

IN THE SUPREME COURT OF THE STATE OF NEVADA

A. JACOB SCHULTE } No. 85055

v. }

B. THE STATE OF NEVADA }

Electronically Filed
Aug 18 2022 09:42 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DEFENDANT'S RESPONSE TO ORDER TO SHOW CAUSE

COMES NOW Defendant Jacob Schulte, by and through undersigned counsel who hereby responds to the Order to Show Cause and Suspending Briefing filed by the Supreme Court of the State of Nevada on July 28, 2022. Specifically, Defendant hereby addresses the issues of the timeliness of the filing of the notice of appeal.

Counsel for the defendant was appointed by the Court to represent the defendant, Jacob Schulte on August 25, 2021, in Las Vegas Justice Court department 15. Attached as Exhibit 1 is the Las Vegas Justice Court Register of Action for Case Number 21-CR-037837 entitled State of Nevada vs. Schulte, Jacob Matthew. On September 8, 2021, defendant entered into an agreement with the State where the case was bound over to 8th Judicial District Court department 23. The defendant entered his plea on September 9, 2021 and was sentenced on November 15, 2021. Attached as Exhibit 2 is the 8th Judicial District Courts Register of Actions for case number C-21-358892-1 entitled State of Nevada vs. Jacob Schulte. At that time, he was placed on probation for a term not to exceed three (3) years and agreed to the terms and conditions of probation.

On April 13, 2022, a Probation Violation report was filed with the Court and around that same time defendant was taken into custody and booked into the Clark County Detention Center. The defendant was found in violation of probation on May 18, 2022, after a violation hearing and

his probation was terminated. The court imposed the suspended sentence that had been suspended on November 15, 2021. On May 20, 2022, defendant filed a motion to reconsider the Court's decision to revoke his probation. The court, on May 29, 2022, filed an Amended Judgement of Conviction signed by the Honorable Jasmin Lilly-Spells. Shortly, after on June 8, 2022, defendant filed a motion to hold the defendant at CCDC pending the outcome of the defendant's Motion to Reconsider. The Court denied the Defendant's Motion to Reconsider on June 29, 2022. Lastly, the defendant, through counsel filed a Notice of Appeal on July 15, 2022.

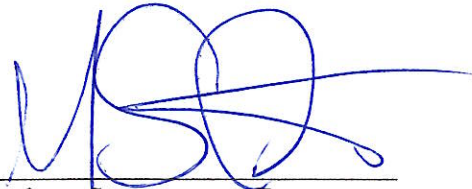
Defendant's Counsel was appointed while employed through the Office of Appointed Counsel's Office. At that time defense counsel was also on the list of Appointed Counsel for conflict cases. His appointment was for cases included non-Capital cases, category B felonies and below. Defense counsel was not appointed to the Appeals list as part of his contract with the Office of Appointed Counsel (OAC).

In the case at hand concerning defendant Jacob Schulte, defense counsel was under the belief that any appeals would be assigned to a separate attorney appointed for the sole purpose to represent the defendant for his appeal. Counsel informed the defendant that he would need to ask the court to appoint an attorney by filing a "request to appoint counsel for appeal". Then any appeal documents would be filed by the appointed attorney, presumably appointed from the OAC's appointed counsel "appeal" list. Counsel believed he would have been appointed counsel to file the notice in time as required under NRAP 4(b)(1)(A). Counsel even requested the court to order he remain at Clark County Detention Center to make it easier for him file a request and obtain counsel for appeal.

CONCLUSION

Counsel was under the belief that based on his contract, there would have to be another attorney appointed who would file the notice of appeal and subsequent appeal documents. It wasn't until after time to file the appeal had run that counsel became aware that a notice still needed to be filed for the defendant. Otherwise, the defendant would have filed the notice of appeal within the time required under the Nevada Rules of Appellate Procedure. For the foregoing reasons defendant hereby requests the Court to allow defendant to file his appeal.

