

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN ALLEN FREDERICK,)	Supreme Ct No. 83962
)	District Ct No. CR 20-7222
Appellant)	Electronically Filed
vs.)	Apr 06 2022 07:09 p.m.
)	Elizabeth A. Brown
THE STATE OF NEVADA,)	Clerk of Supreme Court
)	
Respondent)	
_____)	

APPELLANT'S 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. CR20-7222

2 DEPT. 2

FILED

2020 DEC 15 10:27

RECEIVED
CLERK OF DISTRICT COURT

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

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11 STATE OF NEVADA,

12 Plaintiff,

13 vs.

AMENDED INFORMATION

14 STEPHEN ALLEN FREDERICK

15 DOB: 04/21/1975,

16 Defendant(s).

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

21 COUNT I

22 ELUDING A POLICE OFFICER IN A MANNER POSING DANGER
23 TO PERSONS OR PROPERTY,
24 A CATEGORY B FELONY
AS DEFINED BY 484B.550(3)

25 That the Defendant operated a motor vehicle in a
26 manner which endangered or was likely to endanger any
27 person other than the Defendant and/or the property of
28 any person other than the Defendant's while willfully
failing and/or refusing to bring the motor vehicle to
a stop and/or otherwise fleeing or attempting to elude
a peace officer to wit: Officer Ochoa, at a time when
the peace officer was in a readily identifiable

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1 vehicle of a police department or regulatory agency
2 identified by flashing red lamp(s) and siren in the
3 following manner: That on or about the 24th day of
4 September, 2020 at or near the location of Winnemucca
5 Blvd and/or Reinhart and/or Second Street, Winnemucca,
6 County of Humboldt, State of Nevada, the Defendant
7 operated a motor vehicle and failed to stop his
8 vehicle after being lawfully signaled to, and
9 thereafter fleeing at a high rate of speed in a manner
10 likely to endanger others or property of others.

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COUNT II

TRANSPORTING A CONTROLLED SUBSTANCE,
A Category B Felony
AS DEFINED BY 453.321(2) (A)

That the Defendant did willfully, unlawfully and knowingly offer or attempt to import, transport, sell, exchange, barter, supply, prescribe, dispense, give away or administer a controlled or counterfeit substance, or offer or attempt to manufacture or compound a counterfeit substance, in the following manner, to-wit: That on or about the 24th and/or 25th day of September, 2020, at or near the location of Winnemucca, County of Humboldt, State of Nevada, the Defendant did import and/or transport 97.189 grams of methamphetamine, a Schedule I Controlled Substance.

COUNT III

TRANSPORTING A CONTROLLED SUBSTANCE,
A Category B Felony
AS DEFINED BY 453.321(2) (A)

That the Defendant did willfully, unlawfully and knowingly offer or attempt to import, transport, sell, exchange, barter, supply, prescribe, dispense, give away or administer a controlled or counterfeit substance, or offer or attempt to manufacture or compound a counterfeit substance, in the following manner, to-wit: That on or about the 24th and/or 25th day of September, 2020, at or near the location Winnemucca, County of Humboldt, State of Nevada, the Defendant did import and/or transport 13 grams of heroin, a Schedule I Controlled Substance.

All of which is contrary to the form of the statute in such cases made and provided and against the peace and dignity of the

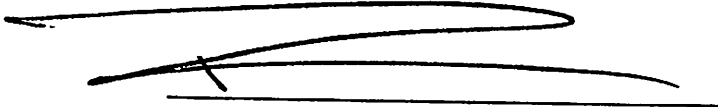
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1 Winnemucca, County of Humboldt, State of Nevada, the
2 Defendant possessed a Schedule I Controlled Substance,
3 to-wit; methamphetamine, in an amount greater than 28
4 grams.

5 All of which is contrary to the form of the statute in such
6 cases made and provided and against the peace and dignity of the
7 State of Nevada.

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

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

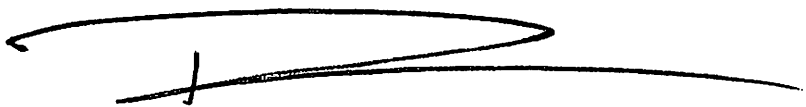
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19 RICHARD HAAS
20 Deputy District Attorney
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1 State of Nevada.

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

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


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14 RICHARD HAAS
15 Deputy District Attorney
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EXHIBIT "A"
AMENDED INFORMATION
Names and Addresses Known to the
District Attorney at the time of
Filing of the Information

CORY DUNCKHORST
500 E. Winnemucca Blvd
Winnemucca, NV

TOM MERSCHEL
500 E. Winnemucca Blvd
Winnemucca, NV

JIMMI SANTOS
500 E. Winnemucca Blvd
Winnemucca, NV

FERNANDO RODRIGUEZ
3505 Construction Way
Winnemucca, NV

SALVADOR OCHOA
500 E. Winnemucca Blvd
Winnemucca, NV

CHEMIST
Washoe County Crime Lab
911 Parr Blvd
Reno, NV

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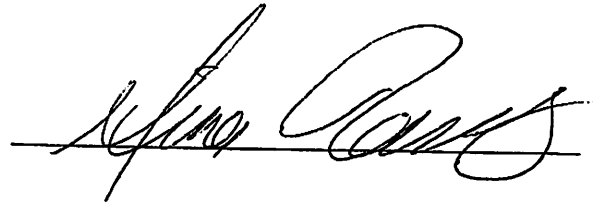
CERTIFICATE OF SERVICE

