

# IN THE SUPREME COURT OF THE STATE OF NEVADA

Henry Aparicio,	)	Supreme Court Case No.: 84300
Appellant	)	
	)	Electronically Filed
vs.	)	Aug 01 2022 01:27 p.m.
	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
The State of Nevada,	)	<b>APPELLANT'S APPENDIX INDEX</b>
Respondent.	)	<b>Vol. II</b>
	)	<b>Pages 216-418</b>
	)	

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Sentencing of Henry Aparicio #C-18-332496-1  
Fatal victims: Damaso and Christa Puente  
Judge: Cristina Silva

Your Honor,

My name is Michelle Gillum and I am one of the lucky ones. Not one of the really lucky ones, but lucky none the less. Perhaps you'll spare me a moment to explain. I didn't know Damaso and Christa closely. I'm not able to say that this senseless, avoidable tragedy took away two of my friends. I'm not able to say that I miss seeing their names appear on my phone. I'm not able to say that I miss seeing the way they laugh together. And I'm not able to say that I miss being able to participate in their latest video skits. But what I am lucky enough to say is that they have taught me how life should be lived.

My sister, Jessica Bertran, was in high school in Illinois when she met and became friends with Christa. They were close – so much so that when Christa's family later packed up to move, Jessica took the road trip to Las Vegas with them. From then on, Jessica traveled back and forth to Las Vegas to visit Christa before eventually deciding she would transfer there during college. I think my parents thought Jessica was a little nuts – up and moving halfway across the country to be close to only one friend and no family. I remember the day Christa pulled up into my parent's driveway with a couple of guys we'd never met to pack my sister's worldly possessions into an already cramped four-door sedan and whisk her away to Sin City. This is when I first met Damaso, Christa's then-boyfriend. He was nothing but polite and assured my dad that they would look after Jessica. We didn't know it at the time, but Damaso and Christa would also gift my family with a son-/brother-in-law because once Jessica lived in Las Vegas, she spent time with Damaso's best friend, Jorge. Jessica and Jorge got married in August 2012. Damaso and Christa were two of less than 25 people that ventured to Maui for the ceremony and both served in the wedding party. So even though I spent limited time around Damaso and Christa, it was plenty of time to see how close they were to my family.

On May 16, 2018, my parents called me and asked me to stop by their house on my way home from work. They were sitting in the living room when I walked in, waiting for me to sit down. Once I did, my dad came out by saying that Damaso and Christa were killed in a car accident the night before. My dad barely got the words out before bursting into tears. You see, even my parents had grown fond of Damaso and Christa. They now split their time between living in Illinois and Las Vegas and had seen Damaso and Christa on different occasions. Damaso was also always willing to help people any chance he could. When my dad published a book that year, Damaso volunteered to record a promotional video for my dad, free of charge, out of the kindness of his heart. After my dad composed himself a bit about the news, he then went on to say how he had never paid Damaso back for the favor. It seems like so many times when we lose somebody, we regret not doing something for them to show them what they meant to us.

Damaso and Christa lived their lives by not missing those opportunities, though. That's what they have taught me. They showed their friends and family they loved them. The countless people with broken hearts who continue to be thankful to have known them prove that. Seeing the devastation of so many people close to them has been heartbreaking to watch from afar but watching the uplifting stories and memories of Damaso and Christa being shared between so many people makes it clear that they were two people worth loving. So I'm not one of the really lucky ones who can say Damaso and Christa were

my friends. But I am thankful that I'm lucky enough to have been shown how two beautiful souls can impact those around them. Christa's smile was infectious and Damaso's sense of humor was contagious. Their compassion and kind hearts were continuous. Anyone who has met them would say that.

My sister and brother-in-law have lost two of the closest people in their lives. They have stood strong for Damaso and Christa's families through their grief while learning to grieve themselves. A message posted in all capital letters from May 16, 2018 is still on my sister's social media page from Diane Malone, Christa's mother, "Jessica. Please call ASAP. PKEASE". Shortly after Damaso and Christa's deaths, I called my sister to arrange plans with her for a Father's Day gift for our dad. She answered the phone in a hesitant whisper, "Hello?" I greeted her and said she must be busy at work and asked if there was a better time to talk. My sister's response still gives me a sunken feeling in my stomach. She told me she had time, she just didn't really like unexpected phone calls anymore. Nobody should have to feel anxious when a friend or family member calls them because they are scared something terrible has happened. On a recent family trip to Maui, we were preparing to check out of our condo on the last day. Jessica and Jorge had walked off with their four year old daughter, Maya (my niece). I wasn't sure where they went and wanted to ask what the plan was before we all left to catch our respective flights home. I turned the corner from the pavilion we were sitting in and saw Maya holding hands gracefully with her parents while looking into the ocean. A flower lei they had gotten the night before was floating in the waves. I realized I had caught a glimpse of a private moment. When they came back to the group, I overheard Maya asking about mommy and daddy's friends in heaven who they had obviously just had a moment of respect for. No child should have to see their parents grieve senseless loss.

The purposeful actions of Henry Aparicio have taken two people from this world before their time was meant to be up. He cheated this world out of seeing what more Damaso and Christa could have contributed. Their lives were not lost in an "accident." The guilty defendant knowingly and purposefully endangered the lives of everyone he encountered on the night of May 15, 2018. The world was undoubtedly a better place before Damaso and Christa were taken from us. The guilty defendant serving the maximum allowable penalty in this case will not be restitution for the lives lost and the hearts shattered. But a stern sentence of serving the maximum 20 years to be given for each count to run consecutively has the potential to affect the actions of others, and most certainly will protect society from any reckless actions of the guilty defendant for which he has proven he is capable. The world can never be better without Damaso and Christa. But it can be safer.

Thank you Judge Silva for taking the time to consider my thoughts and concerns.

Respectfully,

Michelle Gillum

Sentencing of Henry Aparicio #C-18-332496-1  
Fatal victims: Damaso and Christa Puente  
Judge: Cristina Silva

Your Honor,

As a 7+ year veteran in law enforcement, I believe strongly in the sanctity of our criminal justice system. I served as a police officer for 5 years in Memphis, TN before taking my current position as a police officer in Cahokia, IL, a small Metro-East community right outside of St. Louis, MO. I have seen the worst of the worst in people. And on some lucky occasions, I have seen the best of the best.

To be honest, I only met Damaso and Christa once. But from all accounts, Damaso and Christa were some of the best. I may not know the direct impacts of their lives and untimely deaths. But I have seen loss due to DUIs. I have supported colleagues through anniversaries of losing a veteran officer within my department. I have been the one to explain to families that arrive on the scene of a DUI crash why there are so many flashing lights illuminating paramedics and firefighters toting heaving "jaws-of-life" contraptions surrounding the car of their loved one. I have had to comfort someone's grandmother after being petrified when a drunk driver drove their car through the wall of her home. And I have watched and supported my wife, Michelle Gillum, as her family learned to navigate the horrific reality of Damaso and Christa's deaths. My sister- and brother-in- law, Jessica and Jorge Bertran, were best friends with this young, promising couple. No family should have to lose loved ones this way. And the fact is, nobody does have to. If it weren't for the reckless and purposeful actions of the guilty party you are about to sentence, Damaso and Christa would be here. Nothing and nobody changed their fates aside from Henry Aparicio. For that, he deserves a strict and unforgiving penalty. The guilty defendant knowingly drank in excess, chose to get behind the wheel of a vehicle, and elected to disregard numerous traffic laws put in place to protect each and every one of us, laws that you have been given the opportunity to enforce each day. His conscious and premeditated actions were deadly and his history proves this is not his first encounter on the wrong side of the law.

Judge Silva, you now have the opportunity to use the parameters of justice to sentence the sole person responsible for two deaths and endless heartaches. Please use your influence to ensure that this world is a safer and more just place by sentencing the guilty defendant to the maximum sentence of 20 years on each count, to be served consecutively. There is a reason DUI laws have become stricter over time and why the harshest of penalties still fall short of retribution. According to the Centers for Disease Control and Prevention (CDC), every day, 29 people in the United States die in motor vehicle crashes that involve an alcohol-impaired driver. These deaths are preventable. 10,000 lives lost each year that never had to happen. Please, Judge Silva, do your part to eliminate these preventable tragedies by sentencing the guilty defendant in front of you to the maximum extent allowed by law. My loved ones, your loved ones, and the loved ones of everyone deserve to be protected from the negligent actions of Henry Aparicio.

Thank you for taking the time to consider my thoughts.

Respectfully,

Dan Gillum

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## **Victim Impact Statement**

### **Adam Rivera for Christa and Damaso Puente**

#C-18-332496-1

Your Honorable Judge Cristina Silva,

I first learned of Christa and Damaso's tragic death reading a local news channels website. Although I did not know it at the time. Their names had not yet been released. I remember thinking how horrible it is that someone could be so careless and kill two innocent people who were simply in the wrong place at the wrong time. I felt sorrow for their friends and family. I carried on with my work. Hours later, I learned that those two people who were tragically killed, were people that I knew.

Every day I mourn. I mourn for Christa and Dom. The life that they had together, and the life they were supposed to have still. I mourn for their families, and the indescribable pain that they suffer. Every moment that I shared with them was a joyous one. I have tremendous guilt and shame for not spending more time with them when I could have. I no longer encourage my teenage son to hurry and apply for his driver's license. As ridiculous as that sounds, it is the truth. I have been unable to enter any vehicle, regardless of who is driving, and not wonder if someone will be as careless as the defendant. A carelessness that extended to his court hearings, prolonging pain and suffering to everyone that loved Christa and Damaso.

Your Honor, I request the maximum penalty be given for each count to run consecutively.

Sincerely,

**Adam Rivera**



Sentencing of Henry Aparicio #C-18-332496-1  
Fatal victims: Damaso and Christa Puente  
Judge: Cristina Silva

To the Honorable Judge Cristina Silva,

This is by far the hardest and most difficult letter I have ever had to write. My name is Jamison Derfler and I first met Damaso Puente when I started a new job at the CW TV station, one week after Damaso first started working there. Being the new hires, we immediately bonded over work assignments and learning the ins and outs of a new work place. We also quickly became fast friends, sharing similar tastes in movies, humor and pop culture. It wasn't long before we were inseparable at work. Fortunately, our job titles allowed us to work alongside each other and we frequently had the benefit of each other's insight when planning and carrying out our work objectives.

Beneficially for us, our friendship soon spilled over from work life, to personal life and also included our wives. Damaso introduced my wife, Lisa and I to his wife Christa and we all became good friends. Christa was a guiding light for Damaso, helping and encouraging him in his dreams, desires and goals; where Damaso was also a beacon for Christa, helping her to reach her goal of becoming a nurse. They were a perfect compliment to each other and shared a love that anyone would immediately be envious of because of its purity and absolute perfection. Everyone wanted to be around them. There were no two people ever better matched for each other. They were a perfect compliment to each other and the love they shared for each other was easily seen by anyone that had the pleasure of meeting them.

I received a phone call from Damaso's best friend, Jacob Lucero, the day after the car crash and was informed about what happened and that both Damaso and Christa were killed. I was shocked and dumbfounded, unable to truly grasp what Jacob was telling me. It wasn't until some hours later, when discussing Damaso and Christa and remembering some of the fond times we shared together, that the weight of the truth finally hit me full force. Great sobs of tears were shed and I knew then that the spot in my heart for these two amazing souls would be vacant from then on. I can't describe the pain that goes along with a piece of one's heart dying for the loss of loved ones. There is now a hole, a void in my heart that will never again be filled.

Because of one stupid, selfish decision by Henry Aparicio, the world became a less bright place. The beauty of two amazing people was quickly extinguished and can never be brought back. Their love for life, their love for each other and their love for their family and friends, is now forever lost. The potential and the good that Damaso and Christa were giving to the world and the greatness they were to bestow upon this life in the future, was ripped from all of us. I'll never have the pleasure of seeing them meet their greatest potential, to see them raise a family as they both so desired. I won't have the opportunity to share a laugh with my good friend or bounce ideas off each other. I won't ever be able to hear Damaso laugh again or witness the loving reprimand that Christa would so often direct at Damaso when he got overly excited about nothing in particular.

Henry Aparicio can never give us back Damaso and Christa, but he can surely take responsibility for his actions and pay for what he has done. I would ask that the

maximum sentence of 20 years each for Damaso and Christa be handed down and that the counts run consecutively.

Thank you Judge Silva, for taking the time to read my statement and for weighing and considering this judgment.

Respectfully,  
Jamison Derfler

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Sentencing of Henry Aparicio #C-18-332496-1  
Fatal victims: Damaso and Christa Puente  
Judge: Cristina Silva

To the Honorable Judge Silva,

My name is Lisa Derfler. I became friends with Damaso and Christa when my husband and Damaso started working for a local tv station together back in 2010. They started within a couple of weeks of each other so they were the new guys together. Our friendship grew over the years as we celebrated birthdays, holidays and just the every days.

My husband and I were called by Damaso's best friend Jacob Lucero the day after they were tragically killed. I was absolutely shocked that not only one of our friends, but two, were killed by a drunk driver, to no fault of their own. How could this even be possible. They were sitting at a red light and were struck by a man behind the wheel who chose to drink and drive. Despite being only a few minutes away from his home, he chose to drink and drive recklessly slamming into them at 100 mph. Stealing two of the most beautiful souls from this world.

Damaso was just at our house the week prior as we were helping him to create his own wedding videography business. Damaso had occasionally worked for us filming weddings and he was ready to spread his wings and create his own business. He was always such a joy to work with. He was just a sweet, funny and genuine guy who put everyone at ease and put a smile on your face. He was extremely hard working and always went above and beyond. He and Christa hoped to start a family soon and he wanted to make sure he could support them and their dream of having children.

