which it may assign a defendant pursuant to NRS 174.032, 176.015, 176.211, 176A.240, 176A.400, 453.336¹ or 453.3363. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Pursuant to NRS 176A.240, except as otherwise provided in subparagraph (1) of paragraph (a) of subsection 3 of NRS 176.211, if a defendant who suffers from a substance use disorder or any co-occurring disorder tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may: without entering a judgment of conviction and with the consent of the defendant, suspend or defer further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.230 if the court determines that the defendant is eligible for participation in such a program; or enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.230 if the court determines that the defendant is eligible for participation in such a program.

Except as otherwise provided in subsection 4, a defendant is eligible for participation in a program established pursuant to NRS 176A.230 if the defendant is diagnosed as having a substance use disorder or any co-occurring disorder. After an in-person clinical assessment by: A counselor who is licensed or certified to make such

¹ For a first or second possession of a controlled substances, the court shall defer judgment in accordance with NRS 176.211.

1 a diagnosis; or A duly licensed physician qualified by the Board of Medical Examiners
2 to make such a diagnosis; or pursuant to a substance use assessment.

3 A counselor or physician who diagnoses a defendant as having a substance use
4 disorder shall submit a report and recommendation to the court concerning the length
5 and type of treatment required for the defendant.

6 If the offense committed by the defendant is a category A felony or a sexual
7 offense as defined in NRS 179D.097 that is punishable as a category B felony, the
8 defendant is not eligible for assignment to the program.

9 Upon violation of a term or condition: The court may enter a judgment of
10 conviction, if applicable, and proceed as provided in the section pursuant to which the
11 defendant was charged. Notwithstanding the provisions of paragraph (e) of subsection
12 2 of NRS 193.130, the court may order the defendant to the custody of the Department
13 of Corrections if the offense is punishable by imprisonment in the state prison.

14 Upon fulfillment of the terms and conditions, the court shall discharge the
15 defendant and dismiss the proceedings or set aside the judgment of conviction, as
16 applicable, unless the defendant: (1) has been previously convicted in this State or in
17 any other jurisdiction of a felony; or (2) has previously failed to complete a specialty
18 court program; or may discharge the defendant and dismiss the proceedings or set
19 aside the judgment of conviction, as applicable, if the defendant: (1) has been
20 previously convicted in this State or in any other jurisdiction of a felony; or (2) has
21 previously failed to complete a specialty court program.

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

1 Pursuant to NRS 176A.245 after a defendant is discharged from probation or a
2 case is dismissed pursuant to NRS 176A.240, the court shall order sealed all
3 documents, papers and exhibits in the defendant's record, minute book entries and
4 entries on dockets, and other documents relating to the case in the custody of such
5 other agencies and officers as are named in the court's order if the defendant fulfills the
6 terms and conditions imposed by the court and the Division. The court shall order those
7 records sealed without a hearing unless the Division petitions the court, for good cause
8 shown, not to seal the records and requests a hearing thereon.

8 If the court orders sealed the record of a defendant who is discharged from
9 probation or whose case is dismissed pursuant to NRS 176A.240, the court shall send a
10 copy of the order to each agency or officer named in the order. Each such agency or
11 officer shall notify the court in writing of its compliance with the order.

12 CERTIFICATE OF SERVICE

13 On the 29 day of June, 2021, the undersigned hand delivered a true and
14 correct copy of the foregoing to Humboldt County District Attorney, c/o Humboldt
15 County Courthouse, Winnemucca, Nevada 89445.

16 Matt Sternitz
17 Matt Sternitz
18

Case No. CR 2107252

Dept. No. II

FILED

2021 NOV 24 AM 8:29

TAMI RAE SPERO
DIST. COURT CLERK

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

-oOo-

THE STATE OF NEVADA,

Plaintiff,

vs.

JUDGMENT OF CONVICTION

ARTURO MANUEL VALDEZ,

Defendant. /

WHEREAS, on the 3rd day of August, 2021, the Defendant entered his plea of guilty to the charge of POSSESSION OF A CONTROLLED SUBSTANCE, a Category E Felony, and the matter having been submitted before the Honorable Judge Michael R. Montero.