Pursuant to NRCF 5(b), I certify that I am an employee of
the Humboldt County District Attorney's Office, and that on the
15 day of December, 2020, I delivered a true copy of the

AMENDED INFORMATION to:

MATT STERMITZ
Humboldt County Public Defender
P.O. Box 309
Winnemucca, NV

- () U.S. Mail
() Certified Mail
() Hand-delivered
(xx) Placed in Dct Box
() Via Facsimile



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NO. CR20-7122

DEPT. 2

FILED

MAR 29 2021

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-

STATE OF NEVADA,

Plaintiff,

vs.

THIRD AMENDED INFORMATION

STEPHEN ALLEN FREDERICK
DOB: 04/21/1975,

Defendant(s) ./

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

COUNT I

TRANSPORTING A CONTROLLED SUBSTANCE,
A CATEGORY C FELONY
AS DEFINED BY NRS 453.321(2) (A)

That the Defendant did willfully, unlawfully, and
knowingly import, transport, manufacture, compound
sell, exchange, barter, supply, prescribed, dispense,
give away or administer a controlled or counterfeit
substance or offer or attempt to do any such act, in
the following manner, to-wit: That on or about the
24th and/or 25th day of September, 2020, at or near the
location of Winnemucca, County of Humboldt, Sta

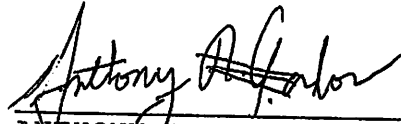
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1 Nevada, the Defendant did import and/or transport 13
2 grams of heroin, a Schedule I Controlled Substance.

3 All of which is contrary to the form of the statute in such
4 cases made and provided and against the peace and dignity of the
5 State of Nevada.
6

7 That the names of all witnesses who will testify for the
8 State of Nevada in said action that are known to the District
9 Attorney at the time of the filing of this Information are
10 listed with addresses on the annexed Exhibit "A" and the names
11 of all other witnesses who will testify for the State of Nevada
12 that become known to the District Attorney before time of trial
13 will be endorsed hereon by subsequent Exhibit.
14

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

18 

19 ANTHONY R. GORDON

20 Deputy District Attorney
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EXHIBIT "A"
THIRD AMENDED INFORMATION
Names and Addresses Known to the
District Attorney at the time of
Filing of the Information

CORY DUNCKHORST
500 E. Winnemucca Blvd
Winnemucca, Nevada 89445

TOM MERSCHEL
500 E. Winnemucca Blvd
Winnemucca, NV

JIMMI SANTOS
500 E. Winnemucca Blvd
Winnemucca, NV

FERNANDO RODRIGUEZ
500 E. Winnemucca Blvd
Winnemucca, NV

SALVADOR OCHOA
500 E. Winnemucca Blvd
Winnemucca, NV

REBECCA NELSON
Washoe County Crime Lab
911 Parr Blvd
Reno, NV

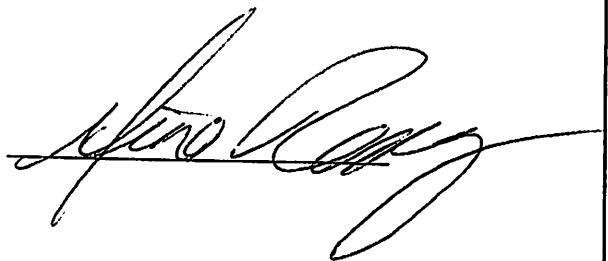
CHRIS LININGER
50 W. Fifth Street
Winnemucca, NV

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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
29 day of March, 2021, I delivered a true copy of the **THIRD**
AMENDED INFORMATION to:

MATT STERMITZ
Humboldt County Public Defender
P.O. Box 309
Winnemucca, Nevada 89445
(placed in DCT box)



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FILED

MAR 29 2021

TAMI RAE SPERO
DIST. COURT CLERK

Case No. CR 20 - 7222

Dept. No. 2

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

THE STATE OF NEVADA,

Plaintiff,

vs.

STEPHAN ALLEN FREDERICK,

Defendant.

PLEA AGREEMENT

I, Stephen Allen Frederick, defendant, hereby agree to plead guilty to one count of transporting a controlled substance, a category C felony, in violation of NRS 453.321 and NRS 193.130.

My decision to plead guilty to one count of transporting a controlled substance is based upon the plea agreement in this case which is as follows: The Humboldt County District Attorney will not prosecute the defendant for any other offense committed on the 24th day of September, 2020, in Humboldt County now known to the district attorney. The Humboldt County District Attorney will not seek a habitual offender enhancement in this case or CR20-7199. The parties agree this sentence will run consecutive to the sentence imposed in CR 20 – 7199.

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty I admit sufficient facts exist to support all the elements of the offense to which I now plead.

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

3 1. That the Defendant did knowingly, willfully and unlawfully,

4 2. Transport

5 3. A controlled substance, heroin.