Christa and Damaso had an amazing marriage. One that everyone dreamed about having. A love full of happiness, laughter, support and friendship. My husband and I looked up to them and wanted a relationship such as theirs. We admired their willingness to support each others dreams and how each of them stepped up to the plate. When Christa attended college to become a nurse, Damaso worked his regular job plus many side jobs to make sure the bills were paid. When Christa became an oncology nurse, she supported Damaso in his dream of becoming a film maker. The devotion they had to each others happiness and their relationship was to be admired.

Everyone was so excited after 16 years together, 8 years of marriage they were beginning the next stage of their life, adding children to their family. They were never allowed this opportunity because Henry Aparicio chose to drive drunk. Theirs parents not only lost them, but a future with grandchildren from the two of them. The two were buried together on their 9<sup>th</sup> wedding anniversary.

This past March, we as their friends and family gathered to celebrate Damaso's birthday, without either of them, except in spirit. It was extremely bitter sweet. All of the familiar faces, but missing two, Damaso and Christa. As we told stories and remembered what amazing individuals they both were, it brought laughter and many tears.

The devastation this has brought to each of their parents is beyond imaginable. It has completely torn these families apart. For Christa's parents, this is the 2<sup>nd</sup> child they have lost. One is too many. The guilt that they feel despite this being no fault of their own is a burden they should not have to bare. This burden for killing two people, should weight heavily on Henry Aparicio's shoulders. They could not have known a drunk driver would kill them that night, but Henry knew the chance he was taking when he got behind the wheel and drove drunk.

I am requesting the maximum penalty of 20 years be given for each count to run consecutively.

Thank you Judge Silva for taking the time to consider my thoughts and concerns.

Respectfully,

Lisa Derfler



Sentencing of Henry Aparicio #C-18-332496-1  
Fatal victims: Damaso and Christa Puente  
Judge: Cristina Silva

Dear Judge Cristina Silva,

My name is Michael Lui-Kwan. I am a producer and editor at News 3. I am a friend of Damaso and Christa Puente. I met both Damaso and Christa while attending The Community College of Southern Nevada in 2007. Both Damaso and Christa were inseparable. A few years ago, when a position became available in my department, Damaso was the first person that came into my mind for the position. Within our department, Damaso brought laughter, creativity, and integrity. If someone needed assistance with anything, Damaso would be there. There were times when Christa would drop off Damaso at work and she would bring those same characteristics of laughter, creativity, and integrity.

When I had heard of the accident on the news, I was unaware that they were the victims. I was at home when I received a call from my co-worker, informing me that they had both passed. I was in complete shock. I called back my co-worker, saying that it was not them. I could not stop thinking of their smiles, their laughter, and their love for each other.

Our former instructor at the community college was very close to Damaso. When I called him to inform him of Damaso's death, all he yelled was the word "NO!" several times in disbelief before asking me how it happened.

Henry Aparicio left a gaping hole in my lives of myself; as well as, the lives of both Damaso and Christa's families, friends, co-workers, patients (of Christa), former classmates and instructors. After the accident, he showed no remorse. He bragged on social media that he was going to be free. Therefore, I request that he be given the maximum penalty to be given and for each count to run consecutively.

Thank you Judge Cristina Silva for taking the time to consider my thoughts and concerns.

Respectfully,



Michael Lui-Kwan

Your Honor,

My name is Marne Hahn. I had the privilege of knowing Dom and Christa for over a decade. Christa and Dom were bright lights in my life, my daughter's life, and in this world. They were a part of my core group of friends (that were really family) having spent most holidays and weekends together. To attempt to describe the lives of Dom and Christa in this letter seems futile as their lives were so much more than can be portrayed on a sheet of paper. Yet, here we are, and this is all we have left of these two beautiful souls whom were killed in the prime of their lives. They were killed while planning their family. Dom and Christa would have been amazing parents and they deserved to realize that dream. I feel this loss as well. I wonder what their children would have looked like and what characteristics of each would be passed on to their children. My heart aches for Christa not having the experience of holding her new baby in her arms for the first time. She so looked forward to that moment and motherhood was something we discussed often. Christa and Dom have been deprived of so many things that they were working towards in their future. They simply lived life to the fullest and inspired me to do the same. I learned from them to enjoy the little things and be in the moment and to not worry about material things because life could be so fulfilling with true friendship and a joyful spirit.

As a couple Dom and Christa were amazing. They were the very definition of unconditional love. They truly supported each other no matter what the circumstances. That is why you will hear them referenced as if they were one. Somehow, they managed to blend seamlessly into this one unit as a couple yet still keep their independent selves. Christa was always smiling and never had a complaint. She was easy to talk to, kind, compassionate, had an amazing sense of humor and could dance like no one's business. The dancing was a special part of our friendship. We often ended up having dance offs during our weekend get togethers. My daughter has danced since she was 3 years old, she is now 15. Christa and my daughter would dance beautifully while Shanna and I had two left feet. It was pure joy and non-stop fun and laughter. Dom was witty, creative, introspective, and a fiercely loyal friend and husband. He was determined to be the best man he could be. Christa and Dom both drew people in with their warmth and magnanimous spirits. They were a rare gem in this world.

Christa and Dom's deaths have left a whole in our group that will never be filled. The absence of Christa and Dom is felt heavily at every get together making them all bitter sweet moments as their deaths were so tragic and so very preventable. The defendants self-centered choices senselessly devastated so many people. This is why I am asking you to apply the maximum sentence. The defendant made a choice that night that ended two lives. Dom and Christa had no choice in this matter as they sat at a stop light probably laughing and being silly not knowing that this would be the last day of their precious lives. I ask you to consider the maximum sentence of 20 years be applied and ran consecutively. Twenty years for each life taken, to not only punish the guilty but to set an example to deter others from enduring this type of loss and despair.

Thank you Judge for your time and consideration.

Respectfully,

Marne Hahn

**Victim Impact Statement**  
**Sentencing of Henry Aparicio #C-18-332496-1**

**September 27, 2019**

**Shanna Carter for Damaso and Christa Puente**

**To the Honorable Judge Silva,**

It has been over a year since Damaso and Christa were killed by the unrepentant defendant, and their death continues to exact a toll on my soul that can never be regained, never be healed, and never be alleviated. I am haunted by their loss in not only my dreams, but in my every day waking life. Damaso and Christa were not just friends to myself and my husband, Jacob Lucero, but they were family. They were godparents to our now nine-year-old son, Jameson Lucero, who loved them dearly. We spent nearly every weekend and holiday with Damaso and Christa. They would come to our house to watch movies, but oftentimes the movie would merely be background noise to our conversations and talks between Jacob and Damaso about their future plans and film ideas. We would also spend time at my mother's house, where she would prepare a banquet-sized meal whenever she knew that her "other kids" were coming over. We vacationed together, and they loved coming to my hometown to experience life in the rural, southeastern town of Gallipolis, Ohio. Christa and I used to joke that when we were old, we would get houses next to each other but, rather than living with our messy husbands, we would live together. All of that has since been stolen from myself and my family. No more jokes, no more excitement over vacations together, no more family meals, no more conversations, no more anything, just silence.

Christa's positivity was contagious. Working at Mountainview Hospital was not just a job to her, but a calling. She loved helping others and was continuing her education so she could provide even more to her patients. A couple weeks prior to the accident Christa was told me about how she brought in makeup for one of her cancer patients that had been feeling down.

That is just who she was. Christa cared about people and when she would ask you how your day was, you knew that she genuinely wanted to know. She was the person I could always go to with my problems and she would listen, without judgment and I would always walk away feeling more positive. She would have made a wonderful mom, and her and Damaso were seeing specialists so they could start a family.

When Damaso walked into a room, it would light up. His passion was as contagious as Christa's positivity and I was always prepared to laugh when he was around. Through his own passion, he helped inspire Jacob to pursue his goals and, together, they posted hilarious videos on YouTube under the name Dos Vagos. Damaso's passion also led him to pursue new hobbies, such as collecting vintage t-shirts, and to take up skateboarding again. Damaso was like a big brother to me, and it meant the world to me when he and Christa accompanied me, Jacob, and Jameson to Gallipolis to be honored by my high school. While helping Christa's parents go through pictures on Damaso's computer for the tribute video that Jacob was putting together for Damaso and Christa's funeral, Jacob found a video that Damaso had made for me from the trip, which highlighted my accomplishments. Although he will never be able to finish it, knowing that he was proud of me meant the world.

Together, Damaso and Christa were dynamic. I knew that when I was with them, no matter what we were doing, we would have many laughs and a lot of fun. Damaso, Christa, Jacob, and I stayed together while attending a wedding in Hawaii. It was one of my fondest memories with them, and we had always talked about going back to Hawaii together one day. Damaso and Christa were completely devoted to one other, rarely spending any time apart. They supported each other's goals fully and worked together to see those goals accomplished. They were always the first to celebrate my wins and to motivate me to overcome/learn from my losses.

They inspired me by their genuine desire to see me succeed, encouragement, and the occasional reminder not to take life too seriously—that it is okay to laugh even when situations seem dire. Now, I feel as though I am coasting through life, neglecting school, responsibilities, family, and friends. I have pushed some of my closest friends away and I feel as though I am failing at giving Jacob and Jameson the love and attention they deserve. Smiles are forced, excitement is feigned, and laughter is rarely genuine.

The impact that their death has had on me is far-reaching, never subsiding. I replay the events of the Sunday before their death, the last day we saw them. I think about our conversation on the front porch, where Damaso playfully teased Christa about her “night terrors.” That night, Jameson made sure to give Christa, or as he called her tia, a kiss before going to bed, and laughed as his tio, Damaso, pretended to be jealous. As much comfort it gives me to know that my son’s last memories of them were full of love, it also tortures me to know that was the last time he would ever get to experience their love. I am plagued with regret over things I wish I would have said, like how I aspired to be the type of people they were. That last night together, forever seared in my mind, prevented me from going back to our home for well over a week after learning of their death. During that time, a friend took Jacob and I in, taking care of us while we tried to find a way to tell Jameson that his tio and tia were killed. To this day, I find it hard to stay in our house and often stay with my mother in her new house, absent of the memories of Damaso and Christa and of the person I was before they were killed.

Damaso and Christa were stopped at an intersection, completely unaware that they were going to touch each other for the last time, take their last breath. Their lives were taken from them within a moment. Visions creep into my mind of them getting hit and the moments afterwards. These visions are spliced together from people approaching myself, my friends, and

Christa's mom, Diane, while we were setting up a memorial for Damaso and Christa at the intersection where they were killed. Some of the people that witnessed the crash or attempted to help Damaso and Christa gave details that haunt me, that I wish remained unknown to me. At the pretrial hearing, we learned that Christa had been alive while trapped in the car. I cannot forget the cry that I heard come from Diane, nor can I forget watching my husband's body slump as he began to sob. I try to tell myself that Damaso went first so he could be there, waiting for the love of his life because to imagine Christa suffering in her last moments on earth is unbearable.

Their death required me doing things that I would never imagined I would have to do Damaso and Christa. We helped Christa's parents go through their belongings at the house they rented and helped look for passwords to their computers, online accounts, along with other things of theirs that made me feel as though I am violating their privacy. Jacob and I went to the funeral home with Damaso and Christa's to help make the arrangements for their children. I personally took to the funeral home the form that Diane had to fill out to authorize Christa's cremation. I designed and ordered memory cards for the funeral that included their picture on one side and information about the reception on the other. Jacob and I selected pictures for their online memorial page and tribute video. I met with the funeral director to drop off the jump drive that contained their tribute video and discuss issues with the urn design. Jacob and I ordered canvases with pictures of Damaso and Christa on them for the funeral. We ended up ordering about 40 or so canvases so that both families had all the same canvases. I did this out of love for Damaso and Christa and, knowing that if faced with the same circumstance, they would help our families in any way they could. If I had to, I would do it all over again, but reliving those moments in the days following their death has caused



me great pain and anguish that will haunt me forever and I am devastated that the only reason I had to do any of these things is because the defendant drove drunk at an excessively high speed down Sahara Avenue.

The selfish and careless acts of the defendant that resulted in my friend's death has affected my physical and emotional health so profoundly that I feel like a stranger to myself. I now get anxiety while driving, having flashes of a car smashing into the back of my car while at a stop light or into the side of my car while crossing the intersection. It bothers me so much that I prefer not to drive whenever possible. I also have trouble sleeping at night, either because of the dreams/nightmares I have about them or because it is the only time I can cry without Jacob seeing me. I hide my pain from Jacob because I do not want his pain compounded by mine. I find that the motivation and passion for life that I once had has since slipped away. I avoid places, activities, and even people that remind me of the unbearable emptiness and loss that I feel within my very being. There are days where I have not gotten out of bed because I lack the energy or will to do anything.

My heart breaks as I have seen the effect that Damaso and Christa's death has had on Jameson. Jameson loved his tio and tia so much, and he was so loved by his godparents. His eyes would light up every time we told him that they were coming over. Damaso and Christa were in his life from the moment Jameson's eyes met the world and loved him as if he were their own son. Prior to their death, Jameson was my carefree little boy who feared very little. While driving home on the freeway after visiting with Damaso and Christa's family in the days following their death, a car sped past us on the outside lane. Jameson began crying, saying he was scared and did not want to die in a car crash. There have been days where Jameson will start crying because he does not want me or Jacob to die. Other days he has cried because he does not

want Papa or Chacha, his grandparents, to die. The suddenness and circumstances of Damaso and Christa's death has resulted in Jameson thinking about death and how can happen to anyone, at any moment. Jameson should be able to spend his days thinking about dinosaurs and Roblox, not worrying about people he loves dying. Over a year later, Jameson's fears have not subsided. September 19, 2019, the night before our flight to Ohio, my husband called me to the bathroom where Jameson was showering. Outside of the bathroom Jacob told me that he heard Jameson crying and asked him what was wrong. Jameson was afraid that the plane was going to crash and we were all going to die. I went into the bathroom where he sat in the tub with his knees pulled to his chest crying. I did my best to calm his fears and to restrain myself from crying. I do not recall a time that Jameson had ever expressed any concern about flying on an airplane before Damaso and Christa were killed. As a parent, one of my jobs is to protect my son, to make him feel safe. The defendant has taken that away from me, and he has taken away the innocence of a boy who thought the world and all the people in it to be good.