At the time Defendant entered the plea of guilty, this Court informed the Defendant of the privilege against compulsory self-incrimination, the right to a speedy trial, the right to a trial by jury, the right to compulsory process to compel witnesses to testify on behalf of the Defendant and the right to confront the accusers. That after being so advised, the Defendant stated that these rights were understood and still desired this Court to accept the plea of guilty.

The Court having accepted the Defendant's plea of guilty, set the date of the 21st day of September, 2021, at the hour of 9:30 a.m. as the date and time for imposing judgment and sentence. The Defendant failed to appear and a bench warrant was issued. The Court then set the

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1 date of the 16th day of November, 2021, at the hour of 9:30 a.m. as the date and time for
2 imposing judgment and sentence.

3 Furthermore, at the time Defendant entered the plea of guilty and at the time of sentencing,
4 Defendant was represented by attorney, DERRICK PENNEY, Humboldt County Alternate
5 Public Defender; also present in Court were TAMI RAE SPERO, Humboldt County Court Clerk
6 or her designated agent; MIKE ALLEN, Sheriff of Humboldt County or his designated agent;
7 DEBBIE OKUMA, representing the Division of Parole and Probation; and MICHAEL
8 MACDONALD, Humboldt County District Attorney or his designated agent, representing the
9 State of Nevada.

10 The Defendant having appeared on 16th day of November, 2021, represented by
11 counsel and Defendant having been given the opportunity to exercise the right of allocution and
12 having shown no legal cause why judgment should not be pronounced at this time.

13 The above-entitled Court having pronounced ARTURO MANUEL VALDEZ guilty
14 of POSSESSION OF A CONTROLLED SUBSTANCE, a Category E Felony, in violation of
15 NRS 453.336, on the 16th day of November, 2021, the Defendant was thereby ordered by the
16 Court to serve a minimum term of nineteen (19) months and a maximum term of forty-eight (48)
17 months in the Nevada Department of Corrections, with credit for time served of eighty-four (84)
18 days.

19 The Defendant is ordered to pay an administrative assessment fee in the amount
20 of \$25.00, a forensic fee in the amount of \$60.00, a DNA assessment fee in the amount of \$3.00,
21 and a public defender fee in the amount of \$500.00, payable to the Humboldt County Clerk of
22 the Court.

23 Furthermore, bail, if any, is hereby exonerated.
24

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1 DERRICK PENNEY, Alternate Public Defender represented the Defendant
2 during all stages of the proceedings;

3 MICHAEL MACDONALD, Humboldt County District Attorney, represented the
4 State of Nevada at all stages of these proceedings.

5 Therefore, the clerk of the above-entitled Court is hereby directed to enter this
6 Judgment of Conviction as a part of the record in the above-entitled matter.

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

9 DATED this 23^d day of November, 2021, in the City of Winnemucca, County
10 of Humboldt, State of Nevada.

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12 MICHAEL R. MONTERO
13 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Sixth Judicial District Court, and that on the 23 day of November, 2021, I delivered at Winnemucca, Nevada, by the following means, a copy of the JUDGMENT OF CONVICTION to:

MICHAEL MACDONALD
Humboldt County District Attorney
501 S. Bridge Street
Winnemucca, Nevada
(DCT Box)

DERRICK PENNEY
Humboldt County Alternate Public Defender
Winnemucca, Nevada 89445
(DCT Box)


ELISHA FORMBY
Judicial Assistant

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Case No. CR 21-7252

Dept. No. 2

FILED

2021 DEC 16 AM 10:12

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF HUMBOLDT

STATE OF NEVADA,

Plaintiff,

vs.

ARTURO MANUEL VALDEZ,

Defendant.

NOTICE OF APPEAL

Arturo Manuel Valdez, defendant, by and through his attorney, Matt Stermitz, the Humboldt County Public Defender, appeals to the Nevada Supreme Court from the Judgment of Conviction entered herein on the 24th day of November, 2021, and attached hereto.

Dated this 15th day of December, 2021.