6 4. On the 24TH day of September, 2020, in Humboldt County, State of
7 Nevada.

8 I understand as a consequence of my plea I would be punished by 1 year
9 and a maximum term of not more than 5 years. In addition to any other penalty,
10 the court may impose a fine of not more than \$10,000,

11 I understand that the law requires me to pay an administrative assessment
12 fee of \$ 25, a DNA fee in the amount of \$ 150.00 and a \$ 3 DNA assessment fee.

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

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

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

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

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

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1 I have not been promised or guaranteed any particular sentence by
2 anyone. I know that my sentence is to be determined by the court within the
3 limits prescribed by statute. I understand that if my attorney or the State of
4 Nevada or both recommend any specific punishment to the court, the court is not
5 obligated to accept the recommendation.

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

13 WAIVER OF RIGHTS

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

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

19 2. The constitutional right to a speedy and public trial by an impartial
20 jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I
21 would be entitled to the assistance of an attorney, either appointed or retained.
22 At trial, the state would bear the burden of proving beyond a reasonable doubt
23 each element of the offense charged.

24 3. The constitutional right to confront and cross-examine any
25 witnesses whom would testify against me.

26 4. The constitutional right to subpoena witnesses to testify on my
27 behalf.

28 5. The constitutional right to testify in my own defense.

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6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

VOLUNTARINESS OF PLEA

I have discussed the elements of all the original charges with my attorney and I understand the nature of the charges against me.

I understand the state would have to prove each element of the charge against me at trial.

I have discussed with my attorney any possible defenses and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights and waiver of rights have been thoroughly explained to me by my attorney.

I believe that pleading guilty and accepting this plea bargain is in my best interest and that a trial would be contrary to my best interest.

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

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

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

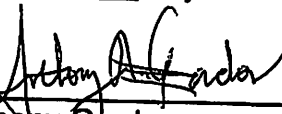
Dated this 7 day of March, 2021.

Stephen Allen Frederick

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1 Defendant

2 Dated this 29th day of March, 2021.

3 
4 _____
5 Anthony Gordon
6 Deputy District Attorney

7 CERTIFICATE OF COUNSEL

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

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

12 2. I have advised the defendant of the penalties for each charge and
13 the restitution that the defendant may be ordered to pay.
14

15 3. All pleas offered by the defendant pursuant to this agreement are
16 consistent with all the facts known to me and are made with my advice to the
17 defendant are in the best interest of the defendant.

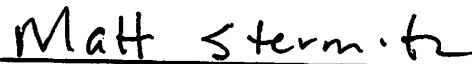
18 4. To the best of my knowledge and belief, the defendant:

19 (a) Is competent and understands the charges and the consequences
20 of pleading guilty as provided in this agreement.
21

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

24 (c) Was not under the influence of intoxicating liquor, a controlled
25 substance or other drug at the time of the execution of this agreement.
26

27 Dated this 29th day of March, 2021.

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Matt Stermitz

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1 Case No. CR 200722

2 Dept. No. II

FILED

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TAMI RAE SPERO
DIST. COURT CLERK

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

8 -oOo-

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

JUDGMENT OF CONVICTION

12 STEPHEN ALLEN FREDRICK,

13 Defendant. /

14 WHEREAS, on the 29th day of March, 2021, the Defendant entered a plea of guilty to
15 the charge of TRANSPORTING A CONTROLLED SUBSTANCE, a Category C Felony, and
16 the matter having been submitted before the Honorable Judge Michael R. Montero.

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

22 The Court having accepted the Defendant's plea of guilty, set the date of the 18th day
23 of May, 2021, at the hour of 9:30 a.m. as the date and time for imposing judgment and sentence.
24 The Defendant failed to appear and a bench warrant was issued. The Court then set the date of

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1 the 16th day of November, 2021, at the hour of 9:30 a.m. as the date and time for imposing
2 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, MATT STERMITZ, Humboldt County Public Defender;
5 also present in Court were TAMI RAE SPERO, Humboldt County Court Clerk or her designated
6 agent; MIKE ALLEN, Sheriff of Humboldt County or his designated agent; DEBBIE OKUMA,
7 representing the Division of Parole and Probation; and MICHAEL MACDONALD, Humboldt
8 County District Attorney or his designated agent, representing the State of Nevada.

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

12 The above-entitled Court having pronounced STEPHEN ALLEN FREDRICK, guilty
13 of TRANSPORTING A CONTROLLED SUBSTANCE, a Category C Felony, in violation of
14 NRS 453.321 (2) (A), on the 16th day of November, 2021, the Defendant was thereby ordered by
15 the Court to serve a minimum term of twenty-four (24) months and a maximum term of sixty
16 (60) months in the Nevada Department of Corrections, with credit for time served of one
17 hundred-seventeen (117) days. Said sentence imposed is to run consecutive to the sentence
18 imposed in CR 20-7199.

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.
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1 MATT STERMITZ, Humboldt County Public Defender, represented the
2 Defendant 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 day of November, 2021, in the City of Winnemucca, County
10 of Humboldt, State of Nevada.