For the rest of our lives, every special occasion, every holiday, every trip back to Ohio there will be a feeling of overwhelming grief that will find its way into our family's moments of laughter and joy, knowing that Damaso and Christa should be here, and *would* be here with us if the defendant had cared about anyone other than himself. Damaso would have been forty this year and we would have celebrated our March birthdays together by having a themed-party, like we did the March before they were killed. We should be getting ready to celebrate Christa's thirty-fifth birthday September 30 with her, not in memory of her. They should be there to see our son to grow into a man, and to raise the child that they wanted so badly.

Your Honor, I am aware that a conviction of DUI Causing Injury or Death carries a maximum prison sentence of 20 years for each count. I ask that you sentence the defendant to

40 years in prison, to run consecutively. I know that if, instead, Jacob and I were the ones killed, Damaso and Christa would also ask that this defendant serve the maximum 40-year sentence. I feel that he carelessly and flagrantly stole Damaso and Christa's future and the life and family they wanted, while also leaving in his wake family and friends that will never feel the same happiness that we once had. He not only killed two amazing individuals, he assaulted the hearts and lives of many who loved them and left us with wounds that will never heal.

From what I observed in the previous hearings I attended, I feel that the defendant has no remorse or regret over his actions and his only concern is himself. He has disrespected the memory of Damaso and Christa and has shown a blatant disregard for their family and friends by refusing to accept accountability for his actions. He also wasted this Court's time and resources on a ridiculous proposition and only accepted a deal after seeing the weight of evidence against him. Forty years surely seem lenient considering the defendant drunkenly drove at such a high speed that when he smashed into Damaso and Christa's stopped car, they were propelled forward with such force that he assured their death. He should not be able to leave prison and have the opportunity to live a full life after stealing the life and family that Damaso and Christa were trying to make for themselves.



Sentencing of Henry Aparicio #C-18-332496-1  
Fatal victims: Damaso and Christa Puente  
Judge: Cristina Silva

To the Honorable Judge Silva,

To say that Damaso and Christa we're my best friends is an understatement. Damaso and Christa (D&C as my wife and I referred to them) we're my family; more brother and sister than "friends." When Damaso and Christa got married in 2009, I was Damaso's best man. When I got married four years later to my wife Shanna, Damaso would be my Best Man. I don't have any siblings but Damaso and Christa we're more family to me than most of the blood relatives that I do have. I know in the beginning of my courtship with my wife, Damaso (or Dom as we referred to him) and Christa were primarily known as my friends. Over time, that distinction faded, and they became OUR friends. When our son, Jameson, began to speak, Shanna and I made it a point that he refer to Dom and Christa as Tio and Tia. We took vacations together. We celebrated holidays together. They were such a part of my family's life that it was a rare occurrence if more than two weeks went by without seeing them.

Mother's Day of 2018 would be last time I got to see my brother and sister. The following day would be the last time that I actually spoke to Damaso. We had a lengthy conversation about the 48hour short film contest we were going to enter into. Two days later, on May 16<sup>th</sup>, I got a call from Christa's sister, Anna, while I was at work. She was crying and just kept saying that Dom and Christa were gone. They had been killed by a drunk driver the night before. I told one person that I had to leave because I had just found out my two best friends were killed. I walked off the job, got in my truck and drove away. I briefly talked to Christa's mom, Diane. I didn't have much to say other than how sorry I was. The next person I talked to was my wife. She had me pull over somewhere and wait for her and my dad to pick me up. When they arrived, my dad got to me first and immediately hugged me. That's when the full weight of their deaths hit me and all I could do was cry in his arms. I felt a piece of myself die that day.

Christa was a RN in the oncology department for Mountain View Hospital. She was loved by both her co-workers and the patients that were in her care. She was known for her compassion and easy to get along with nature. Seeing Christa's fellow nurses at the candlelight vigil was a powerful testament to the kind of person Christa was and showed just how much she meant to so many people. What's even more devastating is the thought of all the patients that were in her care. They lost someone in Christa who was truly compassionate about others and loved what she did. With me, Christa could be brutally honest. For a brief while I thought it was because she didn't like, later I realized that it was quite the opposite. She was honest with me because she legitimately cared. It wasn't to put me down but to open my eyes and raise me up. If I had a big sister, it would've been Christa.

Damaso and I shared a mutual love of movies and writing. He enrolled in film school and soon after I joined him. After many years, we put our shared interests together and started a YouTube channel. Damaso was a very talented writer and Videographer, and he always made what I was working on better. Just before his death, we started to make plans to get the channel going again. This last project we worked on together was a documentary we did for my wife's great uncle. Unfortunately, Damaso never got to see its completion. What I lost the day he and Christa died was not only friendship but also a great deal of desire to be creative. Most ideas I come up with now die quickly because I know the one person who "got" it is no longer alive. The one person who would always indulge and make my ideas better is dead.

This world, my world, has been a bit dimmer since Dom and Christa were brutally killed. It's been almost a year and half and I still think about them everyday. At least once a week, I still get the urge to text Damaso to see if him and Christa want to come over. I still watch shows and almost always comment to myself whether Damaso would or would not like it. When I do get stuck with a project, I can still hear his voice in my head giving me suggestions or insulting me in joking/brotherly way. I don't have time or the desire to make any new friends because it's hard to find people with similar interests, it's hard to make new conversations, it's hard to want to make time for new people. In actuality, there is no one who will compare to Dom and Christa. They were genuine people. People who actually wanted to know how your day was going when they asked "how was your day?" They had a legitimate interest in people and conversations with them were never idle chitchat or small talk. The two people who actually cared about others are no longer living.

On May 15<sup>th</sup>, 2018, Damaso and Christa were killed by a drunk driver. Because of Mr. Aparicio's careless and selfish decision to drive while highly intoxicated, my two best friends are nothing more than a memory. They won't see my son grow up to be a man, they won't come over anymore to enjoy laughs and company, and they won't grow old with my wife and I. My wife and I agreed long before their deaths, that in case anything were to happen to us, Damaso and Christa would watch over our son; it wasn't much of a debate. Before their senseless demise, they were actively trying to have a child of their own. Because of Mr. Aparicio, they died as only husband and wife and not as father and mother. They would have made amazing parents.

I wish I could say that with Mr. Aparicio's sentencing, I can finally find some closure. Since he has decided to drag this out for over a year, he has made the healing process difficult for all of Damaso and Christa's family and friends. Instead of manning up and facing the consequences of his actions, he kept on trying to plead his innocence in the brutal slaying of Damaso and Christa Puente.

Your honor, I'm aware that each count of DUI Resulting in Death carries a maximum sentence of 20 years. I'm asking that you please sentence Mr. Aparicio to the maximum of 20 years for each count with the added judgement of having him serve the sentences consecutively. Thank you Judge Silva for taking the time to consider my thoughts and concerns.

Respectfully,

Jacob Lucero



**Sentencing of Henry Aparicio #C-18-332496-1**  
**Fatal victims: Damaso and Christa Puente**  
**Judge: Cristina Silva**

**To the Honorable Judge Silva,**

I first met Dom about 15 years ago when my son, Jacob, introduced him to me and my wife. Soon after, we met Christa. I saw immediately that these kids were special. I knew then that this would be a friendship that was going to last forever. Then came Shanna (Jacob's wife) and she just made the group seem complete. From then on they were inseparable.

At least once a month they would all get together at our house for dinner. Debra (my wife) and I would look forward to that. Debra loved to cook for the kids. We would all have some wine, talk, and maybe watch a movie. What I remember most was always being awakened by their laughter or them talking in the night. I thought to myself about how happy they all were and how blessed they were to have each other.

Dom and Christa were bright, caring, loving, and devoted to each other. They treated my grandson, Jameson, as if he was their child. For me, it was a beautiful thing to witness and be a part of. Family is everything. And Dom and Christa were very much a part of ours. Dom and Christa are now together forever and I will keep them close to me always.

Mr. Aparicio should pay for his gross irresponsibility that took the lives of two beautiful human beings. With that being said, I ask your Honor to sentence Mr. Aparicio the maximum of 20 years for each count of DUI Resulting in Death . Additionally, I also ask that the serving of these counts be ran consecutively.

Thank you Judge Silva for taking the time to consider my thoughts and requests.

**Respectfully,**

**John J Lucero Jr.**



Sentencing of Henry Aparicio #C-18-332496-1  
Fatal Victims: Damaso and Christa Puente  
Judge: Cristina Silva

To the Honorable Judge Silva,

My name is Debra Salerno, I would like to explain my relationship to Christa and Damaso Puente. I became acquainted with them through my son, Jacob, as he had been best friends with Damaso for 17 years and Christa for about 16 years. A few years later, my son would meet Shanna who would later become his wife and then they were a foursome. As the years passed, Christa and Damaso became part of my family. On Sundays it was common knowledge that if I made a big dinner, the two of them would be invited. More often than not they would come. Hugs were always included with our greetings and goodbyes. As years passed, Damaso and my son were the Best Man at each other's wedding and when my grandson arrived, Christa and Damaso become his godparents.

I currently work at UMC in the emergency department where I am in contact with patients and families who have expressed the loss of a family member and/or friends at the fault of someone else. I was at work when I was notified of Christa and Damaso's death. I was devastated and knew how those families that I had encountered in passing felt.

This past year has been difficult. I mourn for the loss of family, my grandson not being able to know how important he was to them and most of all, my son Jacob and his wife Shanna. Christa and Damaso were a big part of their life, dressing up in elegant attire for those special events, holiday dinners shared and even trips to Ohio to meet the family of my daughter-in-law. I miss those Sunday dinners shared and Damaso being the story teller he was, the laughter. I would hear the shared laughter between Jacob, Shanna, Damaso and Christa until the early morning hours that brought me comfort knowing that they were safe and enjoying life. I mourn for Jacob and Shanna losing family that they thought they would be making making memories to share while growing old together.

Lives were lost due to reckless disregard exhibited by Henry Aparicio when he got behind the wheel in his impaired condition and I request that the maximum penalty of 20 years be given for each count with the penalties being ran consecutively.

Thank you Judge Cristina Silva for taking the time to consider my thoughts and concerns.

Respectfully,

Debra Salerno

Sentencing of Henry Aparicio #C-18-332496-1

Fatal Victims: Damaso and Christa Puente

Judge: Cristina Silva

To the Honorable Judge Silva,

There are no words that can be written to honor or describe the two beautiful souls lost as a result of one irresponsible individual. The only just punishment is the life of the irresponsible party's, not Dom's life and not Christa's life. This wonderful couple brought laughter, love, friendship, and pure joy to everyone fortunate to have been a part of their life. I was privileged to be one of those individuals. Their love for each other was undeniable. They were the epitome of true soulmates. I cannot begin to write all the wonderful things Dom and Christa have done, nor the impact of their love, joy and happiness to my life and my family. There was always an open invitation for them to come over and more times than not, they would usually take me up on that offer. Christa was always inquisitive about my recipes while Damaso was holding everyone's attention. To be honest, I considered them my children as well. Cookouts or just any gathering at my house is just not the same without them. The absence of presence is something that I will never get over.

To quote Ralph Waldo Emerson, "It is not the length of life, but the depth of life". Dom and Christa's lives were tragically shortened by an irresponsible individual. They were basically murdered. Instead of a gun, a car was his weapon. The depth of their lives is bottomless. Only love, joy, and happiness in their remembrance with a sad sense of loss will always remain.

Two beautiful lives were lost due to the reckless disregard for human life displayed by Henry Aparicio when he decided to drive while being highly intoxicated. Friends and family of Christa have been made to endure further pain and suffering due to this court process being dragged out for over a year. In closing your honor, I request that the guilty party be given the maximum sentence for DUI Resulting in Death of 20 years per each count and that the sentences be run consecutively.

Thank you, Judge Cristina Silva for taking the time to consider my thoughts and concerns.

Respectfully,

Ann Carter

Sentencing of Henry Aparicio #C-18-332496-1  
Fatal Victims: Damaso and Christa Puente  
Judge: Cristina Silva

Your Honor,

My name is Sharon Texeira. As a longtime friend of Ian Malone, the brother of victim Christa Puente. I was in shock when I learned of what happened and have been disturbed ever since by the details. Although I did not know Christa or Damaso personally, I know they have made such a huge impact on so many people. You could just see even through pictures how much they loved life and each other. Ian described his sister as "the good one" she was a nurse and the glue of the family, making sure everyone kept in touch no matter what was happening. He described Damaso as a such a great man to his baby sister, made him laugh and how proud he was to be his brother. The love they had for each other was like a fairy tale and the only consolation is that they were together in the end.

I witnessed the devastation firsthand of what it did to her immediate family and best friends. This is not the first loss for the Malone family, it's hard enough to have lost one child as a parent. Having another taken away in such a horrific way is unfathomable. Having to tell your friend to eat or sleep or even try to close their eyes without them filling up again with tears is not easy.

It is hard for me to say this because a selfish young man with no regard for the precious life of others, the defendant, is also going to lose his life, but he is still alive and well. He used a car as a weapon that cost 2 innocent people their lives and has destroyed countless others. When will this stop? He made a choice and I truly believe it would have happened again if given a chance. The only way to avoid or prevent these senseless accidents is making him an example. I pray you give justice to Damaso and Christa Puente by issuing the maximum pentalties allowed by law to run consecutively.

Thank you Judge...for considering my thoughts and concerns.

Respectfully,  
Sharon Texeira

## Impact statement

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Received: 📧 Tuesday, September 24, 2019 6:30 AM

From: James Peterson jepeterson1974@yahoo.com

To: dandiane80@protonmail.ch

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I grew up being Christa's brother , Dan, best friend. So I knew Christa from a young girl to the beautiful young lady she grew into. She had a huge heart and in fact became a nurse because she loved helping people. She and her husband Damaso had a strong marriage and were looking forward to growing old together and having a family to love. Dan always lights up when he talks about his sister. It hurts me to see the pain in his eyes when he now talks about her, knowing he will never get to see her again. The tragic lost of life for both Christa and Damaso, ended lives of two wonderful people. But it also derailed the lives of many that loved them , and broke the hearts of their families and friends .