Matt Stermitz
Matt Stermitz, Bar # 03610
Humboldt County Public Defender
Drawer 309
Winnemucca, Nevada 89445
775-623-6550

CERTIFICATE OF SERVICE

Pursuant to applicable appellate rules, on the 15th day of December, 2021, the undersigned mailed a true and correct copy of the foregoing, addressed to: Humboldt County District Attorney, Drawer 909, Winnemucca, Nevada 89445, and Arturo Manuel Valdez, # 1171954, NNCC, P.O. Box 7000, Carson City, Nevada 89701.

Maureen Macdonald
Maureen Macdonald

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Sixth Judicial District Court - Humboldt County
Case Summary

Run: 01/25/2022
12:32:28

Page 1

Case #: CR2107252
Judge: MONTERO, MICHAEL R.
Date Filed: 06/18/2021 Department:
Case Type: DRUG CHARGE

Electronically Filed
Jan 25 2022 12:48 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Plaintiff(s)
NEVADA, THE STATE
Defendant(s)
VALDEZ, ARTURO MANUEL

Attorney(s)
DISTRICT ATTORNEY
Attorney(s)
ALTERNATE PUBLIC DEFENDER

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
11/18/2021	ADMIN	\$25.00	\$0.00	\$0.00	\$25.00

Charge: 453.336 POSSESSION OF A CONTROLLED SUBSTANCE F/E Count 1

Sent: ct pronounced def guilty of possession of a controlled substance a category e felony ordered to serve 19-48 months ndoc cts 84 days and pay a \$3 DNA/3, \$25aa, \$60 ff, \$500 public defender fee

Disp/Judgment: Date:

Hearings:

Date	Time	Hearing
08/03/2021	9:00AM	ARRAIGNMENT
08/10/2021	9:30AM	ARRAIGNMENT
09/21/2021	9:30AM	SENTENCING HEARING
11/16/2021	9:30AM	SENTENCING HEARING

Filings:

Date	Filing
06/18/2021	JUDGE MONTERO, MICHAEL R.: ASSIGNED
06/18/2021	JUSTICE COURT PROCEEDINGS
06/18/2021	PROSECUTOR: DISTRICT ATTORNEY ASSIGNED
06/18/2021	ARRAIGNMENT SET FOR 08/03/2021 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
06/25/2021	INFORMATION AND COPY
06/29/2021	PLEA AGREEMENT
06/30/2021	APPLICATION FOR ASSIGNMENT TO PROGRAM OF TREATMENT FOR ALCOHOL OR OTHER SUBSTANCE ABUSE, PURSUANT TO NRS 176A.230-176A.245
07/16/2021	ARRAIGNMENT SET FOR 07/27/2021 AT 9:30 AM IN C1/ , JDG: MONTERO, MICHAEL R.
07/22/2021	ARRAIGNMENT SET FOR 08/03/2021 AT 9:00 AM IN C1/ , JDG: MONTERO, MICHAEL R.
08/03/2021	ORDER REVOKING OWN RECOGNIZANCE RELEASE
08/03/2021	MINUTES- ARRAIGNMENT