11 MICHAEL R. MONTERO
12 DISTRICT COURT JUDGE

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1 Case No. CR 20-7222

2 Dept. No. 2

2021 DEC 16 AM 10:14

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

6 STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 STEPHEN ALLEN FREDRICK,

10 Defendant.
11

12 NOTICE OF APPEAL

13 Stephen Allen Fredrick, defendant, by and through his attorney, Matt Stermitz,
14 the Humboldt County Public Defender, appeals to the Nevada Supreme Court from the
15 Judgment of Conviction entered herein on the 23rd day of November, 2021, and
16 attached hereto.

17 Dated this 15th day of December, 2021.

18 Matt Stermitz
19 Matt Stermitz, Bar # 03610
20 Humboldt County Public Defender
21 Drawer 309
22 Winnemucca, Nevada 89445
23 775-623-6550

24 CERTIFICATE OF SERVICE

25 Pursuant to applicable appellate rules, on the 15th day of December, 2021,
26 the undersigned mailed a true and correct copy of the foregoing, addressed to:
27 Humboldt County District Attorney, Drawer 909, Winnemucca, Nevada 89445, and
28 Stephen Allen Fredrick, # 1250806, NNCC, P.O. Box 7000, Carson City, Nevada
89701.

Maureen Macdonald
Maureen Macdonald

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3 IN THE SIXTH JUDICIAL DISTRICT COURT,
4 OF THE STATE OF NEVADA,
5 IN AND FOR THE COUNTY OF HUMBOLDT
6 BEFORE THE HONORABLE MICHAEL MONTERO, DISTRICT JUDGE
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FILED
2022 JAN 31 PM 2:25

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10 _____
STATE OF NEVADA,

11 Plaintiff,

Case No. CR 20-7222

Case No. CR 20-7199

12 V.

Dept. No. 2

13 STEPHEN ALLEN FREDRICK,

14 Defendant.
15 _____/

COPY

16
17 Transcript of proceedings

18 Sentencing

19
20 November 16, 2021

21 Winnemucca, Nevada

22
23 Transcribed By: Kathy Jackson, CSR - (775) 745-2327
24

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A P P E A R A N C E S

For the Plaintiff: Anthony Gordon, Esq.
Humboldt County District Attorney's
Office
P.O. Box 909
Winnemucca, Nevada 89445

For the Defendant: Matt Stermitz, Esq.
Humboldt County Public Defender
Drawer 309
Winnemucca, Nevada 89445

-oOo-

I N D E X

WITNESSES ON BEHALF OF THE PLAINTIFF: PAGE

None.

WITNESSES ON BEHALF OF THE DEFENDANT:

None.

EXHIBITS:

None.

1 NOVEMBER 16, 2021, WINNEMUCCA, NEVADA

2 -oOo-

3 THE COURT: Okay. We're on the record.

4 Actually, I have two cases here, CR207199 and CR207222. Both
5 cases captioned State of Nevada, plaintiff versus Stephen
6 Allen Fredrick, defendant.

7 The record this morning will reflect the presence
8 of the defendant appearing via Zoom in the Humboldt County
9 Detention Center represented today by Mr. Matthew Stermitz,
10 who is present today in the courtroom. I have Mr. Richard
11 Haas and Anthony Gordon, both on behalf of the State in the
12 courtroom. Ms. Marni Pool with division of parole and
13 probation appearing via Zoom. And also Ms. Denni Byrd with
14 pretrial services here in the courtroom.

15 These cases are on the Court's docket today for
16 sentencing hearings. Mr. Stermitz, is the defense prepared
17 to proceed with sentencing?

18 MR. STERMITZ: Yes.

19 THE COURT: Is the State prepared to proceed?
20 Who's handling this one, Mr. Gordon?

21 MR. GORDON: Yes.

22 THE COURT: Okay. Mr. Stermitz, any objection to
23 the Court handling these sentencings as a part of the same
24 record?

1 MR. STERMITZ: No.

2 THE COURT: Okay. And so in these two cases the
3 presentence investigation reports have been filed with the
4 Court in Case CR207199 there has been an amended presentence
5 investigation report to the report dated April 12th, 2021.
6 It appears to just include pages one and two. And this was
7 prepared May 18th, 2021. And I didn't -- one thing I didn't
8 look at, the page break is a little different. So I think it
9 needs to be added to the April 12, 2021 report. At least
10 that's all I have are two faxed copied pages.

11 Mr. Gordon, do you have the presentence
12 investigation report and the amended --

13 MR. GORDON: Yes, Your Honor.

14 THE COURT: -- report.

15 And, Mr. Stermitz, do you have both?

16 MR. STERMITZ: Yes.

17 THE COURT: Okay. And, Mr. Stermitz, do you or
18 your client have any factual corrections to the presentence
19 investigation report for Case 7199?

20 MR. STERMITZ: We don't.

21 THE COURT: And, Mr. Stermitz, do you have a copy
22 of the presentence investigation report prepared April 12,
23 2021 for Case CR07222?

24 MR. GORDON: Yes.

1 THE COURT: And do you or your client have any
2 factual corrections to that presentence?

3 MR. STERMITZ: No.

4 THE COURT: And, Mr. Fredrick, have you had an
5 opportunity to review these presentence investigation reports
6 that we're discussing?