Sincerely ,

James "Pete" Peterson  
Sent from my iPhone

# STOP



*A Nevada grassroots nonprofit organization dedicated to stopping the violent crime of driving under the influence and assisting the innocent victims of this crime.*

August 19, 2018

Honorable Christina Silva  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, NV 89155

Re: Sentencing of Henry Aparicio Felony DUI death 2 counts – Fatal Victims, Damaso and Christa Puente

Dear Judge Silva:

By way of introduction, my name is Sandy Heverly and I'm the Executive Director/Victim Advocate for STOP DUI Nevada. During my time in this position for the last 30 plus years, I've worked with thousands of victims in Nevada and across the country. Although each case and family is unique, I learned very quickly, and saw firsthand, their grief, pain, suffering and sorrow are universal.

Please consider the following:

I began working with the Malone family shortly after their daughter Christa and son in law Damaso were senselessly and brutally killed by Henry Aparicio nearly 17 months ago because he chose to drive under the influence – four times the legal limit and speeding at 100 miles per hour! Nearly seventeen months of motions, postponements, delays, and frustrations which exacerbated the Malone's emotional and financial challenges.

Given Henry Aparicio's age, he's had the benefit of DUI education/awareness and alternatives to DUI his entire life, including the required alcohol server/seller training he had to complete to work as a bartender. This makes his deadly conduct even more egregious! Although he has no prior DUI convictions, we know drunk drivers drive on average 87 times before being caught the first time. (NHTSA) The only difference between a misdemeanor and a felon DUI is luck. Henry Aparicio's luck ran out on May 15, 2018, and Christa and Damaso Puente and their families paid the ultimate price for his actions, and will continue to do so in hundreds of ways for the rest of their lives. No good time credit and parole for these victims.

240 WATER STREET, MSC 600 • HENDERSON, NEVADA 89015  
(702) 456-STOP (7867) • TAX ID # — EIN 88-0312216

Page 2  
STOP DUI  
August 19, 2019

Judge Silva, we understand the decisions you must make in this case are not easy, nor comfortable. However, on behalf of STOP DUI and the thousands of innocent DUI victims we represent, we request you give favorable consideration to imposing the maximum sentences to run consecutively, insuring each victim, Damaso and Christa, are acknowledged and accounted for.

We respectfully ask the sentence you impose reflect the seriousness of this crime. Please have compassion for the victims and our community by making certain we have one less drunk driver to worry about for as long as possible.

Thank you, Judge Silva, for taking the time to consider our thought.

Respectfully,

A handwritten signature in cursive script, reading "Sandy Heverly", followed by a long horizontal flourish line.

Sandy Heverly  
Executive Director/Victim Advocate  
Co Founder STOP DUI, INC  
(702) 376-1238  
[www.stopdui.org](http://www.stopdui.org)  
fb / STOP DUI NEVADA

## **Honorable Judge: Cristina Silva**

RE: Henry Aparicio #C –18-332496-1

My name is Jennie L Verrilli. I am a friend of Diane Malone's. I have never met Christa and Damaso, I got to know these two wonderful people by watching videos and looking at pictures of them. My friend's grief is endless, and painful. There aren't enough words in the English language to describe what my friend and her husband are going through.

I watched my sweet friend grieve, so heavily that it is hard for her to get up in the morning, and face the day.

My Friend goes to the grave site once a week to clean any debris and puts fresh flowers on the graves. I have gone with her several times; she would start to cry; and cried along with her.

### **THIS IS WHAT HENRY APARICIO TOOK AWAY FROM MY FRIEND DIANE, HER HUSBAND, CHILDREN, AND GRANDCHILDREN**

My friend and her husband helping Crista and Damaso move into their first home.  
**HENRY APARICIO TOOK THAT AWAY**

My friend going to the doctor with her daughter; and son-in-law, confirming that Christa was pregnant.  
**HENRY APARICIO TOOK THAT AWAY**

Christa telling her father that she was pregnant. It's going to be a girl or a boy,  
**HENRY APARICIO TOOK THAT AWAY**

Christa, calling her mother; telling her mother that doesn't feel so good; the morning sickness is making me ill. Can you please come over and make me some tea?  
**HENRY APARICIO TOOK THAT AWAY**

Christa, calling her mother and telling her; that she felt like the Good Year Blimp; even though Damaso, her mother and father told her that she looked beautiful.  
**HENRY APARICIO TOOK THAT AWAY**

Christa called her mother and father, telling them that she is on the way to the hospital. They had agreed beforehand that when they got the call; they would atomically meet Christa and Damaso at the hospital,  
**HENRY APARICIO TOOK THAT AWAY**

Grandma, Grandpa, I'm here!  
**HENRY APARICIO TOOK THAT AWAY**

Your honor, In closing this is just a short list of what Henry Aparicio has taken away from my friend, her husband, and family.

Your Honor, I request that you, give Henry Aparicio the maximum penalty of 8-20 years to run consecutively.

RESPECTIVELY,

---

Jennie L. Verrilli

Nevada Department of Public Safety  
Division of Parole and Probation

Victim Impact Statement

Sentencing of Henry Aparicio

Case #: C-18-332496-1

Fatal victims: Damaso and Christa Puente

Your Honor:

My name is Ana Torrez. Diane Malone, the mother of Christa Puente is one of my dearest friends. I had the privilege to know Christa through my friendship with Diane. Many people would describe Christa as an outgoing and friendly person who loved life, her family, friends, and her beloved husband Damaso Puentes. Christa treated everyone with love, respect and kindness. As an Oncology RN, Christa showed so much compassion and love towards her patients. She spread happiness and truly cared about the welfare of others. She was a person with a kind spirit and beautiful soul. In my own words Christa was a "Beautiful Angel."

Christa and Damaso's lives were cut short due to the defendant's selfish and careless decision to drive while being intoxicated. On May 15, 2018, Henry Aparicio made a choice to drive his vehicle killing two innocent people who unfortunately lost their lives. This was no accident, he knew he had a choice that night to either drive drunk or call someone to pick him and his girlfriend up. The fact that he decided to get behind the wheel and drive over 100 mph on Sahara where the limit is 45 mph proves this man is irresponsible, selfish and has no lack of concern for human life. To this date, the defendant has shown no remorse for the crime he committed.

The horrifying choice the defendant made that night has forever changed many lives. It is so gut wrenching and heartbreaking to see how these families mourn the loss of their loved one. The pain and the suffering these two families are going through is unbearable. The joy and passion for life has been stolen from them. It hurts to see them suffer. So much has been lost due to a selfish drunk driver. Without a doubt, Henry Aparicio needs to be held accountable for his actions and pay for the crime of taking away two precious lives that will never be forgotten.

Your Honor, we all live by the laws and we must all be accountable for our actions. Henry Aparicio should be reminded everyday for the rest of his life of the heinous crime he committed. Everyone who knew Christa and Damaso Puente are praying for justice and a fair sentence.



I humbly ask that you please recommend the maximum sentence of 8-20 years for Christa and 8-20 years for Damaso to run consecutively as 16-40 years.

I thank you for your time and consideration.

Sincerely,

Ana Torrez

My name is Dawn Grossman

Although I never met Christa or Damaso, I do know Christa's mother, Diane.

I will never forget the evening of the tragedy when I heard the news channel make the announcement that the report was coming up on Fox 5 news at 10:00pm.

When I did hear the news announcing the tragedy that took place at Sahara & Hualapai, my mind was immediately filled with concern & my heart with pain that it could be someone we knew.

Since my husband & I live very close, about two miles, from where the horrific tragedy took place.

We pass by this intersection often during our daily lives and definitely every Sunday, on our way to church.

That evening I felt drawn to go by and see the intersection, where this tragedy took place. However, after the report on the news & condition of the little white car, I decided to wait until the next day.

The morning after & each moment that passed, I could not get this tragedy out of my mind.

Here was another senseless killing, reported on the news from someone who decided to drive drunk.

The next evening when I did arrive at the location of the tragedy, you could still see the details & the markings that the police left on the road.

Head rest here, body there, arms & legs here. It was just awful & I thought to myself, this can't be what I am imaging.

Moments later I found myself talking to a man I had never met before.

He asked my husband & I, if it was our family killed in the tragedy & we said no.

However, we did say we were concerned that it could be someone we knew since we went & served at Central Summerlin Church, right down the road, held at Faith Lutheran High School.

The stranger told me his name was Troy & he had heard the impact of the vehicles from his apartment about a block away.

Troy told my husband & I that he came running out the night before, immediately after the tragedy had first taken place.

Troy also said that he could not get this tragedy out of his mind so he decided to come out again, the next evening when he met my husband & I.

Like myself, Troy said he too felt something very strong that was drawing him to come out & see what happened.

This stranger, now a new acquaintance started explaining to me that the drawings in the street were true. He told me he saw the different limbs of the people scattered everywhere.

I thought to myself he must be mistaken or exaggerating what he saw, so I told him I had heard enough.

I, like him just could not get this news of this tragedy out of my head.

I felt drawn to come by & show my respect to at that point, a strangers memory.

Since the tragedy happened on a Tuesday night & church was not until Sunday, it took until then for my husband & I to know the truth of who had been killed that night of May 15th, 2018.

It was no stranger, but the beautiful daughter & son in law of my broken hearted friend Diane, at church.

My heart sunk & immediately was full of grief once again for Diane & her family.

A grief that has not left my heart, since the evening the news first reported this horrific tragedy.

Page 2

When I saw Diane, & looked into her grieving eyes, broken heart & grieving to the depth of her soul, I could say nothing.

What words does one say, to comfort a mother during the grief of losing her young beautiful daughter & son in law.

I held Diane close & told her she could cry with me for the rest of her life, if she needed to because I could not imagine ever getting over the tragic loss of a daughter.

You see, I lost my mother when I was a young adult women & when you lose someone you love with your whole heart, it leaves a hole in your heart forever.

The loss of that love one never completely goes away. It only fades over time & becomes less excruciating.

Each week, for months, when my husband & I would go to church & pass by the intersection where this tragedy occurred & took the lives of Christa & Damaso, my heart would grieve for Diane & her family.

My heart continues to grieve & has been effected ever since the day, when I heard of this tragedy on the news.

As a result, I decided to go a different route or direction to church, hoping this would help take my mind off of this senseless tragedy.

However, life is uncertain & unpredictable. Even when you think you have your feelings under control, life can throw you a surprise.

Recently in the past few months, my husband & I started to shop for a new car.

During our shopping experience we found our conversation with the Sales Manager turning to a conversation about Christa & Damaso.

You see, the Sales Manager at the local Jeep dealership on West Sahara, takes Sahara home every night. The night of the tragedy, he also took Sahara home.

When he passed by the intersection at Sahara & Hualapai, he told me what he saw. Confirming what Troy had seen, the night my husband & I met him.

The Sales Manager told me he could not get this horrific scene out of his head.

This story, was brought up from a very simple question, do you want to trade in your Chevy Spark?

A small little economy car, that I loved for two years, up until the night of the tragedy claiming the lives of Christa & Damaso.

Now a year later, I no longer had the same love for my adorable little car, knowing this tragedy could have been my husband & I.

We could have been the couple, sitting innocently at the red light waiting our turn to go, in even a smaller car than a Toyota, Prius.

When someone like Henry, decided to drive drunk & speed down the highway plowing into us, instead & possibly taking our lives that night.

My thoughts will always think of Christa & Damaso from time to time. Especially when I pass by the location where their lives were taken so quickly & unnecessarily.

Each time, when I hear of another report on the news, mentioning yet another drunk driver taking someone's life & cutting it short, I will think of them.

Any driver who decides to drive drunk, will go on with their life. They may or may not, say I am sorry.

However, do those words really matter? Does it bring back the loved one, you've lost?

While Henry's life goes on, he has left a trail of heartache all around, far beyond the two lives that he took the night of the tragedy.

Henry will never know, how many people's lives have been effected, from his actions of choosing to drive drunk.

I feel our laws are too lenient & or a well paid defense attorney is too skilled and crafty to keep a sentence from being found to the fullest extent of the law.

A well paid & high powered defense attorney, always seems to manage to get his or her client off with a sentence that is less than appropriate, like a slap on the hand, so to speak.

This is not right for all the pain & suffering Henry's actions or any drunk driver's actions have caused to the remaining family & friends.

Henry knew he was going out that night to celebrate his girlfriend's graduation.

Henry knew he would drink that night to celebrate his girlfriend's accomplishment, and he did. Henry drank to the point of total intoxication, far exceeding the legal limit.

After getting intoxicated, Henry choose to drive drunk!

Henry knew, driving drunk is totally senseless, foolish & totally irresponsible.

As an adult Henry is well aware, that a car should never be driven drunk. Knowing that a car driven by him drunk, can be used as a weapon to take out a life or more than one life, in the blink of an eye.

With all the choices Henry had, or any person has to get home after becoming drunk or intoxicated. It is totally responsible to drive drunk. Especially with everything available to all of us.

With an Uber, Lift, Taxis, Bus, Limo, or by walking with his own two legs, Henry could have got to where he needed to go safely, without killing someone.

At the beginning of the evening, before any alcohol was consumed Henry could have choose a designated driver & sober friend to drive him home. Being a responsible adult concerned for himself, as well as the safety of others.

Henry did not make any of these above responsible choices. Instead Henry choose to drive drunk, killing two innocent people, Christa & Damaso.

Henry should pay the maximum penalty of the law, as should all people who choose to drive drunk, especially when they take the lives of others. Page 5

I thank you Judge for your time & considering my thoughts & concerns.