000020

Run: 01/25/2022
12:32:28

Case Summary

Page 2

08/05/2021 ARRAIGNMENT SET FOR 08/10/2021 AT 9:30 AM IN C1/ , JDG: MONTERO,
MICHAEL R.
08/05/2021 CONT ARRAIGNMENT
08/10/2021 ORDER FILED
08/10/2021 MINUTES-ARRAIGNMENT HEARING
08/11/2021 SENTENCING HEARING SET FOR 09/21/2021 AT 9:30 AM IN C1/ , JDG:
MONTERO, MICHAEL R.
08/12/2021 FORM
08/12/2021 DEFENDANT ENTERED PLEA OF GPLEA SEQ 1
08/25/2021 PRE-SENTENCE INVESTIGATION REPORT
09/16/2021 SUBSTANCE ABUSE EVALUATION
09/17/2021 DEFENSE ATTORNEY: ALTERNATE PUBLIC DEFENDER ASSIGNED
09/17/2021 NOTICE OF APPEARANCE OF COUNSEL
09/22/2021 BENCH WARRANT ATTESTED
09/27/2021 BENCH WARRANT (DAY AND NIGHT)
10/04/2021 SENTENCING HEARING SET FOR 11/16/2021 AT 9:30 AM IN C1/ , JDG:
MONTERO, MICHAEL R.
10/11/2021 MOTION TO RELEASE
11/10/2021 SENTENCING HEARING SET FOR 11/16/2021 AT 9:30 AM IN C1/ , JDG:
MONTERO, MICHAEL R.
11/16/2021 MINUTES-SENTENCING HEARING
11/16/2021 CHARGE CNT 1 SENTENCING NOTES: CT PRONOUNCED DEF GUILTY OF
POSSESSION OF A CONTROLLED SUBSTANCE A CATEGORY E FELONY ORDERED
TO SERVE 19-48 MONTHS NDOC CTS 84 DAYS AND PAY A \$3 DNA/3, \$25AA,
\$60 FF, \$500 PUBLIC DEFENDER FEE
11/24/2021 JUDGMENT OF CONVICTION
11/24/2021 GREETINGS AND CHECK OFF LIST
12/16/2021 NOTICE OF APPEAL
12/16/2021 CASE APPEAL STATEMENT
12/16/2021 REQUEST FOR TRANSCRIPT
12/16/2021 CASE APPEAL PACKET
12/22/2021 AMENDED REQUEST FOR TRANSCRIPT- ROUGH DRAFT
12/22/2021 UPDATED DOCKET ENTRIES TO SUPREME COURT
12/27/2021 RECEIPT FOR DOCUMENTS (SC# 83961)
01/25/2022 ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS SENTENCING HEARING

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CERTIFICATION OF COPY

**STATE OF NEVADA,
COUNTY OF HUMBOLDT,**

I, TAMI RAE SPERO, the duly elected, qualifying and acting Clerk of Humboldt County, in the State of Nevada,
and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true , full and correct copy
of the original: Updated docket entries

The State of Nevada,
Plaintiff,
vs.
Arturo Manuel Valdez,
Defendant.

CASE NO. CR2107252

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto set my
hand and affixed the seal of the Court at my office,
Winnemucca, Nevada, this 25th
day of January, 2022, A.D.

TAMI RAE SPERO, CLERK

By: 

DEPUTY CLERK

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FILED

2022 JAN 25 PM 12:26

IN THE SIXTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT,
BEFORE THE HONORABLE MICHAEL MONTERO, DISTRICT JUDGE

-oOo-

STATE OF NEVADA,

Plaintiff,

Case No. CR 21-7252

V.

Dept. No. II

ARTURO MANUEL VALDEZ,

Defendant.

COPY

Rough Draft

Transcript of Proceedings

Sentencing Hearing

November 16, 2021

Winnemucca, Nevada

Transcribed By: Julie Rowan - (775) 745-2327

A P P E A R A N C E S

For the Plaintiff: Kevin Pasquale, Esq.
Humboldt County District Attorney's
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Winnemucca, NV 89445

For the Defendant: Matt Stermitz, Esq.
Humboldt County Public Defender
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Division of Parole: Marni Pool
and Probation

Pre-Trial Services: Denni Byrd

-oOo-

I N D E X

WITNESSES ON BEHALF OF THE PLAINTIFF: Page

None

WITNESSES ON BEHALF OF THE DEFENDANT:

None

EXHIBITS:

None

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1 NOVEMBER 16, 2021, WINNEMUCCA, NEVADA

2 -oOo-

3 THE COURT: We're on the record in Case
4 CR 21-7252, case caption, State of Nevada, Plaintiff,
5 versus Arturo Manuel Valdez, Defendant. The record this
6 morning will reflect the presence of the Defendant.

7 Good morning, Mr. Valdez.

8 THE DEFENDANT: Good morning.

9 THE COURT: Valdez, Valdez?

10 THE DEFENDANT: Valdez.

11 THE COURT: Valdez, thank you. I should know
12 that. Mr. Valdez is here today via Zoom from the
13 Humboldt County Detention Center, represented by
14 Mr. Matthew Stermitz, who's here in court, Mr. Kevin
15 Pasquale on behalf of the State, Ms. Pool with the
16 Division of Parole and Probation, and Ms. Byrd from
17 Pretrial Services, present for today's hearing.

18 This matter is on the Court's calendar for
19 sentencing. The Court is in receipt of a presentence
20 investigation report prepared August 24th, 2021.