7 THE DEFENDANT: Yes, I have.

8 THE COURT: Okay. And did you notice any factual
9 corrections that need to be made to either of these reports?

10 THE DEFENDANT: Yes. Yes, I did. I kind of
11 tried to get the pages right, but the threshold amount is
12 incorrect on page four. I think it's line four, it says
13 120 grams but it was only 86. And then on the last page
14 instead of 123 then it says 135. And then -- and then
15 there's also, it says three bags of meth, but there was only
16 two of them because one of them later turned out to be Xanax,
17 not meth.

18 THE COURT: Okay. Let's help me understand what
19 page. You referenced page four but page four on both of
20 these presentence investigation reports are different
21 history. You're looking at -- show me the document you're
22 looking at. That's -- that is the State's supplemental
23 sentencing memorandum.

24 THE DEFENDANT: Okay. Sorry.

1 THE COURT: That's not the presentence
2 investigation report.

3 THE DEFENDANT: Okay.

4 THE COURT: I'm looking at -- Mr. Fredrick, take
5 a look here. I'm looking at a document that looks like this.

6 THE DEFENDANT: Oh, okay.

7 THE COURT: The record will reflect I'm showing
8 the defendant via Zoom the presentence investigation report.

9 THE DEFENDANT: I don't believe so.

10 THE COURT: You don't believe what?

11 THE DEFENDANT: I don't believe that there's
12 anything that needs to be corrected.

13 THE COURT: Okay.

14 THE DEFENDANT: Except maybe the time credits.

15 THE COURT: Credit for time served. We'll talk
16 about that -- we'll talk about that today because you are in
17 custody now. So I -- I too recognize that that may need to
18 be adjusted accordingly. And I'll ask Ms. Pool at some point
19 here if you have any -- any -- anything to offer the Court
20 with regards to credit for time served.

21 THE DEFENDANT: Okay.

22 THE COURT: So the defendant has indicated to the
23 Court that he has no factual corrections other than he did
24 raise the issue of credit for time served.

1 Mr. Gordon, does the State have both reports and
2 if so, any factual corrections?

3 MR. GORDON: Your Honor, we have both reports.
4 It appears that the amended presentence report dated May 18th
5 corrects the sentencing penalty for the level two. So they
6 had already corrected what we had an error on the April 12th
7 of the (unintelligible) sentencing.

8 THE COURT: I have reviewed that. Thank you,
9 Mr. Gordon.

10 MR. GORDON: Okay.

11 THE COURT: And this does appear to correctly
12 reflect the potential penalties associated with the category
13 B trafficking controlled substance level two, which I do
14 recognize was raised in your supplemental sentencing
15 memorandum and that is also consistent with the plea
16 agreement that was filed on March 29th of 2021 at page two,
17 line five. Consequences of the plea, two to 15 years, not
18 more than \$100,000.

19 MR. GORDON: Correct.

20 THE COURT: Okay. Mr. Stermitz, any evidence
21 today for sentencing in either of these cases?

22 MR. STERMITZ: No.

23 THE COURT: Mr. Gordon, any evidence today for
24 purpose of sentencing in either of these cases?

1 MR. GORDON: No, Your Honor.

2 THE COURT: Mr. Stermitz, you may proceed to
3 argument.

4 MR. STERMITZ: Just very briefly. Obviously
5 Mr. Fredrick has struggled with a substance abuse situation
6 for a long time. It does look to me like he has had a lot of
7 programs. And I think the appropriate thing to do would be
8 to place him on probation. I know earlier he indicated a
9 willingness to reside here and maybe he can be put into drug
10 court as a condition of probation.

11 THE COURT: Thank you, Mr. Stermitz.

12 Mr. Gordon?

13 MR. GORDON: Your Honor, we would have been here
14 six months ago but Mr. Fredrick decided not to be here with
15 us in May. He failed to show up for his sentencing in both
16 cases. He never turned himself in, and he was eventually
17 arrested in Oregon. So I think that's a factor to consider.
18 Even though he wasn't charged with an FTA, he was actually
19 looking at another two felonies because it was two felonies
20 he absconded on, and the State could have very well charged
21 him with a habitual criminal charge but he violated --
22 because he violated his plea agreement but we decided not to
23 and for the Court to go ahead.

24 I think if you look at the defendant's, as I

1 detailed in my sentencing memorandum on both the supplemental
2 and the regular additional one, we're looking at an
3 individual who had, basically has 22 criminal convictions,
4 ten of those being felonies and a large significant portion
5 of those are dealing with drugs.

6 This -- both of these cases have drugs all over
7 it. Mr. Fredrick was originally arrested in January of 2020.
8 And at that time he had four pounds of marijuana. When he
9 was in the -- in the locked facility at the Humboldt County
10 Detention Center, that's where the 123 grams of
11 methamphetamine were found. He did not give these up. He
12 tried to conceal them on his body and it was a real scuffle
13 between him and the deputy to try to get these bags away from
14 Mr. Fredrick.

15 At that time he -- he bailed out and then he was
16 subsequently arrested in September for basically the same
17 offense. Then we had -- he had 97 grams of meth and as well
18 as I believe 32 grams of heroin, and there was evidence that
19 it was packaged for sale, as I pointed out in the, he had
20 basically a moving grocery store of drugs. He had Ziplock
21 baggies.