Respectfully,

Dawn Grossman

Page 6



Trudy J. Bushong  
5410 Wayne 524  
Wappapello, MO 63966-8650

Your Honor, I come forth today to give a victims impact statement on behalf of my best friend of 50 years, Diane Malone. Diane had lost her beautiful daughter Christa and dear son-in-law Damasco. They were taken suddenly from us in the fatal car accident in which the defendant is being charged. Not only were two valuable lives lost that day but I can tell a piece of Diane herself passed away also. Diane faces pain and grief on a daily basis. Everyday is a battle. A part of her will never be the same again. Christa had so much promise. The world will have an empty spot where a young RN who was full of love, talent and inspiration to make a difference in this world. We as a society has experienced a great loss in both of these young persons tragic deaths.



Today, I am asking your Honor  
for you to impose the maximum sentences  
and for them to run consecutively.

Perhaps this defendant will spend  
his time reflecting upon his actions  
and the trauma inflicted upon this family,  
and to better himself as a human being.

Hopefully, to reenter society with a  
new found desire to do as Christa and  
Damasco would have.

Thank you for your time and  
patience your Honor.

Sincerely,  
Trudy Bushong

Ms. Dianne Feinman  
9805 Gavin Stone Ave  
Las Vegas, NV 89145-8608

Sept 1, 2019

Sentencing of Henry Aparicio #C-18-332496-1  
Fatal Victims: Damaso and Christa Puente  
Judge: Cristina Silva

Dear Judge -  
My name is Dianne Feinman

I feel compelled to write this letter on behalf of Christa's mother Diane Malone whom I respect and love as a dear friend and loving mom to Christa -

I heard about this tragedy on the local news as I live in Vegas about a mile from the site - then from Diane who informed me with the details on the drunk driver who ran into the couple at 100 miles an hr and killed them both -

Your Honor, Diane has been completely broken since this tragedy a year and a half ago. She relives the phone call in the middle of the night from her son telling his mom and dad "Christa and Damaso are dead" killed by a drunk driver who denied driving the car that killed them -

She does not sleep, she cries all the time - She lives here in Vegas and Florida and has to travel back & forth for court hearings - She is fighting for justice for the death of her daughter and son-in-law - taken too soon - and so viciously.

Your Honor, I think of this criminal act as a murder of 2 innocent people and warrants life in prison without parole. He does not deserve to ever be on the street with an opportunity to kill someone else. I understand the sentence now is 8-20 years.. I would prefer life, but at least 20 years for each life he took.. 16-40 no chance for parole. He broke the law driving drunk and admitted he was so drunk he didn't remember - he also is not remorseful or sorry - he should never be allowed on the street ever again -

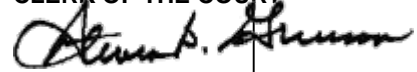
Two wonderful, caring, helpful people are gone way too soon. Sick people will never again feel or hear comfort from Christi - she was an amazing nurse and will be terribly missed.

- 3 -

Thank you so much for your  
time and I ask your Honor that  
you consider rendering a sentence  
that you would give to someone  
who had taken your own child's  
life -

Most sincerely and with a heavy  
heart, I am

Heanne Lunn



MOT  
MAYFIELD GRUBER & SHEETS  
Damian Sheets, Esq.  
Nevada Bar No. 10755  
Baylie Hellman, Esq.  
Nevada Bar No. 14541  
726 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
Telephone: (702) 598-1299  
Facsimile: (702) 598-1266  
dsheets@defendingnevada.com  
Attorney for Defendant  
Henry Aparicio

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

State of Nevada,	)	Case No.: C-18-332496-1
Plaintiff	)	Dept. No: 9
	)	
vs.	)	<b>DEFENDANT'S OBJECTION TO VICTIM</b>
	)	<b>IMPACT STATEMENTS</b>
Henry Aparicio,	)	
Defendant	)	<b>Sentencing Date: October 18, 2019</b>
	)	<b>Sentencing Time: 8:30 a.m.</b>

COMES NOW, Defendant Henry Aparicio, by and through his attorney of record,  
DAMIAN SHEETS, ESQ. of the firm Mayfield Gruber & Sheets, hereby submits this  
Defendant's Objection to Victim Impact Statements.

///

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///

1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 Mr. Aparicio respectfully objects to the victim impact statements from the following  
4 individuals:

- 5 1. Cirila Roysden  
6 2. Cecille Shappee  
7  
8 3. Tammie Garcia  
9 4. Tamara Komes  
10 5. Tammie Lewis  
11 6. Jessica Povey  
12 7. Kerry Giles  
13 8. Melody Malone  
14 9. Norman and Marla Jahn  
15  
16 10. Ryan Buell  
17 11. Jonathan Buell  
18 12. Kerry Buell  
19 13. William Buell  
20 14. Jessica Henry  
21 15. Nancy Metts  
22 16. Patricia Hussey  
23 17. Michelle Kujath  
24 18. Elaine Babor  
25 19. Makenzey Wilson  
26  
27  
28

20. Ian Flowers
21. Alejandra Barragan
22. Giovanni Hernandez
23. Jorge Bertran
24. Jessica Bertran
25. Linda and Roger Peach
26. Michelle Gillum
27. Dan Gillum
28. John Flanagan
29. Adam Rivera
30. Jamison Derfler
31. Lisa Derfler
32. Michael Lui-Kwan
33. Marne Hahn
34. Shanna Lucero
35. Jacob Lucero
36. John Lucero
37. Debra Salerno
38. Ann Carter
39. Sharon Texeira
40. James Peterson
41. Sandy Heverly

1 42. Jennie Verrilli

2 43. Ana Torrez

3 44. Dawn Grossman

4 45. Trudy Bushong

5 46. Diane Feinman

6  
7 NRS 176.015(3) provides that the court shall afford the victim an opportunity to  
8 provide a statement at sentencing. NRS 176.015(5)(d) defines a "victim" as: "(1) A person,  
9 including a governmental entity, against whom a crime has been committed; (2) A person  
10 who has been injured or killed as a direct result of the commission of a crime; and (3) A  
11 relative of a person described in subparagraph (1) or (2)." "Relative" is defined in NRS  
12 176.015(5)(b) to included: "(1) A spouse, parent, grandparent or stepparent; (2) A natural  
13 born child, stepchild or adopted child; (3) A grandchild, brother, sister, half brother or half  
14 sister; or (4) A parent of a spouse."  
15  
16

17 Mr. Aparicio respectfully objects to the above-list of victim impact statements as the  
18 individuals listed do not meet the statutory definition of victims or relatives.  
19

20 DATED this 17 day of October, 2019.

21 By:  
22 MAYFIELD GRUBER & SHEETS

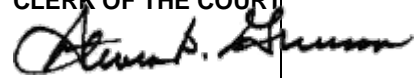
23 By: /s/ Damian Sheets  
24 Damian Sheets, Esq.  
25 Nevada Bar No. 10755  
26 726 S. Casino Center Blvd.  
27 Las Vegas, Nevada 89101  
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Clark County District Attorney's Office  
200 Lewis Ave., 3rd Floor  
Las Vegas, NV 89155  
motions@clarkcountyda.com  
pdmotions@clarkcountyda.com

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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

vs.

HENRY APARICIO,  
Defendant.

CASE#: C-18-332496-1  
DEPT. IX

BEFORE THE HONORABLE CRISTINA D. SILVA, DISTRICT COURT JUDGE  
FRIDAY, OCTOBER 18. 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
SENTENCING**

For the State:

CHARLES S. MARTINOVSKY, ESQ.  
Chief Deputy District Attorney

For the Defendant:

DAMIAN R. SHEETS, ESQ.

RECORDED BY: TRISHA GARCIA, COURT RECORDER

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Las Vegas, Nevada, Friday, October 18, 2019

[Hearing began at 9:41 a.m.]

THE COURT: I'm calling Case C-18-332496-1, State of Nevada versus Henry Aparicio.

Good morning.

MR. MARTINOVSKY: Good morning.

THE COURT: Good morning.

MR. SHEETS: Good morning, Your Honor, Damian Sheets on behalf of Mr. Aparicio, who is present.

MR. MARTINOVSKY: Charles Martinovsky for the State.

THE COURT: All right. Good morning.

This is the date and time set for sentencing. Are the parties ready to proceed?

MR. MARTINOVSKY: The State is ready.

THE COURT: All right. Mr. Sheets.

MR. SHEETS: We are, Your Honor.

My client and I have reviewed -- we reviewed the presentence investigation report. There's a minor correction that doesn't, I believe, lead to a *Stockmeier* related issue, but on the bottom of page two he was employed for the 12 months prior to the instant offense.

THE COURT: All right. I will take note of that.

And his employment was at the Casa Del Matador Tequila restaurant?

MR. SHEETS: Yes, Your Honor.

1 THE COURT: Okay. All right. It says eight in the PSI. I'll note  
2 that it was actually 12 months.

3 Mr. Sheets, I also received your objection to the consideration  
4 of victim impact statements. I have reviewed your objection and I'm going  
5 to overrule your objection. I understand that you're citing to who can  
6 make a statement in court, but Article 1, Section 8A of the Nevada  
7 Constitution broadly defines victim to anyone who's impacted by the  
8 crime, and therefore I'm accepting those victim impact statements and I  
9 have read each and every one of them that was submitted to me, as well  
10 as the victim impact letters on behalf of the family.

11 All right. So with that I want to go ahead and get started with  
12 the standard questions I have for sentencing.

13 State, could you please summarize the terms of the negotiation.

14 MR. MARTINOVSKY: The defendant pled guilty to two counts  
15 of DUI causing death and the State reserves the right to argue.

16 THE COURT: All right. And I understand there's no opposition  
17 to concurrent time between the reckless driving count and the two counts  
18 of the DUI resulting in death; is that correct?

19 MR. MARTINOVSKY: That's correct.

20 THE COURT: All right.

21 All right. So, Mr. Sheets, I know you've read the pre-sentence  
22 investigation report, and that is dated -- I'll double check the date on that --  
23 September 12th, 2019, other than the edits to the amount of time he was  
24 working, is there any changes that need to be made?

25 MR. SHEETS: No, we did not see any, Your Honor.

1 THE COURT: All right. Mr. Aparicio, same question for you,  
2 have you reviewed that presentence investigation report with your  
3 attorney?

4 THE DEFENDANT: Yes, I have, ma'am.

5 THE COURT: Anything in there that needs to be changed or  
6 brought to my attention?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: All right. Thank you very much.

9 All right. Then I'm going to start with the State, and I would like  
10 to hear argument regarding what sentence is appropriate taking into  
11 consideration all the sentencing factors.

12 MR. MARTINOVSKY: Yes, Your Honor.

13 The State is requesting that the Court impose the maximum  
14 sentence as to Count 1 and the maximum sentence as to Count 2 and run  
15 those consecutive, that will be 8 to 20 for Count 1 and 8 to 20 for Count 2.  
16 The defendant in this case caused the maximum harm to two different  
17 families and deserves the maximum punishment. He also -- his driving,  
18 the conduct was egregious, both in terms of driving and the amount of  
19 alcohol he had consumed, as well as the fact that nothing he has done in  
20 his life, his military service, et cetera, and the fact that he pled guilty,  
21 should mitigate anything the Court does as to Count 1 and Count 2  
22 regarding the sentence.

23 The first thing I want to say is that the statute, DUI death,  
24 includes everything from a broken ankle to a death. So if you're driving a  
25 car and you're drunk and you cause someone to break an ankle or break

1 some ribs or crack an elbow and you go to trial and lose, the minimum  
2 you can get is 2 to 5. The PSI is recommending 3 to 10. They're saying  
3 that if you kill someone you get one year more than if you broke an ankle  
4 and someone couldn't go to work for six weeks.

5 The Court should absolutely reject that presentence  
6 investigation. I don't know where they came up with that information. But  
7 just looking at the statute itself and the fact that it covers everything from a  
8 broken toe to a death means that when we're considering what sentence  
9 to apply you have to look at the harm caused, because if the harm was  
10 completely minimal, he would get a 2 to 5. And they're saying you killed  
11 someone you get a 3 to 10. That doesn't make any sense. At the very  
12 least we're at the upper range of that 2 to 20 for killing someone off the  
13 bat.

14 And now let's talk about other -- so what factors would you  
15 consider besides the harm? How many people were injured? Well, in this  
16 case we have two. What was the conduct like? What is your prior  
17 history? So let's go through every single one of those, all those mitigate --  
18 all those indicate that he should get the maximum consecutive on Count 1  
19 and Count 2.

20 He caused the maximum harm to two people, killed them  
21 instantly while they were sitting at a light on Sahara and Hualapai, not  
22 even moving their vehicle. The people were married, they were young,  
23 they had just gotten married. He's totally destroyed two different families.  
24 They weren't even like separate people, who didn't know each other, and  
25 he caused the massive collision, and two completely unrelated people

1 were killed.

2 No, they had just gotten married. They were in love. Their  
3 families all know each other. You can see the courtroom is filled with  
4 them today and you've read all the letters. He destroyed two families.  
5 That creates an exponential harm as if -- unlike, say, he just hurt one  
6 person and someone else died and they don't even know each other.

7 The second thing is the conduct in this case was egregious.  
8 The driving that he -- it wasn't just that he was intoxicated. He drove over  
9 100 miles an hour on Sahara; the speed limit is 45 miles an hour, at 9  
10 o'clock at night. He ran into the back of the victims' car as it sat there for  
11 a stoplight on Hualapai and Sahara. There was no evidence of braking.  
12 He didn't even see them. He hit them at full speed. Their car accelerated  
13 from zero to 54 miles an hour based on the impact and they weren't even  
14 moving. There was no evidence of braking. The speedometer on his  
15 vehicle was stuck at 100 miles an hour.

16 And, Your Honor, I do have some photographs of the victims'  
17 car, I would like to present to the Court.

18 THE COURT: Yes.

19 Did you show them to defense counsel?

20 MR. MARTINOVSKY: Yes, I did.

21 THE COURT: Okay. You may approach.

22 MR. MARTINOVSKY: May I approach?

23 THE COURT: Yes, thank you.

24 Thank you.

25 MR. MARTINOVSKY: You're welcome.

1 THE COURT: And just for the record I'm looking at four  
2 separate photographs and they are marked as Proposed Exhibits 1, 2, 3,  
3 and 4.