21 And, Mr. Stermitz, do you have a copy of the
22 presentence investigation report?

23 MR. STERMITZ: Yes.

24 THE COURT: Do you or your client have any
25 factual corrections?

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1 MR. STERMITZ: I don't.

2 THE COURT: Okay. Mr. Pasquale, do you have
3 the report, and if so, any factual corrections?

4 MR. PASQUALE: I do have the report, Your
5 Honor, and I do not have any corrections.

6 THE COURT: Okay. And, Mr. Valdez, have you
7 had an opportunity to review the presentence
8 investigation report?

9 THE DEFENDANT: Yes, I have, Your Honor.

10 THE COURT: Do you have a copy of it with you
11 today?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Okay. In your review of the
14 presentence investigation report, did you note any
15 factual errors?

16 THE DEFENDANT: Yes, I have.

17 THE COURT: Go ahead.

18 THE DEFENDANT: Upon reading this, it says --
19 there's a couple things that I've highlighted. It says
20 upon arrival, you know, officers made contact with Angel
21 Valdez. I highlighted that because he was never at the
22 residence.

23 THE COURT: Hold on. Let's -- you've got to
24 refer to the page number for me and the section so that
25 we're all together here. You're referring to the --

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1 THE DEFENDANT: Page 8 on the offense
2 synopsis.

3 THE COURT: Offense synopsis, page 8.

4 THE DEFENDANT: Yeah, synopsis, thank you.

5 THE COURT: Okay. And now you're referring
6 to which paragraph?

7 THE DEFENDANT: The third paragraph.

8 THE COURT: The officer made contact with
9 Angel Valdez?

10 THE DEFENDANT: Yeah. He was never at the
11 home. The officers made contact with three juvenile
12 kids that were the kids of, at the time, Jade Puga
13 (phonetic), which I'm no longer in a relationship with.
14 And then upon -- upon when they, you know, knocked on
15 the door, the three kids opened the door, and the
16 officers just happened to walk in, you know, and made
17 contact with Ms. Puga, and she told them that they
18 couldn't search the house without a search warrant.

19 And one of the officers, I think it was
20 Ms. Santos, was talking to Ms. Puga, and Mr. Ochoa said
21 that they had a search warrant, and she asked if they
22 could get it. And he left the house, from what Ms. Puga
23 was saying, and he came back in within like less than
24 five minutes, and they didn't show no proof of search
25 warrant or anything, but then they continued to still

1 search the house.

2 THE COURT: Mr. Valdez, let me stop you a
3 moment. So you have some disagreement with the -- with
4 the offense synopsis that was -- that's contained in
5 this presentence investigation report. I just want to
6 draw your attention to the first sentence. These -- the
7 Division of Parole and Probation prepared this offense
8 synopsis from records provided by the arresting agency,
9 and the prosecuting agency reflect the instant offense
10 occurred substantially as follows.

11 I recognize that this may not be exact
12 because it says substantially as follows, and these are
13 just information that was provided to the Division of
14 Parole and Probation to -- to explain the offense
15 synopsis. This is -- this is a sentencing hearing. The
16 Court will recognize that you have indicated some
17 difference in the way in which some of these things
18 actually happened that day.

19 I'll recognize that, but I'm not going to --
20 I guess what I'm saying is I'm not going to rewrite the
21 offense synopsis --

22 THE DEFENDANT: Yeah.

23 THE COURT: -- unless I have some testimony
24 or evidentiary matter -- testimony or otherwise to make
25 that type of correction.

1 Do you understand that?

2 THE DEFENDANT: Yes, I do, sir.

3 THE COURT: Okay. Mr. Stermitz, do you wish
4 to respond to that at all?

5 MR. STERMITZ: No.

6 THE COURT: Okay. Okay, Mr. Valdez, then
7 let's move on. You said you may have had some others?

8 THE DEFENDANT: Yeah, on this -- with the
9 whole presentence investigation, I don't -- that's it.
10 I don't have anything else on that.

11 THE COURT: Okay. So no other factual
12 corrections to the presentence investigation report
13 other than what you've explained?

14 THE DEFENDANT: Yeah. There's a couple other
15 things, but like how you said, you know, everything's
16 just -- yeah, everything is fine right now.