Dated this 18th day of August 2022.



Matthew Stromenger, Esq.
Attorney for Appellant Schulte
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The Matian Firm
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Las Vegas, Nevada 89101
(702) 220-6921
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August 2022, I served a true and correct copy of the above and foregoing Defendant's Response to Order to Show Cause to the parties, at the address and by the means set forth below:

STEVEN B. WOLFSON, ESQ.

District Attorney

Clark County District Attorney's Office

200 Lewis Avenue, 3rd Floor

Las Vegas, Nevada 89101

Service by Electronic filing to: motions@clarkcountynvada.com

AARON FORD, ESQ.

Nevada Attorney General

Nevada Attorney General's Office

100 North Carson Street

Carson City, Nevada 89701

Service by United States Mail, First Class Postage

/s/ Matthew Stromenger

MATTHEW STROMENGER, ESQ.

Attorney for Appellant

EXHIBIT 1

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Criminal Search](#) [Refine Search](#) [Back](#)Location : [Justice Court](#) [Help](#)**REGISTER OF ACTIONS****CASE No. 21-CR-037837****State of Nevada vs. SCHULTE, JACOB MATTHEW**§
§
§
§
§Case Type: **Felony CR**
Subtype: **DV Case**
Date Filed: **08/16/2021**
Location: **JC Department 15****PARTY INFORMATION****Defendant** **SCHULTE, JACOB MATTHEW****Lead Attorneys**
Matthew Stromenger
Court Appointed
520-591-0030(W)**State of** **State of Nevada**
Nevada**CHARGE INFORMATION**

Charges: SCHULTE, JACOB MATTHEW	Statute	Level	Date
1. Unlawful dissemination of an intimate image of another person [58738]	200.780.1	Felony	05/11/2021
2. Unlawful dissemination of an intimate image of another person [58738]	200.780.1	Felony	05/11/2021
3. Aggravated stalking [50333]	200.575.2	Felony	05/11/2021

EVENTS & ORDERS OF THE COURT

	DISPOSITIONS
09/08/2021	Disposition (Judicial Officer: De La Garza, Melisa) 1. Unlawful dissemination of an intimate image of another person [58738] Waiver of Preliminary Hearing - Bound Over to District Court 2. Unlawful dissemination of an intimate image of another person [58738] Waiver of Preliminary Hearing - Bound Over to District Court 3. Aggravated stalking [50333] Waiver of Preliminary Hearing - Bound Over to District Court
	OTHER EVENTS AND HEARINGS
08/12/2021	Original Track Assignment JC12
08/16/2021	Arrest Warrant Request NPR
08/16/2021	Nevada Risk Assessment Tool
08/16/2021	Criminal Complaint
08/16/2021	Declaration of Warrant Summons (Affidavit)
08/19/2021	Arrest Warrant Request (7:00 AM) (Judicial Officer Sullivan, Diana L.) Result: Matter Continued
08/19/2021	Case Administrative Reassignment to Department 15 <i>due to nature of relationship between Defendant and Victim</i>
08/19/2021	Minute Order - Department 12
08/19/2021	Arrest Warrant Request (7:00 AM) (Judicial Officer De La Garza, Melisa) Result: Arrest Warrant Issued
08/19/2021	Probable Cause Found
08/19/2021	Request for Arrest Warrant Filed <i>granted</i>
08/19/2021	Arrest Warrant Ordered to be Issued-Bail Cash or Surety <i>Counts: 001; 002; 003 - \$0.00/\$0.00 Total Bail</i>
08/19/2021	Bail to be Set in Court
08/19/2021	Minute Order - Department 15
08/19/2021	Arrest Warrant - Face Sheet
08/19/2021	Arrest Warrant Confidential
08/19/2021	Warrant Reviewed
08/19/2021	Warrant Arrest Documents
08/22/2021	Not Released NPR
08/22/2021	Nevada Risk Assessment Tool
08/23/2021	Arrest Warrant Return Hearing (7:30 AM) (Judicial Officer De La Garza, Melisa) <i>In custody</i> Result: Matter Heard
08/23/2021	Initial Appearance Completed <i>Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint</i>
08/23/2021	Court Continuance
08/23/2021	Status Check <i>to see if private counsel (Mcavoyamaya) will confirm on this new case.</i>
08/23/2021	Bail Stands - Cash or Surety <i>Counts: 001; 002; 003 - \$0.00/\$0.00 Total Bail</i>
08/23/2021	Bail to be Set in Court