4 MR. MARTINOVSKY: This was a traumatic collision; there  
5 were hundreds of people at the scene that day. People from all over the  
6 area were coming to the scene. And I -- you can see from the  
7 photographs that the victims' car was completely destroyed. The fact that  
8 they went from zero to 54 miles an hour, after the defendant ran into the  
9 back of them, should say everything that the Court needs to know.

10 The second thing is that, again, so we have, he caused the  
11 maximum amount of harm, his driving was completely egregious, and his  
12 blood alcohol level at the time of driving was a .32. That's four times the  
13 legal limit. The first blood draw showed that his blood alcohol was .20 but  
14 that was at 1:47 in the morning and the collision occurred at 9 o'clock.  
15 The second put him at a .178.

16 The retrograde extrapolation from Dr. Kelly means that his  
17 blood alcohol was a .32 at the time that he was driving 100 miles an hour  
18 at 9 o'clock at night on Sahara Boulevard.

19 In addition, the detective obtained video and receipts indicating  
20 that he had, the defendant, between the hours of 5 o'clock in the  
21 afternoon and 8:45 that evening, had consumed at least 12 tequila drinks.  
22 We have all the receipts. We had all the video showing exactly what he  
23 drank. The video shows him stumbling out of the Casa del Matador at  
24 8:40-ish in the evening.

25 His own statement in the PSI indicates that he was completely



1 hammered, totally intoxicated. He doesn't even remember what  
2 happened, that's what he said in the PSI, that he does not remember the  
3 event occurring.

4 He wasn't someone, this is not a case, Your Honor, where  
5 someone had a point, you know, they were at a birthday party and maybe  
6 they had a couple drinks and they were a .10 and they made a U-turn and  
7 somebody like broke their ankle. That's a 2 to 5 or maybe a 3 to 10. This  
8 person was completely intoxicated by the number, by his behavior, by his  
9 own admission, and he was driving in a way that even if he hadn't had one  
10 drink would have been a felony conviction for reckless driving causing  
11 death. That's why the Court, based on all these factors, should apply the  
12 maximum sentence to him consecutive.

13 The other thing I want to say is nothing he has done in his life  
14 mitigates the Court imposing the sentence. I know that he did plead guilty  
15 to two counts and he saved the cost and the expense and the drama of  
16 going through a trial. I get all that. But that's already gone into him  
17 getting the two counts because we dismissed one count of DUI causing  
18 substantial harm to Morgan Hurley. She was the passenger in the  
19 vehicle. He -- as a result of the collision, she had broken ribs. She went  
20 to the hospital. She had a punctured liver. She was also intoxicated and  
21 she was driving with the defendant and that's all fair. But still that doesn't  
22 mitigate the fact that he caused her substantial harm and he was facing  
23 an additional count of 2 to 20 for her.

24 In addition, we already dismissed three counts of reckless  
25 driving, one for each of the named victims, as well as for Morgan Hurley.

1           And the Court, based on the driving, could have sentenced him,  
2 again, to an additional consecutive sentence of 1 to 6 for each of those.  
3 They're not -- one is not a lesser included. Reckless driving requires  
4 willful and wanton, a disregard for public safety, does not require  
5 intoxication. And to be guilty of a DUI causing death does not require that  
6 you drive recklessly. You just have to break some law. You could be  
7 driving five miles and over, over the speed limit.

8           So whatever benefit the Court wants to give him for his early  
9 plea has gone into the fact that had we gone to trial he would have been  
10 convicted of everything and him facing an additional 40 years. That's why  
11 the fact that he pled guilty doesn't change the fact that he still deserves 8  
12 to 20 and 8 to 20 consecutive.

13           I also want to point out that nothing in his military service helps  
14 him. His PSI indicates that he was in trouble when he was in the military.  
15 That he got sanctioned in the military. The charges are that he was  
16 charged for wrongful damaging of government property, altering a military  
17 ID, possession of altered ID. He received a non-judicial punishment and  
18 an extra 14 days of duty.

19           He also admitted that he was unable to perform his duties when  
20 he was in the military because he was always drunk. He said that he  
21 reported getting up in the morning hung over and that he suffered as a  
22 result of it.

23           And he also indicated that he drinks every single night since the  
24 day he got out of the military. He spends over \$200 a week on alcohol.  
25 It's clear that this individual was a rampant alcoholic before he went into

1 the military and after he got out.

2 And because of his driving and because of his drinking he killed  
3 two innocent people who didn't have anything to do with that.

4 So the fact that he had military service should not inure to his  
5 benefit.

6 And he does even have three convictions for speeding and  
7 for -- two for speeding and one for bad driving.

8 Your Honor, based on everything in this case, the fact that he  
9 killed two people, the fact that he was driving 100 miles an hour, the fact  
10 that his blood alcohol was a .32, he doesn't remember anything, we've  
11 already given him a benefit by dismissing a count against Morgan and the  
12 reckless drivings, that his military service is a not exemplary, and on the  
13 contrary, shows him to be an alcoholic, means that the Court should  
14 punish him to a maximum sentence of 8 to 20 and 8 to 20 as to Counts 1  
15 and Count 2.

16 THE COURT: Okay. Thank you very much.

17 All right. I'm going to turn to defendant's counsel first, and will  
18 hear argument regarding sentencing.

19 MR. SHEETS: Yes, Your Honor.

20 While I understand that this is a very, very tragic situation, and I  
21 understand that my client's actions destroyed, I would say, not only two  
22 but three families, because I include my client's family as one that's been  
23 tragically affected by this.

24 Briefly, I just remembered, I was given, right before the hearing  
25 today, a letter from a family member for my client.

1 May I approach?

2 THE COURT: Yes, you may.

3 MR. SHEETS: It's brief, it's short, Your Honor.

4 Thank you.

5 THE COURT: If you just give me a minute so I can read this, so  
6 you can continue your argument.

7 For the record, I'm looking at a one page letter from a family  
8 member with the last name of Barrero (phonetic.)

9 [Pause in proceeding]

10 THE COURT: All right. Thank you.

11 MR. SHEETS: Thank you.

12 Now, when I -- when I come to sentencings like these in state  
13 court it's always a bit frustrating because I don't believe that our state  
14 system has done a very good job of dictating kind of guidelines for  
15 sentencing and how that those should be interpreted by the Court. So I  
16 generally, just as a personal preference, I defer, when we're looking for  
17 the purposes of sentencings, to more how the federal courts would  
18 approach it. And I believe that that's a fair standard and that's a fair way  
19 to look at it.

20 And what I look at when I look at sentencing, and obviously  
21 there has to be a comunative ponent (phonetic) -- component is the  
22 federal sentencing that talks about, that which is minimally necessary to  
23 achieve the goals of sentencing, which are general and specific  
24 deterrence, the ability of the defendant to rehabilitate himself, and then  
25 there is obviously the punitive component for it, and I think we have to

1 take all of those things into account. We're looking at the nature and the  
2 characteristics of the defendant, the ability of the defendant to be  
3 successful later on, the need for treatment in the defendant's future.

4 And I think when we look at the overall guidelines of sentencing  
5 versus the factors in this case I actually would believe that the  
6 presentence investigation report takes much of that into account when  
7 they make their recommendation.

8 As I look at this recommendation, they took the opportunity to  
9 look deep into my client's history. And I know that the State is sitting here  
10 and they're emphasizing that punitive component and by no stretch of the  
11 imagination should there not be a punitive component in here and my  
12 client understands that wholeheartedly.

13 What concerns me when I look at a case like this is we have a  
14 situation where, contrary to what the State says; his statement to the PSI  
15 does not establish that he was an alcoholic prior to his military service. In  
16 fact, it reflects that he became an alcoholic during his military service,  
17 which is a story that we hear far too often, in today's world, is that  
18 members who are in service who are subjected to the stresses and the  
19 strains that service provides, the sights and the sounds, and the treatment  
20 that they receive drives people to this chemical dependency, whether it be  
21 drugs, alcohol. And then the service provides virtually no support for  
22 these individuals to then discharge and be treated.

23 And we have an instance with Mr. Aparicio where he started  
24 drinking in the service and it says nothing in here, and I was unable to  
25 locate any evidence, that the army had gone through any effort to treat the

1 alcoholism, to address the alcoholism.

2 And, in fact, when he became injured during service, when he  
3 got injured serving our country, they essentially discharge him at that  
4 point. Well, your knees hurt, you're not good enough, see you later. So  
5 not only do they put him into a situation where he sees these things at a  
6 very young age, he -- he becomes an alcoholic because of what he's  
7 doing in the airborne division, but then when he gets hurt they give him  
8 the boot and they don't even address the underlying issue.

9 And does that excuse his conduct? Absolutely not. But is that  
10 a --

11 THE COURT: Mr. Sheets, let me ask you two questions on  
12 that.

13 MR. SHEETS: Yes.

14 THE COURT: First, you indicate that nothing in the PSI  
15 suggests that he was an alcoholic before his military service, but how do  
16 you frame that argument into the very clear familial history of alcoholism?

17 MR. SHEETS: The familial history of alcoholism? I don't think I  
18 understand the question.

19 What he explains is that he first had his -- his first drink at 17  
20 but he didn't begin drinking weekly and then daily until he was in the  
21 military.

22 THE COURT: Right.

23 But you're saying that there was no evidence as to suggest that  
24 the military forced him into alcoholism when I think that doesn't take into  
25 account the fact that he was pre-dispositioned to alcoholism because of

1 the familial problem.

2 MR. SHEETS: I understand now what you're saying, Your  
3 Honor. And I don't think that having maybe parents or family that that are  
4 alcoholics is what makes you an alcoholic. I think it's probably honestly  
5 why he goes to the military. We've seen that far too often as well where  
6 individuals are from homes where maybe that's -- maybe dependency is a  
7 problem or lack of parenting is a problem. These individuals go to the  
8 military to receive a better structure in their life and a better direction in  
9 their life.

10 And, quite frankly, I can speak to an attorney friend of mine who  
11 did just that and it took him almost 14 years of service to -- to get that  
12 structure and come out and to go to school and become an attorney.

13 THE COURT: Okay.

14 MR. SHEETS: And I think that's why he goes and unfortunately  
15 it -- it snowballs from there, that's what he turns to as a way to cope with  
16 it.

17 THE COURT: Well, let me also ask you this question, I had two  
18 parts; I apologize for interrupting you again.

19 MR. SHEETS: Yes, I'm sorry.

20 THE COURT: The second question was, you said that it  
21 appears as though the military just booted him because of his issues with  
22 his knees, but that seems to fail to take into account the fact that he  
23 committed serious infractions while he was in the military and somehow  
24 still was discharged and he didn't -- he wasn't brought up on any military  
25 charges that I can tell unless he was just -- pled guilty.

1 MR. SHEETS: Correct; Your Honor. He wasn't actually  
2 convicted. It was a non-judicial intervention. It became essentially a  
3 verbal warning and a small punitive component almost similar to what  
4 would be incentive training in the Marine Corps.

5 He was never charged with anything because they were not  
6 serious infractions and they had nothing to do with his discharge. That's  
7 why he was discharged under honorable condition because he did not  
8 have a court martial. He did not have a conviction there that would have  
9 prevented that honorable discharge.

10 THE COURT: Okay.

11 MR. SHEETS: So I would put forward that that those charges  
12 likely were, and I think my client can provide some insight, likely were part  
13 of that continuing alcohol abuse. And instead of actually trying to treat it  
14 they just fine him and verbally warn him. And that's far too often what I  
15 think is a problem.

16 Again, I'm not saying that that excuses anything but I think it  
17 provides at least a back story for where this -- where this path begins for  
18 my client and how -- how he starts going down the road that ultimately led  
19 him to make the decision that he made in this particular circumstance.

20 While I understand that the State talks about the breath of the  
21 offense and somebody who breaks a toe would get a 2 to 5, whereas --  
22 and because somebody is dead there should be an 8 to 20. But I  
23 respectfully think that that eliminates so many of the components of  
24 sentencing that are important, which is to also look at things like the  
25 defendant's criminal history, the defendant's actions prior, the defendant's



1 acceptance of responsibility, the defendant's ability to be successful and  
2 to make a positive influence on the future, and the defendant's ability to be  
3 rehabilitated and to do his best to try and repay both the victims and  
4 society for what he has -- what he was done in this case. And what he  
5 has done in this case is -- he's engaged down a path of addiction that  
6 results in the death of two human beings.

7 But we cannot, in my opinion, ignore the fact that he has  
8 previously served the military, that his alcoholism began in the military,  
9 that he has no prior criminal history, that he has accepted responsibility,  
10 that there is no trial in this particular circumstance.

11 And if you're looking towards my client's remorse and the way  
12 he feels, I know Your Honor was not the initial judge but I can tell you, and  
13 quite frankly if you were to likely Google the -- the website for the folks  
14 that are standing behind me to my left you would see that at his initial  
15 arraignment he was in tears, meaning he was in absolute tears. And I can  
16 tell you that that comes from my client feeling terrible for what's occurred  
17 and for what's happened. And I think that that's an important reflection. I  
18 think my client has had a considerable amount of time to think about --  
19 about what's been going on.

20 And this morning my client produced to me a statement that he  
21 wanted to write -- or that he wanted to read into the record. And there  
22 was no prepping of that statement by me. There were no bullet points.  
23 There were no suggestions or guidelines. In fact, he was a little upset that  
24 he had written it and I had not reviewed it with him prior to this morning  
25 and when I reviewed it I could not, I think, in my opinion, have written

1 anything that would be more heartfelt than what he wrote today. And I  
2 think it is an absolute perspective into where he is emotionally and  
3 mentally on this. And his belief and understanding that no matter what I  
4 think this is going to haunt him for the rest of his life. And I think he has  
5 made that very clear in the statement.