22 So he -- and then this is not a case where
23 somebody is going through the community. We've had large
24 cases of that, but this is drugs in the community. And I

1 just think that Mr. Fredrick's time has come and I think a
2 significant period of incarceration is warranted in this
3 case. And we would ask that the Court to sentence the
4 defendant in Case Number 7199 to, excuse me, Your Honor, to
5 96 to 180 days -- 96 to 180 months, fine him \$100,000 and run
6 it consecutive to the 71 or 7222 of 24 to 60 months, as I
7 delineated in my sentencing. And I think that's very
8 warranted here.

9 Again, Mr. Fredrick is very lucky that he didn't
10 get a habitual criminal charge that would have put him away
11 for at least 25 years. And I think this sentencing would
12 tell the community as well as Mr. Fredrick just don't bring
13 drugs into the community. Thank you.

14 THE COURT: So you're making an argument and the
15 recommendation in Case CR7199. I didn't hear anything unique
16 or different with Case CR7222.

17 MR. GORDON: In 7199 we're recommending 96 to
18 180 months, 100,000 dollar fine. And 7222 we're recommending
19 24 to 60 months and a fine of \$10,000.

20 THE COURT: And let's talk about before I move to
21 allocution. Let's talk about credit for time served.

22 Ms. Pool, the presentence investigation reports,
23 let's take a look here in versus 7199 I have 32 days credit
24 for time served. And in 7222 I have 96 days credit for time

1 served.

2 Is there any modification or amendment to the
3 presentence investigation reports with regard to --

4 MS. POOL: Yes, Your Honor. I have an additional
5 21 days for CR207199. That's from October 27th until today's
6 date, which gives Mr. Fredrick 53 days credit time served for
7 7199. And for CR20722 I have an updated -- updated days of
8 117 days credit time served.

9 THE COURT: Go back to 7199, how many days was
10 that?

11 MS. POOL: I have 53 days total credit time
12 served.

13 THE COURT: Total or adding 53 days?

14 MS. POOL: Altogether, the total.

15 THE COURT: Total. So how many more days?

16 MS. POOL: He earned an additional 21 days.

17 THE COURT: Okay. 21 for a total of 53. And in
18 Case 222 you have another additional 117 days?

19 MS. POOL: I have an addition total of 21 days to
20 make it total of 117 days.

21 THE COURT: Okay. 21 there for 117, okay. And
22 the same time frame, October 27th to today?

23 MS. POOL: Yes, Your Honor.

24 THE COURT: Okay. Mr. Stermitz, any question or

1 objection?

2 MR. STERMITZ: No.

3 THE COURT: Pardon me?

4 MR. STERMITZ: I do not. No.

5 THE COURT: Mr. Gordon?

6 MR. GORDON: No, Your Honor.

7 THE COURT: And, Mr. Fredrick, did you hear those
8 credit for time served calculations?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Okay. Any question about that?

11 THE DEFENDANT: No, sir, Your Honor.

12 THE COURT: So I'll just, before we move any
13 further, I just want to make those changes and add that to
14 the presentence investigation report. So I'm going to add
15 21 days for a total of 53. That will be 10-27-21 to
16 11-16-21. That's been added in 7199. In 7222 I'm adding
17 21 days. 10 -- 10-27 to 11-16 for a total of 117 days.
18 Thank you all.

19 Mr. Fredrick, before I impose sentence on you you
20 have a right of allocution which means that you may make a
21 statement to the Court or present information in mitigation
22 of punishment. Do you wish to make a statement?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Go ahead.

1 THE DEFENDANT: First I want to apologize for
2 failing to appear on the 18th. I just -- like on my
3 presentence thing, I had quit using everything on April 1st.
4 And then when I got around sentencing I had been clean for
5 about 45 days and it was -- it was great. My family started
6 accepting me. I was helping my granny out. She was losing
7 her mind from dementia and I was changing diapers and just
8 doing all kinds of stuff.

9 And I had spent so much money on stuff. I was
10 trying to get my horse back and pay my bills and I was just
11 like that's kind of why I missed court. Well, and then so
12 now 17 -- excuse me, seven months and 16 days later I still
13 haven't used anything, no alcohol, no pot, no, no nothing.
14 And it's been a great seven months.

15 And, you know, I thank the D.A. and I thank Mr.
16 Stermitz for pressing on me, and I have never done this
17 before so I'm kind of nervous. My heart is beating real
18 fast.

19 You know, just everything, you know, if I
20 wouldn't have -- if I wouldn't have got in trouble I wouldn't
21 have stopped being a dope fiend. You know what I mean. I've
22 been a druggie for a long time. And I didn't know that life
23 could be so much greater not on dope and stuff.

24 And I had other things I wanted to say. But I

1 just -- I miss -- I'm nervous now. I'm trying to take full
2 responsibility in the beginning for my actions and stuff and,
3 you know, practicing stuff I was reading and AA type of stuff
4 and just to be a better person for the community and for
5 myself and for my family. And like I said in my report
6 thing, like, and I know the ship has sailed. But if I was to
7 get a program or the drug court or anything like that, I sit
8 on there, I won't fail.