08/23/2021	Comment <i>email sent to attorney to see if he will be confirming.</i>
08/23/2021	Minute Order - Department 15
08/24/2021	Status Check (7:30 AM) (Judicial Officer De La Garza, Melisa) <i>In Custody</i> Result: Matter Heard
08/24/2021	Court Continuance
08/24/2021	Continued for Confirmation of Counsel <i>possibly M. Mcavoyamaya, Esq</i>
08/24/2021	Bail to be Set in Court
08/24/2021	Bail Stands - Cash or Surety <i>Counts: 001; 002; 003 - \$0.00/\$0.00 Total Bail</i>
08/24/2021	Minute Order - Department 15
08/25/2021	Status Check (7:30 AM) (Judicial Officer De La Garza, Melisa) <i>In Custody</i> Result: Matter Heard
08/25/2021	Counsel Appointed <i>M. stromenger, Esq</i>
08/25/2021	Defendant Identified as Indigent <i>Defendant and the Court discussed the appointment of counsel and defendant requested appointment of counsel.</i>
08/25/2021	Discovery Given to Counsel in Open Court
08/25/2021	Plea of Not Guilty Entered
08/25/2021	Bail Stands - Cash or Surety <i>Counts: 001; 002; 003 - \$0.00/\$0.00 Total Bail</i>
08/25/2021	Bail to be Set in Court
08/25/2021	Minute Order - Department 15
09/08/2021	Preliminary Hearing (9:00 AM) (Judicial Officer De La Garza, Melisa) <i>In Custody</i> Result: Bound Over
09/08/2021	Unconditional Bind Over to District Court <i>Defendant unconditionally waives right to Preliminary Hearing. Defendant Bound Over to District Court as Charged. Defendant to Appear in District Court for Arraignment.</i>
09/08/2021	District Court Appearance Date Set <i>Sep 10 2021 8:00AM: In Custody</i>
09/08/2021	Case Closed - Bound Over
09/08/2021	Bail Stands - Cash or Surety <i>Counts: 001; 002; 003 - \$0.00/\$0.00 Total Bail</i>
09/08/2021	Bail to be Set in Court
09/08/2021	Minute Order - Department 15
09/08/2021	Certificate, Bindover and Order to Appear
09/08/2021	CR District Court Bind Over Packet

EXHIBIT 2

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REGISTER OF ACTIONS

CASE No. C-21-358892-1

State of Nevada vs Jacob Schulte

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Case Type: **Felony/Gross Misdemeanor**
Date Filed: **09/08/2021**
Location: **Department 23**
Cross-Reference Case Number: **C358892**
Defendant's Scope ID #: **7031290**
ITAG Case ID: **2480187**
Lower Court Case Number: **21CR037837**
Supreme Court No.: **85055**

PARTY INFORMATION

Defendant	Schulte, Jacob <i>Also Known As</i> Schulte, Jacob Matthew	Lead Attorneys Matthew John Stromenger <i>Retained</i> 520-591-0030(W)
Plaintiff	State of Nevada	Steven B Wolfson 702-671-2700(W)

CHARGE INFORMATION

Charges: Schulte, Jacob	Statute	Level	Date
1. AGGRAVATED STALKING	200.575.2	Felony	05/11/2021
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1a	Misdemeanor	05/11/2021