6 I would ask Your Honor to consider, in this particular instance,  
7 the fact that the minimum in this circumstance would be a  
8 recommendation of 2 to 5 concurrent to 2 to 5, concurrent to a 1 to 2 and  
9 a half. And that's not what the recommendation is here from Parole and  
10 Probation. So Parole and Probation is taking into account the fact that  
11 people's lives were lost.

12 In fact, it's very clearly written in the offense synopsis. It's also  
13 very clearly written -- or put forth in the victims impact section. So Parole  
14 and Probation is well aware of the fact that people lost their lives here.  
15 And Parole and Probation has suggested an aggregate sentence of 7 to  
16 20 years, which is close to that 8 to 20 year line.

17 Now, if this were charged as a homicide, it would be a 10 to life  
18 or a 10 to 25 because it would not be a murder one, it would be a murder  
19 two. It's not because there was no intent to kill, which is why the law has  
20 that -- that difference in there. With that being said, this was a reckless  
21 killing of two human beings. So I am not, again, trying to set it aside, just  
22 provide perspective to where the law sits on this situation.

23 And based on that, the fact that there was no trial, the fact that  
24 he did accept responsibility, the fact that he does have military service,  
25 and it seems to me, if you look at it, that the alcoholism started there, that

1 there wasn't any treatment there, I'd ask Your Honor to consider that the  
2 presentence investigation reports recommendation is appropriate and it is  
3 what is minimally necessary to achieve all of these ends.

4 7 to 20 years in prison is no small number. Three felony  
5 convictions all but guarantees parole at 7 years does not happen. It likely  
6 means it's between 8 and a half and 10, which likely would be similar to  
7 that if he had gone for homicide. And I think that that would be the  
8 appropriate sentence in this, 36 to 120, consecutive to 36 to 120,  
9 concurrent to 12 to 48 months. He would have to parole twice. And that  
10 is a very real challenge with three felony convictions.

11 I would -- I don't know if 184 addresses alcoholism, but if it  
12 does, I would ask for a recommendation for 184. I think he, more than  
13 anything, when he gets out wants to have ways to be able to cope with  
14 the problem that has brought him to this point and led him to make the  
15 bad decision that he made that night and have a chance at getting out and  
16 being a productive member of society.

17 Now, I know that my client had briefly expressed to me some  
18 intentions to go out and talk about, when released, the negative impact  
19 that alcoholism and his decisions had -- had on his life and others lives so  
20 that maybe others can avoid the same path later on upon his release.

21 And based on all that, Your Honor, I would respectfully and with  
22 the utmost level of sympathy and respect for the victims and the victims'  
23 families, ask that you follow the recommendation.

24 THE COURT: Thank you very much, Mr. Sheets.

25 Mr. Aparicio, you can make a statement this morning but you

1 don't have to, would you like to make a statement?

2 THE DEFENDANT: Yes, Your Honor, I would.

3 THE COURT: All right. When you're ready.

4 THE DEFENDANT: For those of you who do not know me my  
5 name is Henry Biderman Aparicio.

6 First, I need to address both the parents of Christa and  
7 Damaso; I understand that an apology cannot begin to amend the amount  
8 of pain, anguish, and sorrow I have caused you. However, the fact of the  
9 matter is I am sorry, very, very sorry that I took your beautiful son and  
10 daughter away from you.

11 I've seen firsthand the burden and the despair and suffering my  
12 parents went through when my little brother passed away. It's very hard  
13 for me to live with the fact that my reckless actions placed that hardship  
14 upon your families that are now very much incomplete.

15 To Christa's brothers, sisters, family, and friends, I am sorry for  
16 taking them from this world too soon.

17 Not a day has passed that I do not think of the two of them and  
18 in my prayers I ask God for forgiveness. I pray that one day Christa and  
19 Damaso will find it in their souls to forgive me for what I did.

20 I must ask my own family for forgiveness, madre mia y padre  
21 mio, of how --

22 MR. SHEETS: May I?

23 THE COURT: Yes, you may approach.

24 THE DEFENDANT: -- they too have become victims to my  
25 reckless actions. Although I am still of this world and still of this life I

1 assure you a part of me died that night. The young naive and arrogant  
2 boy that got behind the wheel of the car that night is no more. For what  
3 remains is a man whose childish actions condemns his future to prison  
4 and uncertainty.

5           On May 15th, 2018, I took more than two special lives away; a  
6 piece of myself went with them that night. It was the worst night of my life.  
7 And I know that many of you feel the same way.

8           If I could go back and turn the clock back, I would in a  
9 heartbeat. I'm sorry for being selfish. I was 23 years old on that fatal  
10 night.

11           I have seen pictures of Christa and Damaso Puente. They look  
12 like fun, loving, great people whose future held so much promise. I feel so  
13 much guilt. I've never felt so horrible about anything in my life. I killed two  
14 young, happy, loving people. And that is the first thing on my mind when I  
15 wake up every day, that is the last thing on my mind before I fall asleep,  
16 that is the only thing that occupies my mind during sleepless nights while I  
17 stare at the ceiling.

18           The last couple of holidays I did not think of myself. The only  
19 thing that was on my mind was how Christa and Damaso should have  
20 been spending their holidays with their families. I'm sorry you couldn't  
21 spend one more birthday with them. I am sorry you didn't have a chance  
22 to say your last goodbye. I am not okay with what I did. I am sorry.

23           I am not a bad person. I know sorry is not good enough,  
24 nothing I say will be. But sorry I am. Guilt, remorse is what I really feel.

25           I did not go out that night seeking to hurt anybody. I made a

1 very bad decision. I fully -- I accept full responsibility for what I have  
2 done. I ruined both of your families and mine. What I did was terribly  
3 immature, terribly selfish, and terribly life-changing for everyone involved.  
4 I made a horrific and unforgivable mistake.

5 I stand before you not as a man in a courtroom wearing chains,  
6 waiting to be condemned to prison. I stand before you as the man who  
7 regretfully and unfairly took from you two of the people you love the most.  
8 And for that reason it would be unfair of me to look you in the eyes at this  
9 moment and ask for forgiveness, sympathy, or mercy. But I will ask you  
10 here before God that one day you find it in your heart to forgive.

11 That is it, Your Honor.

12 THE COURT: Thank you very much.

13 All right. I understand that we have several victim speakers that  
14 are going to speak this morning. I also understand that it might be easier  
15 for them to remain at counsel table because standing might be a little  
16 challenging.

17 MR. MARTINOVSKY: Yes, that's correct.

18 THE COURT: Is that correct?

19 MR. MARTINOVSKY: Yes.

20 THE COURT: All right. So maybe we want to pull a chair over  
21 so we can allow them to make a statement.

22 I don't know who wants to go first.

23 MR. SHEETS: Your Honor, can we approach?

24 THE COURT: Sure.

25 And if the victim wants to go -- have a seat, that's fine. Go

1 ahead and approach.

2 [Bench conference begins]

3 MR. SHEETS: It's my understanding that one of the victims has  
4 brought in a video -- or one of the speakers has brought in a video of the  
5 victim and their life and everything. I think for the record I probably would  
6 be objecting to it just because the statute allows them to speak but not to  
7 present exhibits and the likes.

8 THE COURT: Where in the exhibit -- where in the statute does  
9 it say they cannot present exhibits?

10 MR. SHEETS: Well, it doesn't say they can't.

11 THE COURT: Right.

12 MR. SHEETS: It only says that they have a right to come forth  
13 and speak.

14 THE COURT: Right.

15 MR. SHEETS: And so I would be basically arguing the statute  
16 doesn't permit the exhibits just -- I mean, I understand where you may go  
17 with it --

18 THE COURT: Yeah.

19 MR. SHEETS: -- but I just -- make a clean record.

20 THE COURT: Well, I appreciate that and I'm going to overrule  
21 the objection. I think that this is incorporating in their statement.

22 I have a question while you're both up here, this, is this from  
23 cutting them --

24 MR. MARTINOVSKY: Yes.

25 THE COURT: -- out of the car?

1 MR. MARTINOVSKY: They cut them out, yes.

2 THE COURT: I just wanted to make sure about that.

3 Okay. All right. Thank you very much.

4 [Bench conference ends]

5 THE COURT: All right. And I understand there is a video.

6 Counsel, will it be played through this victim speaker or another  
7 victim speaker?

8 [Colloquy]

9 MR. MARTINOVSKY: They want to play it with -- the last thing.

10 THE COURT: Okay. No problem. All right. Thank you very  
11 much.

12 Good morning.

13 THE SPEAKER: Good morning.

14 THE COURT: And so everything in here is being recorded and  
15 I understand this is going to be challenging. So if you could speak up so  
16 we can make sure we're capturing everything you're saying for the record,  
17 I'd really appreciate it. I'll remind you. And if any time you need had a  
18 break, take a break.

19 THE SPEAKER: Okay.

20 THE COURT: Raise your hand, stand up, flag down counsel,  
21 and we can take a break. All right.

22 So when you're ready, if you could -- we'll go ahead and swear  
23 you in because this will be part of the court record. You can stay seated,  
24 that's no problem.

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**DANIEL MALONE**

[Having been called as a speaker and being first duly sworn, testified as follows:]

THE CLERK: Please state and spell your name for the record.

THE SPEAKER: I'm sorry?

THE CLERK: Could you please state and spell your name for the record.

THE SPEAKER: My name is Daniel Malone.

THE COURT: All right.

THE SPEAKER: First name Daniel, D-a-n-i-e-l; Malone, M-a-l-o-n-e.

THE COURT: All right. Thank you very much, Mr. Malone. When you're ready, you may begin.

THE SPEAKER: Yes.

Honorable Judge Cristina Silva, how do I put into words how I feel about the loss of my baby girl? I can only say that unless you've walked in my shoes, or the shoes of so many before me, who have lost their loved ones to drunk drivers. No one can ever understand the torment I go through each and every day. My pain never ceases. And to hear her mother crying every single day is sometimes more than I can handle. Like someone blowing out a candle, whatever joy and happiness I've had in my life has been utterly snuffed out by Henry Aparicio.

There's not one thing I've forgotten about that horrifying day. The call I got from my son telling me Christa and Damaso had been killed. My wife screaming, not Christa, not my Christa.

1           Leaning up against the wall in the airport terminal waiting for our  
2 flight to take me home to bury our youngest child, just wondering how  
3 much worse things were going to get.

4           To this day I walk around in a daze saying to myself, I can't  
5 believe it, I just can't believe it. All I do now is just breathe because that's  
6 all there is left to do.

7           I think about all the what ifs of that day. What if they would  
8 have stayed in Sandy Valley and had dinner with Damaso's parents?  
9 What if they would have taken a different off ramp? What if the light had  
10 turned green? What if they would have just gone straight home?

11           But, Your Honor, I was looking at things from the wrong  
12 perspective. Instead of what if my daughter and son-in-law did this or  
13 that, the question should be: what if Henry Aparicio had decided not to  
14 drive drunk that night. Especially since there are so many alternatives to  
15 get around now. Alternatives that he was well aware of being in the  
16 alcohol and food industry.

17           If he had decided that he wasn't going to drive drunk that night,  
18 Your Honor, one, he would not have gotten behind the wheel with a blood  
19 alcohol content of .32 -- .032. Four times the legal limit, four times. But  
20 he did.

21           He would not have rear-ended my daughter's car at over 100  
22 miles an hour with absolutely no signs of braking. But he did.

23           Think about that, Your Honor, that's almost 150 feet per second,  
24 the length of a football field every two seconds. Even if my son-in-law had  
25 looked in his rear-view mirror and saw those headlights coming, and it's

1 entirely possible that he did see them coming, he had no chance to react.

2           The impact was so powerful that he pushed the rear end of the  
3 car into the front end, and in the middle were my daughter and her  
4 husband. He crushed them like someone stepping on an aluminum can  
5 with their foot. They never had a chance.

6           The images of what he did to my daughter that night haunts me  
7 every single day. Since reading the coroner's report I can't help but think  
8 about my little girl lying on the street with a sheet over her.

9           I think about her body being thrown against that windshield and  
10 dashboard so hard that her brain was exposed, her nose was crushed,  
11 her pelvis and both of her legs were broken. He disfigured my little girl so  
12 badly that we couldn't say goodbye to her one last time. I thank God that I  
13 didn't have to go to the coroner's office to identify her. I believe that would  
14 have taken me over the edge.

15           You destroyed her body but you couldn't destroy her loving  
16 soul.

17           And now all I have are memories of her growing up and all the  
18 joy she gave her mother and I. I think about how my daughter and  
19 son-in law were getting ready to start a family and now I can only imagine  
20 the grandchildren I'll never get to know, the grandchildren I'll never get to  
21 love, and never get to hold.

22           I'm in pain 24 hours a day and will be until the day I get to see  
23 her again.

24           My little girl is only in my future now. And when I see her again  
25 it will be forever and no one will ever get to take her away from me again.

1 I hope and pray, Your Honor, that you hand down the maximum  
2 sentence allowed under the law to Henry Aparicio.

3 As the Honorable Judge Suzan Baucum is quoted as saying to  
4 him on May 18th, 2018, just a few days after my -- that he murdered my  
5 daughter and her husband, quote, I believe you are a danger to the  
6 community, your actions show that.

7 I say these things, Your Honor, not out of hate or animus  
8 towards this person or because the fact that he hasn't shown one ounce  
9 of remorse throughout this long and drawn out ordeal. An ordeal that has  
10 been purposely delayed now for over a year and a half because of wild  
11 theories of a third driver or insulting the intelligence of law enforcement  
12 officers who have investigated too many crashes like this over the years  
13 using proven scientific methods.

14 Only when he realized that there were no wild lies he could  
15 come up with, that the evidence wouldn't refute, did he accept a guilty  
16 plea. He has known since this crash how guilty he is but he refused to  
17 accept accountability for his actions.

18 Your Honor, for you to accept the appalling recommendations  
19 from Parole and Probation that show a repugnant disregard for the value  
20 of human life.