9 And that was in the beginning before I just had
10 barely quit, you know what I mean, where, you know, I had the
11 cravings and stuff like that but those went away. And I
12 don't want to get high no more. I don't even want to be
13 around people like that.

14 And I know I won't fail whether I get a whole
15 bunch of time which, man, it seems like I've been doing
16 forever. And I just want to practice what I've been learning
17 from the meetings to be sober and straight, and it's good.

18 And I wanted to have some letters or some of my,
19 you know, boss that I was working for and they all noticed a
20 difference in me and they wanted to come and speak up for me.
21 But I guess Mr. Stermitz said my presentence reports and all
22 of that stuff, said it wouldn't help me anyways. So I didn't
23 do that. We didn't cross that bridge.

24 And but I had let the people speak up for me.

1 I'm not a bad person at all. I was an EMT before. I went to
2 junior college. You know what I mean. I just kind of took
3 the wrong route or took the rough road. And, man, it's been
4 a rough road for the last 20 something years. But, you know,
5 I went to be an EMT and I was for a while and I like to save
6 people. I like to help people. You know what I mean.

7 You know, I was going to sit here and say about
8 all of the good things I've done in the last couple of months
9 but I didn't -- I didn't do it to try to get credit for it.
10 I just did things to try to be just a better person.

11 And I said it already on the thing, you know, I
12 just seen some little factual errors on Mr., I don't know if
13 it was Gordon or Haas, like thing, you know, like the
14 threshold amount on some of those are not correct which is,
15 you know, it don't really matter I guess. I still want to be
16 responsible for it.

17 But I just got really confused. I mean, sure, I
18 know I've been doing this a long time but in a different
19 state, but I didn't really know how Nevada works. You know
20 what I mean. And how this Court, you know, some comes off
21 the front. Some comes off the back. And I didn't -- I'm
22 getting it now. You know what I mean. But I still didn't
23 even really get it like until I read this memorandum,
24 recommendation thing. Like, oh, wow.

1 I thought that I would get, you know, two years
2 and as long as I did programs and stuff I would get -- get --
3 get, you know, get the parole board. They don't have it like
4 that in California. And that, you know, if I keep messing up
5 and everything stay all the way up to 15 years. So I
6 thought, you know, the worst case was three years not like
7 180 months. I'm still trying to grieve from that because I
8 just got this report thing last night. And I'm -- and I'm
9 like wow.

10 Because it went from, I believe there's one time
11 in court when we were talking and I had signed on this two to
12 15 thing. You know, I had signed a deal for probation and
13 probation transfer. And then on that thing I signed it said
14 how many felonies have you been convicted of. Well, me and I
15 think her name was Ms. Quinn or Maureen. I forget her name.
16 But Mr. Stermitz conflicted off so I had her. And I got that
17 when I was on bail.

18 So I put it on there just two felonies. And I
19 told her, well, look, I've got more than two felonies. And
20 she said, well, that don't matter. They'll figure it out in
21 your report thing. So I'm like wait a minute. Because in
22 the fine print it said if you lie anywhere on this statement
23 thing you got one to five for whatever the thing was.

24 So when I came before you and I said I didn't

1 understand, you know, something of what was going on with
2 the -- with the plea -- you know, with -- with me pleading to
3 that and me being honest on it, I was kind of hard headed
4 with Mr. Stermitz because I thought that he conflicted off.
5 And me and him butted heads a little bit, you know. Because
6 he would tell me, oh, you're stupid, this and that. And,
7 yeah, I was stupid. I should have listened to him more
8 better.

9 But I was just like reluctant, not reluctant but
10 resistant to converse with him what was going on with the
11 plea thing. And then before I knew it, everybody was upset
12 with me and they reversed everything backwards and said ten
13 to 25 years. And it's like oh my gosh. And then I bailed
14 out. And then I was like, hey, I just want to be responsible
15 for it when I was out there. And they said, well, that ship
16 sailed on probation and one to five. Now it's two to 15.
17 Okay, that's fine. I'll try that.

18 And then I was under the impression because I
19 asked the probation guy, I says because I heard that if you
20 are out there working and testing clean and stuff that
21 there's a good chance that you can be continued on to the
22 drug court.

23 And I seen a friend of mine that I never thought
24 would quit using, whatever, drugs and this and that but he

1 did and he got the job at the mines. He got the MSHA card.
2 And I didn't know what he was talking about. But I put that
3 in my thing too. That was a desire of mine to get my MSHA
4 card and work and stuff.

5 So when I talked to the probation guy he said,
6 well, the judge, like I said, like people that do it on their
7 own before he has to tell them to do it or sentence them to
8 do it. And I was like okay. So I made up my mind of being
9 sober and stuff or try it.

10 And then like I said, after the 45 or 40 days or
11 whatever of being clean it was just like and helping my
12 family and stuff, I just -- I just -- I just messed up and
13 didn't come to court and I probably should have and I
14 didn't -- wasn't able to move back over here because I had so
15 much bills because of my ignorance of not being able to quit
16 on my own. You know what I mean.