EVENTS & ORDERS OF THE COURT

	DISPOSITIONS
09/22/2021	Plea (Judicial Officer: Lilly-Spells, Jasmin) 1. AGGRAVATED STALKING Guilty 2. BATTERY CONSTITUTING DOMESTIC VIOLENCE Guilty
11/15/2021	Disposition (Judicial Officer: Lilly-Spells, Jasmin) 1. AGGRAVATED STALKING Guilty 2. BATTERY CONSTITUTING DOMESTIC VIOLENCE Guilty
11/15/2021	Sentence (Judicial Officer: Lilly-Spells, Jasmin) 1. AGGRAVATED STALKING Sentenced to Nevada Dept. of Corrections Term: Minimum:54 Months, Maximum:180 Months Suspended-Period of Probation: Indeterminate, Not To Exceed: 3 Years Condition 1. Standard Conditions 2. Digital Storage Media, You shall submit your digital storage media or any digital storage media that you have or use, including computers, handheld communication device and any network applications associated with those devices, including social media and remote storage services to a search and shall provide all passwords, unlock codes and account information associated with those items, with or without a search warrant, by the Division of Parole and Probation or its agents. 3. Maintain Full-Time Employment, Maintain full time employment, or a full time vocational or educational program; or a combination of employment and school that equals full time or alternatively complete 12 hours of community service each month. 4. Substance Abuse Evaluation, Complete a substance abuse evaluation and follow any recommended treatment plan. 5. Additional Condition, 2 days credit for time served in CCDC for mandatory sentence for Domestic Violence. 6. Additional Condition, Pay a Domestic Violence fee in the amount of \$345.00 7. Domestic Violence Counseling, Enter and complete Domestic Violence and Battery counseling for 6 months. One and half hour per week at Defendant's expense. 8. CCDC Confinement, Serve 100 days Flat time in Clark County Detention Center (CCDC) with zero days credit for time served. 9. No Contact, No contact whatsoever with Victim Courtney Schulte. Fee Totals: Administrative \$25.00 Assessment Fee \$25 DNA Analysis Fee \$150 \$150.00 Genetic Marker \$3.00 Analysis AA Fee \$3 Fee Totals \$ \$178.00
11/15/2021	Sentence (Judicial Officer: Lilly-Spells, Jasmin) 2. BATTERY CONSTITUTING DOMESTIC VIOLENCE Comment (11/15/21- ORDERED, defendant SENTENCED TO CREDIT TIME SERVED)