17 THE COURT: Okay. One thing it does not have
18 is it does not have a sentencing date on page 1. So I'm
19 going to add here, just so you're aware, on page 1,
20 under case information, on the right-hand column, it
21 says sentencing date, and it's blank, I'm going to put
22 November 16, 2021, just so you're aware, okay.

23 THE DEFENDANT: Okay.

24 THE COURT: Okay. I'm going to put my
25 initials by that and date it. Very good.

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1 Okay. Mr. Stermitz, any evidence today for
2 purposes of sentencing?

3 MR. STERMITZ: No.

4 THE COURT: Mr. Pasquale, any evidence today
5 for purpose of sentencing?

6 MR. PASQUALE: No, Your Honor.

7 THE COURT: Do you -- did the two of you need
8 to consult further?

9 MR. STERMITZ: I don't think so.

10 THE COURT: Okay. Mr. Stermitz, you may
11 proceed with argument.

12 MR. STERMITZ: Your Honor, I think the issue
13 is whether or not the Court's obligated to defer
14 judgment. Under NRS 176.211, subsection 3(a)(1), it
15 basically says --

16 THE COURT: Recite that again.

17 MR. STERMITZ: 176.211 --

18 THE COURT: Okay.

19 MR. STERMITZ: -- subsection 3(a)(1), upon
20 the consent of Defendant, the Court shall defer judgment
21 for any defendant who's entered a plea of guilty to a
22 violation of subsection 2 of NRS 453.336. And we go
23 over to 453.336, subsection 2(a), for a first or second
24 offense, and if there's less than 14 grams, the Court
25 shall defer -- the punishment shall be a category E, but

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1 in accordance with 176.211, the court shall defer
2 judgment upon a consent of the person.

3 And I believe that the PSI does indicate
4 that there are two convictions so -- prior convictions
5 of Mr. Valdez' (indiscernible). So (indiscernible) be
6 that the Court is not obligated to defer judgment, but I
7 still think the Court may defer judgment still and place
8 Mr. Valdez in a specialty court program.

9 So if the Court determines that he does have
10 two prior offenses, it's not -- and it's not mandatory
11 that the Court defer judgment, I would ask the Court to
12 defer judgment. I believe it's Mr. Valdez's intent to
13 want to plead himself up, remain in the community, and
14 obviously, the best way for Mr. Valdez to do that is
15 with supervision by (indiscernible).

16 THE COURT: Thank you, Mr. Stermitz.
17 Mr. Pasquale.

18 MR. PASQUALE: Thank you, Your Honor.

19 I agree with Mr. Stermitz. This is not a
20 mandatory sentencing. And I would point out to the
21 Court that based on the presentence investigation,
22 Mr. Valdez has two prior felony convictions for
23 drug-related offenses.

24 In both of those, he ended up going to prison
25 and was on parole. One of those paroles ended up him

1 being revoked. The other ended up being a dishonorable
2 discharge. Your Honor, I would think that based upon
3 that record, he is not a very good candidate for either
4 diversion, even probation.

5 Thank you, Judge.

6 THE COURT: Thank you.

7 Ms. Pool, I didn't ask you at the outset, but
8 are there any other -- any other issues with regards to
9 the presentence investigation report that you'd like to
10 bring to the Court's attention? I've added the
11 sentencing date. Well, anything else?

12 MS. POOL: Yes, I would like to update credit
13 time served. Mr. Valdez was placed into custody on
14 September 24th. So from September 24th to today's date,
15 gives him an extra 54 days credit time served, for a
16 total of 84 days.

17 THE COURT: Thank you for that.

18 MS. POOL: You're welcome.

19 THE COURT: Mr. Stermitz, any question,
20 concern, or disagreement?

21 MR. STERMITZ: No.

22 THE COURT: Okay. Mr. Valdez, do you
23 understand the calculation of credit for time served
24 being 84 days?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: Mr. Pasquale, any question or
2 concern about the calculation for credit for time
3 served?

4 MR. PASQUALE: No, Your Honor.

5 THE COURT: Okay. The Court has made that
6 adjustment to page 9 of the presentence investigation
7 report.

8 Okay, Mr. Valdez, before I impose sentence on
9 you, you have the right of allocution, which means that
10 you may make a statement to the Court and present
11 information in mitigation of punishment. Do you wish to
12 make a statement?