17 Because I am -- I'm way smarter and I should have
18 been able to quit on my own and notice that I was just
19 damaging everything and everybody around me. And -- and with
20 the same bringing drugs into the community, that was bad.
21 And I apologize for that. And I would never do that again
22 because Winnemucca is a beautiful place and this whole county
23 is a beautiful place.

24 I kind of got here because Elise Fogle, she, I

1 think she was some sort of attorney here, that's what she
2 told me. She managed this -- she owns a hotel in Mcdermitt.
3 So I worked for her until like right before the pandemic
4 started. And then I just quit working for her. And that's
5 when I caught one case and then I caught another case from
6 being a dope fiend and I ruined my chance here at a better
7 life.

8 Because I don't want to be -- I don't want to be
9 that person that's, man, 22, thises and that's. Like, I
10 wouldn't want that guy around my place either. You know what
11 I mean. But that guy is me and it's like oh wow. I didn't
12 really look at it like this and now I do. And it's probably,
13 now I know it's too late. But I'm still going to keep --
14 keep sober and keep -- keep doing what I'm doing.

15 And, you know, I found music is my little outlet
16 now. I know I'm kind of wearing this out. But every time I
17 wanted to get loaded or whatever I just would play -- I
18 started to learn how to play the trumpet and the trombone.
19 And I can play the sax. The clarinet, I can't play very good
20 but I'm trying.

21 I even tried where they, the bourbon, Dotty's and
22 the Bourbon Street place opened, I tried to tell them, hey,
23 I'll stand out front because I can play When The Saints Go
24 Marching Home. You know, I was like, hey, I can draw some

1 people into the casino because they just were opening. They
2 didn't go for that.

3 And the gas station guy across the street, I
4 tried to, hey, if he cared if I could play my trumpet out
5 there. He didn't go for that. And so I was trying to be, I
6 don't know, productive or whatever, something. I don't know
7 what the right word is.

8 But I'm getting thirsty so I guess I better end
9 my statement. Thank you.

10 THE COURT: Mr. Fredrick, thank you.

11 Hearing no legal cause why you should not be
12 sentenced and based upon your no contest plea in Case
13 CR207199, the Court does find you guilty of trafficking in a
14 controlled substance, level two, a category B felony. In
15 accordance with the laws of the State of Nevada it will be
16 the order and judgment of this Court that the defendant,
17 Stephen Allen Fredrick, be sentenced as follows.

18 As a part of the sentence in this case the Court
19 renders judgment against you in the amount of \$3 for a DNA
20 collection fee, 25 dollar administrative assessment fee, 60
21 dollar forensic fee, 150 dollar DNA fee. And there will be a
22 500 dollar public defender fee. And further the Court
23 sentences the defendant to a minimum term of 72 months, a
24 maximum term of 180 months in the Nevada Department of

1 Corrections with a fine in the amount of \$100,000.

2 The State has argued for a term of 96 to 180.
3 That would be an illegal sentence. The Court is not going to
4 order that. The legal sentence will be 72 to 180.

5 In Case CR207222, hearing no legal cause why the
6 defendant should not be sentenced and based upon in this case
7 his guilty plea the Court does now pronounce Stephen Allen
8 Fredrick guilty of transporting a controlled substance, a
9 category C felony. In accordance with the laws of the State
10 of Nevada, it will be the order and judgment of this Court,
11 it will be as follows.

12 There will be first a judgment for a 3 dollar DNA
13 collection fee, 25 dollar administrative assessment fee, 60
14 dollar forensic fee. DNA has been ordered in 7199. So there
15 will not be 150 dollar DNA analysis fee in this case but
16 there will be the 500 dollar public defender fee.

17 The Court will sentence the defendant to a
18 minimum term of 24 months, maximum term of 60 months. And
19 this sentence will run consecutive to the sentence imposed in
20 CR7199. In 7199, credit for time served has been adjusted
21 will be 53 days. And credit for time served in 7222 will be
22 117 days. That will be the sentence of this Court.

23 Mr. Fredrick, I do hope that you continue to be
24 doing the things that you're doing but you will be -- you

1 will remain in the custody of the Humboldt County Detention
2 Center for, until transport to Nevada Department of
3 Corrections to serve this sentence. We'll be in recess for
4 today.

5 THE DEFENDANT: Thank you.
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1 STATE OF NEVADA,)
2 CARSON CITY.)

3

4 I, KATHY JACKSON, do hereby certify:

5 That on November 16, 2021, a sentencing was held
6 in the within-entitled matter in the Humboldt County District
7 Court, Department No. 2;

8 That said sentencing was recorded by a recording
9 system, and said recording was delivered to me for
10 transcription;

11 That the foregoing transcript, consisting of
12 pages 1 through 23 is a full, true and correct transcript of
13 said recording performed to the best of my ability.

14

15 Dated at Carson City, Nevada, this 25th day of
16 January, 2022.

17

18

19 /s/ Kathy Jackson
20 KATHY JACKSON, CCR
 Nevada CCR #402

21

22

23

24

CERTIFICATE OF SERVICE

Pursuant to applicable appellate rules, on the 7th day of April, 2022, the undersigned mailed a true and correct copy of the foregoing addressed to Stephen Frederick # 1250806, Warm Springs Correctional Center, P.O. Box 7007 Carson City, NV 89702.

Matt Stermitz
Matt Stermitz