05/18/2022	Amended Sentence (Judicial Officer: Lilly-Spells, Jasmin) Reason: Amended, Probation Revoked 1. AGGRAVATED STALKING Sentenced to Nevada Dept. of Corrections Term: Minimum:54 Months, Maximum:180 Months Credit for Time Served: 240 Days Comment (05/18/22 - ORDERED, probation REVOKED)
05/18/2022	Amended Sentence (Judicial Officer: Lilly-Spells, Jasmin) Reason: Amended 2. BATTERY CONSTITUTING DOMESTIC VIOLENCE Comment (11/15/21- ORDERED, defendant SENTENCED TO CREDIT TIME SERVED) Comment (05/18/22 - as to COUNT 2, Defendaant previously SENTENCED to CREDIT FOR TIME SERVED)
	OTHER EVENTS AND HEARINGS
09/08/2021	Criminal Bindover Doc ID# 1 [1]
09/08/2021	Criminal Bindover - Confidential Doc ID# 2 [2]
09/09/2021	Information Doc ID# 3 [3] Information
09/09/2021	Guilty Plea Agreement Doc ID# 4 [4] Guilty Plea Agreement
09/10/2021	Initial Arraignment (8:00 AM) (Judicial Officer Hardy, Joe) Parties Present Minutes Result: Continued
09/22/2021	Arraignment Continued (11:00 AM) (Judicial Officer Lilly-Spells, Jasmin) Parties Present Minutes Result: Plea Entered
10/27/2021	PSI Doc ID# 5 [5]
11/10/2021	Sentencing (11:00 AM) (Judicial Officer Lilly-Spells, Jasmin) 11/10/2021, 11/15/2021 Parties Present Minutes 10/27/2021 Reset by Court to 10/27/2021 10/27/2021 Reset by Court to 11/10/2021 11/12/2021 Reset by Court to 11/15/2021 Result: Matter Continued
12/07/2021	Judgment of Conviction Doc ID# 6 [6] Judgment of Conviction
02/11/2022	Order Admitting Defendant to Probation & Fixing Terms Doc ID# 7 [7] Order Admitting Defendant to Probation and Fixing Terms
04/13/2022	Probation Violation Report Doc ID# 8 [8] Probation Violation Report
04/18/2022	Revocation of Probation (11:00 AM) (Judicial Officer Lilly-Spells, Jasmin) 04/18/2022, 05/02/2022, 05/18/2022 Parties Present Minutes Result: Continued
05/01/2022	Objection Doc ID# 9 [9] Defendant's Objection to 4/12/22 Violation Report or in the Alternative Motion to Strike Probation Report Section IV
05/20/2022	Motion to Reconsider Doc ID# 10 [10] Defendant's Motion to Reconsider
05/23/2022	Clerk's Notice of Hearing Doc ID# 11 [11] Notice of Hearing
05/26/2022	Opposition to Motion Doc ID# 12 [12] State's Opposition to Defendant's Motion to Reconsider
05/29/2022	Amended Judgment of Conviction Doc ID# 13 [13] Order for Revocation of Probation and Amended Judgment of Conviction
06/06/2022	Motion to Reconsider (9:15 AM) (Judicial Officer Lilly-Spells, Jasmin) 06/06/2022, 06/29/2022 Defendant's Motion to Reconsider Parties Present Minutes Result: Matter Continued
06/08/2022	Motion Doc ID# 14 [14] Motion to Hold Defendant at CCDC
06/09/2022	Order Doc ID# 15 [15] Motion to Hold Defendant at CCDC
06/10/2022	Supplemental Brief Doc ID# 16 [16] Supplemental Brief to Defendant's Motion for Reconsider
06/14/2022	Supplemental Doc ID# 17 [17] State's Supplemental Opposition in Response to Defendant's Motion to Reconsider
06/16/2022	Order for Production of Inmate Doc ID# 18 [18] Order For Production of Inmate Jacob Schulte, BAC #1257548
07/15/2022	Case Appeal Statement Doc ID# 19 [19] Case Appeal Statement

07/15/2022	Notice of Appeal (Criminal) Doc ID# 20 [20] Notice of Appeal
07/15/2022	Request Doc ID# 21 [21] Request for Rough Draft Transcript
07/23/2022	Order Doc ID# 22 [22] Order Denying Defendant's Motion to Reconsider
07/28/2022	Request Doc ID# 23 [23] Request for transcript
08/05/2022	Recorders Transcript of Hearing Doc ID# 24 [24] Recorders Transcript of Hearing Re: Sentencing
08/05/2022	Recorders Transcript of Hearing Doc ID# 25 [25] Recorders Transcript of Hearing Re: Sentencing
08/11/2022	Recorders Transcript of Hearing Doc ID# 26 [26] Recorders Transcript of Hearing Re: Revocation of Probation
08/11/2022	Recorders Transcript of Hearing Doc ID# 27 [27] Recorders Transcript of Hearing Re: Defendant's Motion to Reconsider

FINANCIAL INFORMATION

	Defendant Schulte, Jacob	
	Total Financial Assessment	178.00
	Total Payments and Credits	0.00
	Balance Due as of 08/17/2022	178.00
06/01/2022	Transaction Assessment	178.00