13 THE DEFENDANT: Yeah.

14 THE COURT: You may proceed.

15 THE DEFENDANT: While sitting in jail -- when
16 I got put in jail in September, you know, I thought to
17 myself, like, you know, I'd be out within like a week or
18 so, and I -- when I didn't get out, you know, I called
19 my mom, and, you know, she gave me some -- talked to me
20 and gave me some information and some bad news.

21 You know, my brother's got two types of
22 cancer now, and my mom's sick. And just recently, I had
23 a cousin take his own life over a girl. But all that
24 stuff, while sitting here in jail, has, you know, made
25 me think. You know, I told myself, if I don't change

1 something in jail, I'm not going to change anything
2 while I -- you know, out there on the streets.

3 So I asked, you know, Deputy Garrett
4 (phonetic) one day to, you know, to get the Bible, and I
5 started reading the Bible, and it helped me. I mean, I
6 tore myself down, and, you know, build myself up, and I
7 didn't really -- I didn't care what people would say,
8 you know. I would give thanks after every meal and just
9 started doing things, you know, a step at a time, like
10 waking up in the morning and cleaning every single day
11 and just doing little things because those little things
12 eventually are going to build up to bigger things that I
13 can accomplish.

14 And, you know, I just want to say thank you,
15 guys, for not letting me out because I took this time to
16 really change the person I am, and, you know, with God
17 by my side, things have happened in here that I never
18 thought would happen, you know. Even to a couple of
19 inmates here would walk up to me, and they'd be like --
20 they would tell me it's hard, isn't it? And I'd be
21 like, what? And they'd be like trying not to cuss. I'm
22 like, yeah, and, you know, it surprised me that the
23 things that I was doing was actually affecting people.

24 Like, just recently, two other inmates were
25 like, hey, that's a really good book that you handed me,

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1 and it was this book about God and relationships. And,
2 you know, I handed it to Cricket (phonetic), and he read
3 it. And then he handed it to Holmes (phonetic), and he
4 read it. And then I told Avela, and they all told me,
5 hey, you got any more of these books?

6 And just me doing little things like that,
7 people actually cared, and they've tried to do the same
8 to try to change their lives, and that really surprised
9 me because I didn't think anybody really cared. You
10 know, I didn't think anybody really cared about anything
11 that I was doing.

12 And one person that really came to mind was
13 the nurse here. You know, when I first got arrested,
14 she told me, she's like, she's like, oh, man, what
15 happened? And I was like, no, I wasn't using. My
16 weight -- I kept my weight up. She's like, no, you
17 promised me that you would not come back, and that
18 really put, you know, the hammer to the nail on that.

19 And I've really -- I've made promises to God,
20 to my family, and my relationships, and no -- everyone
21 had my back. They all supported me. Even with me doing
22 all these -- being in jail, they've never left. My
23 family was always there. Just recently, my uncle told
24 me, he's like, I didn't leave. You left. He's all, I'm
25 still here. He's like, you just quit coming over, and,

1 you know, he's like, with that will and commitment, just
2 taking little steps, you know, eventually, you'll have
3 control of your life, you know. He's like you don't
4 have to lose your friends. Just tell them some other
5 time, next time.

6 And I broke down on the phone right there.
7 And, again, nobody -- everyone told me it was okay,
8 you're all right. And, you know, I've changed people's
9 lives in here just by them trying to do little things,
10 you know, and trying not to cuss, you know, and giving
11 thanks.

12 And I'm grateful for being in here, and like
13 I said, if I didn't change something in here, out there
14 is like the real test, and I'm ready for that because
15 through the grace of God and my family and even friends
16 having my support, and I never saw that before. I just,
17 you know, blamed myself for everything. But now I see
18 that, and I see that everyone -- people do care.

19 And, you know, I apologize for wasting the
20 Court's time through me being here or anything, even
21 from missing my court. You know, I didn't run or
22 anything. You know, I got arrested, yeah. I'm here,
23 and I -- you know, I put myself here. No one else did.
24 You know, I put myself here by missing court. I just
25 want to say like the person sitting here today is not

1 the same person that you seen a couple months ago, and I
2 just want to say thank you, guys.

3 Thank you.

4 THE COURT: Thank you, Mr. Valdez.

5 There's been this discussion today about your
6 criminal history and the -- some of the changes in the
7 law regarding -- regarding mandatory -- what I'll call
8 mandatory diversion and then where the Court has some
9 discretion with an individual who has two or more felony
10 convictions for drug-related offenses, and I'm just kind
11 of looking at those again.

12 I see one arrest was February of 2016. It
13 looks like -- it looks like in that one you were given a
14 deferral of 4533363, deferral, placed into Drug Court.
15 Probation ended up being revoked. Sentenced 12 to 32
16 months in the Nevada Department of Corrections. So that
17 was December 21st of 2016. You were paroled by May of
18 2017. Later that parole was revoked, but it looks like
19 -- it looks like the sentence, what was actually served
20 was what, about five months.

21 And then, let's see, the other felony
22 conviction --

23 MR. PASQUALE: Page 5.

24 THE COURT: Page 5, okay. Page 5, sentenced
25 12 to 32 months. That was suspended, given -- back in

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1 the day when you could give five years probation.
2 Arrested for probation violation. Released, arrested
3 for another probation violation with some new charges.
4 Probation was revoked January 20th of 2017, and by
5 May 25th, you were released.

6 Hold on just a minute. I think we may have
7 lost our feed at the jail. Mr. Valdez, are you still
8 there?

9 I'm going to stop recording until we
10 re-establish connection at the detention center.

11 Mr. Valdez, welcome back.

12 THE DEFENDANT: Hi.

13 THE COURT: We had a little glitch there, it
14 appears, in our connection, and so as soon as I noticed
15 that you were absent, I stopped, and then we stopped the
16 recording.

17 THE DEFENDANT: Okay.

18 THE COURT: So it's good to see that the
19 connection is back. I was kind of looking through and
20 maybe just reading and talking out loud about the record
21 and the two prior drug-related convictions and prison
22 sentences.

23 With those, it gives the Court some
24 discretion here today. That was argued by counsel, and
25 I appreciate that. So let's move forward to sentencing.

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1 Hearing no legal cause why you should not be
2 sentenced, and based upon your plea of no contest to one
3 count of possession of a controlled substance, the Court
4 does now pronounce you guilty of possession of a
5 controlled substance, a category E felony.

6 In accordance with the laws of the State of
7 Nevada, it will be the order and judgment of this Court
8 that the Defendant, Arturo Manuel Valdez, be sentenced
9 as follows:

10 As a part of the sentence in this case, the
11 Court will render judgment against you in the amount of
12 \$3 for a DNA collection fee, \$25 administrative
13 assessment fee, \$60 forensic fee, \$500 Public Defender
14 fee.

15 The Court will further order that the
16 Defendant be sentenced to a minimum of 19 months and a
17 maximum of 48 months in the Nevada Department of
18 Corrections with credit for time served in the amount of
19 84 days. And, Mr. Valdez, you're remanded to the
20 custody of the Humboldt County Sheriff's Office to carry
21 out this sentence.

22 I hope that the good work you're doing for
23 yourself and for others in detention will continue. I
24 look forward to seeing you be a very productive member
25 of our community, but that's going to be the sentence

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1 today.

2 Thank you, we'll be in recess.

3 (Whereupon, proceeding concluded)

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C E R T I F I C A T I O N

I, JULIE ROWAN, do hereby certify:

That on November 16, 2021, a sentencing hearing was held in the within-entitled matter in the Sixth Judicial District Court, within the State of Nevada, in and for the County of Humboldt;

That said sentencing hearing was recorded on a recording system, and said recording was delivered to me for transcription;

That the foregoing transcript, consisting of pages 1 through 19, is a full, true, and correct transcript of said recording performed to the best of my ability.

Dated this 21st day of January, 2021.


Julie Rowan

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CERTIFICATE OF SERVICE

Pursuant to applicable appellate rules, on the 27th day of February, 2022, the undersigned mailed a true and correct copy of the foregoing addressed to Arturo Manuel Valdez, # 1171954, NNCC, P.O. Box 7000 Carson City, NV 89702.

Matt Stermitz
Matt Stermitz