21 MR. SHEETS: At this point, Your Honor, I'm going to have to  
22 object.

23 THE SPEAKER: Wow.

24 MR. SHEETS: I've let him go for a while but he's --

25 THE SPEAKER: Wow.

1 MR. SHEETS: -- the victim is allowed to speak about the impact  
2 on them --

3 THE SPEAKER: Are you kidding me?

4 MR. SHEETS: -- and not to specifically talk about sentences,  
5 Your Honor.

6 THE COURT: Mr. Sheets, your objection is overruled. They're  
7 entitled to express how this crime has impacted them.

8 You may proceed.

9 THE SPEAKER: Thank you.

10 I'll start again.

11 Your Honor, for you to accept the appalling recommendations  
12 from Parole and Probation that show a repugnant disregard for the value  
13 of human life and seriousness of this heinous crime, will not only be a final  
14 dagger in my heart but another re-victimization to my family and to the  
15 memory of Christa and Damaso. Please do the right thing by giving this  
16 community one less drunk driver to worry about for as the long as the law  
17 will allow.

18 Thank for your time. Thank you.

19 THE COURT: Thank you very much.

20 [Pause in proceeding]

21 THE COURT: Good morning, you're welcome to stand or  
22 you're welcome to sit, whatever you're more comfortable doing.

23 THE SPEAKER: Okay. I just wanted to stand until I said good  
24 morning.

25 THE COURT: You want to stand, okay, that's fine.

1 THE SPEAKER: Just at least until I said good morning.

2 THE COURT: That's okay, you're fine. Thank you.

3 Good morning.

4 THE SPEAKER: Good morning.

5 THE COURT: All right. So please be seated, I think it will be  
6 more comfortable for you.

7 THE SPEAKER: Okay.

8 THE COURT: And if you feel like you need to stand, you're  
9 welcome to do that, and you're also welcome to take a break, if you need  
10 to take a break.

11 THE SPEAKER: Thank you.

12 THE COURT: Okay.

13 THE SPEAKER: Thank you.

14 THE COURT: So we do have -- this is part of the official court  
15 record so we're going to put you under oath, that's just part of the  
16 standard practice.

17 THE SPEAKER: Okay.

18 THE COURT: And then I'm going to ask you, as challenging as  
19 it might be, to keep your voice up because everything in here is recorded  
20 and we want to make sure we're keeping a proper transcript of everything  
21 that's said.

22 THE SPEAKER: Okay.

23 THE COURT: All right. So if you don't mind raising your right  
24 hand, you can stay seated.

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**DIANE MALONE**

[Having been called as a speaker and being first duly sworn, testified as follows:]

THE CLERK: Please state and spell your name for the record.

THE SPEAKER: My name is Diane Malone. D-i-a-n-e,  
M-a-l-o-n-e.

THE COURT: Thank you very much.  
And when you're ready, you may begin.

THE SPEAKER: Okay.  
And, Judge Silva, if I may, please, my daughter Anna was going  
to be here to read her statement but she couldn't.

THE COURT: Okay.  
THE SPEAKER: She has anxiety problems and so she couldn't  
make it. So may I please read her statement?

THE COURT: You may read her statement.  
THE SPEAKER: Okay. And then if my voice cracks or  
whatever, Charles, I just wonder if you could take a copy of it to the judge  
for me.

This -- can I bring -- have him bring you a copy of her  
statement?  
THE COURT: Oh, absolutely.

Would you prefer that I read it or would you like to read it out  
loud? It's up to you.

THE SPEAKER: I will -- let me attempt to.  
THE COURT: Okay. That's no problem.

1 THE SPEAKER: But at least it gives you something to follow  
2 along.

3 And she put pictures in hers, so I just wanted to make sure you  
4 had a copy of that.

5 THE COURT: I appreciate that.

6 THE SPEAKER: Thank you.

7 THE COURT: Thank you very much.

8 THE SPEAKER: Thank you.

9 THE COURT: And I understand, please let her know I  
10 understand that this is difficult.

11 THE SPEAKER: Okay. Okay.

12 She says, Honorable Judge Silva, Christa, my sweet sister,  
13 there really was no one more innocent and sweet. Ever since she was  
14 born she was always smiling, laughing, and happy. Christa glows.

15 As -- I'll just show you a picture, if I may.

16 THE COURT: Sure.

17 MR. SHEETS: And, Your Honor, this is -- just to make sure the  
18 record is clear, we discussed something similar at the bench with exhibits,  
19 I -- just for the record, there's the objection and maybe after -- after the  
20 sentencing then we can do an offer of proof on it so the records clean.

21 THE COURT: Understood.

22 THE SPEAKER: Okay.

23 THE COURT: Thank you.

24 THE SPEAKER: This is Christa and Damaso.

25 THE COURT: That's a great picture.



1 THE SPEAKER: And she was always smiling like that and they  
2 were always so in love like this. And I just wanted you to be able to see --

3 THE COURT: Thank you.

4 THE SPEAKER: -- how they were.

5 And then this is also Christa and this one, if you can remember  
6 this for later, was a poster that the nurses that Christa used to work with.  
7 She was -- they made this. And all of the nurses have signed the bottom.

8 THE COURT: What kind of -- I know she was an oncology  
9 nurse, where did she work?

10 THE SPEAKER: MountainView Hospital, yeah.

11 THE COURT: MountainView Hospital. Okay.

12 Thank you.

13 THE SPEAKER: Okay.

14 THE COURT: And for the record I'm looking at two -- I've  
15 looked at two posters. One of the two victims embracing and the second,  
16 victim --

17 THE SPEAKER: Christa.

18 THE COURT: -- Christa, and -- with a collage of other pictures.  
19 I just want to make sure it's clear for the record.

20 THE SPEAKER: Okay.

21 THE COURT: Thank you.

22 THE SPEAKER: Sorry. That Christa glows is what she said. I  
23 think of her face as a child and then her face as a woman and that glow  
24 has never changed.

25 You know, a lot of times the younger sister looks up to the older

1 one but in this case it's me, the older sister, that looks up to the younger  
2 one.

3 I wish I would have been a lot more like her. I wish I could have  
4 told her I was sorry for anything wrong I'd ever done or said to her in our  
5 entire lives.

6 I wish I could have told her that I love her. It's beyond words  
7 how much it hurts that I can't.

8 Christa has always been the most compassionate person,  
9 loving person. She met the only one in this world made for her in 2002,  
10 which was her husband, Damaso. He was the funniest, nicest person and  
11 was very kind and an amazing husband to my sister and loved her more  
12 than his own life. It made Damaso happy to make others happy and he  
13 loved to make people laugh. If someone was having trouble or hurting,  
14 Christa and Damaso would hurt with you and do anything to help you.

15 All of a sudden that was taken from me with one phone call, the  
16 worst phone call of my life. I told my mom not to tell me that, tell me  
17 anything but that. My heart broke into a million pieces. My soul was  
18 fractured. I didn't want to eat because they couldn't eat. No matter how  
19 hungry I was I felt guilty. Why should I get to when they can't?

20 The pain of it is indescribable. I would look at the sky so closely  
21 that I felt it was almost there -- I was almost there and that the feeling that  
22 I had was that I wanted to die too because I had to see where they were  
23 and make sure that they were okay. But there was nothing I could do.  
24 The only feeling is utter helplessness. There was nothing I could do to  
25 help them, to save them.

1           The defendant took my only sister from me. I have no other  
2 sister. He took my children's only aunt from them. They have no other  
3 aunt. He took my friends' -- my best friends away. I am lost without them  
4 in my life. There is a huge hole inside of me that will never fill.

5           My children have also lost their mama and papa because of  
6 what they have lost and my parents will never be the same again. And  
7 my children have lost a big part of me as well. He took everyone's  
8 happiness.

9           My mom already lost her first born child when she was only five  
10 years old because she was hit by a car in the street in front of their house.  
11 And now she lost her last child and son-in-law because they were also  
12 crushed by a car, by reckless choice, crushed by the defendant.

13           I'll never get to speak to them again. I'll never get to share  
14 things and beautiful moments in this life with them.

15           Christa and Damaso were trying to have children, trying to have  
16 a family. Their children and my children will never get to grow up together  
17 like they were supposed to. Children and grandchildren they would have  
18 bounced on their knees and spoiled them with love. They would have  
19 been the best parents and then grandparents. The defendant took it all  
20 from them, everything.

21           Damaso was building their business, filmmaking was his  
22 passion. He loved Christa, skateboarding, filmmaking, their friends, and  
23 he loved life, just being alive. They both did. They were on such a great  
24 path preparing their lives for their future.

25           Christa worked hard and studied long to become an oncology

1 nurse. She had so many more years of helping people left in her because  
2 she cared about others. A lot of her patients and coworkers loved her.

3 Being an oncology nurse she was trying to make so many of  
4 her patients last moments be as special as they can be and she did just  
5 that.

6 But what about Christa and Damaso's last moments? The  
7 defendant made hers and her soulmates last moments one of the most  
8 horrifying I could ever imagine. He chose to get into the car and drive.  
9 He chose to push the gas pedal down to the floor after turning onto  
10 Sahara Boulevard. He chose to run into them at 100 miles per hour and  
11 drove almost 4000 pounds of metal into their bodies and crushed them,  
12 making them take their last breaths.

13 They had no protection from him. They had no chance while  
14 simply waiting for a light to change. Who could help them? Who could  
15 save them from him? Christa and Damaso did not deserve this fate.

16 I shouldn't have to go to a grave in a cemetery and see their  
17 names on a headstone. I shouldn't have to talk to their grave and weep  
18 and tell them how sorry I am that this happened to them. How this should  
19 not be.

20 He took two of the worlds brightest lights and shut their light out.

21 Why is it that oh so often the one who gets behind the wheel  
22 and kills, gets to live and the innocent die. The defendant is guilty and the  
23 innocent were killed by him.

24 Why did he do this to them? He doesn't deserve the chance to  
25 do this to someone else. He shows no remorse for what he's done, for

1 what he took from the world and us. He has ruined so many of our lives.

2 I go around in a daze every day, the thought of what happened  
3 to them stops me in my tracks and takes my breath away. I keep wanting  
4 to wake up from a nightmare, but I can't. This nightmare is a living --  
5 waking nightmare and this hurts forever.

6 Time has not changed anything. It's not any easier. It's just as  
7 hard now as it was the day I found out he killed them. Days get harder all  
8 the time because it makes me feel even farther away from the last time  
9 that I saw them and spoke to them. And all I want to do is be so, so close  
10 to them.

11 I wish everyone knew what it was like walking into their home  
12 for the first time after they were killed by the defendant. The home still felt  
13 warm like they were there, even though their bodies were cold and  
14 destroyed.

15 They left the comfort of their home on May 15th to carry out a  
16 normal day but they were not allowed to return. Even though that is  
17 exactly what they had wanted to do, return home. They were almost  
18 there.

19 I wish everyone knew what it was like to walk into their home,  
20 the way everything was left, as if they just walked out the door and would  
21 be back any minute now. How their animals are searching the house, still  
22 waiting for them.

23 I wish everyone knew what it was like to have to go sort through  
24 Christa and Damaso's closet and their dresser drawers with all their  
25 clothes in them, just the way they left them, the fresh laundry on the bed

1 that she didn't get around to folding that day. Christa's makeup and little  
2 things they had around the house. To see sweet notes they left for each  
3 other and birthday and anniversary cards that were left out. Going  
4 through their life and closing it all up into a dark box.

5 If everyone knew what it was like to feel everything the  
6 defendant has forced us to feel, there would be no doubt in their minds to  
7 give the maximum sentence that can possibly be received.

8 Christa never got to see her 34th birthday. Damaso never got  
9 to see his 40th birthday. They were supposed to have so many more.  
10 Why should their killer get to see the same birthdays outside of prison?

11 I ask you, Your Honor, to please give the defendant the  
12 maximum sentences for Christa's death and the maximum sentences for  
13 Damaso's death allowed by law to run consecutively.

14 Thank you Honorable Judge for reading and listening to what  
15 my heart truly feels.

16 Anna Bravo, loving sister of Christa, loving sister-in-law of  
17 Damaso.

18 THE COURT: Thank you.

19 THE SPEAKER: If you don't mind, I'd like to get a drink of  
20 water.

21 THE COURT: Oh, absolutely.

22 THE SPEAKER: Thank you.

23 THE COURT: Can we get some water, please.

24 THE MARSHAL: You can have that one there.

25 THE SPEAKER: This one? Oh, thank you.

1 THE COURT: Is that -- okay. Thank you.

2 THE SPEAKER: Thank you.

3 Sorry.

4 THE COURT: Oh, it's okay, take your time.

5 THE SPEAKER: Okay. I have the same for mine.

6 MR. SHEETS: Subject to the same issues that we discussed at  
7 the bench.

8 THE COURT: Understood. Your objection is noted for the  
9 record.

10 You may approach, if you like, Counsel.

11 MR. SHEETS: Maybe if we can mark these that might be  
12 better.

13 THE COURT: Sure.

14 MR. SHEETS: And for the posters too.

15 THE COURT: Let's see, we have -- the State Proposed 1  
16 through 4, let's make these Court's 1 and --

17 [Colloquy between the Court and the Court Clerk]

18 THE COURT: We want to get copies of those for the record,  
19 just so you know what we're talking about, so they're part of the court file.

20 THE SPEAKER: Okay.

21 THE COURT: All right. Whenever you're ready.

22 THE SPEAKER: Okay.

23 Honorable Judge Silva, I am Diane Malone and I am Christa's  
24 mother.

25 How do I begin, Your Honor? How can my words possibly

1 convey the severity and the depth of how devastating, how forever painful  
2 the crash of May 15th, 2018, is to me, our families, and the many friends  
3 of my precious Christa and her loving husband Damaso.

4           How can I possibly convey to you everything I believe I should  
5 say on Christa's behalf in just a few paragraphs, when even a series of  
6 books couldn't contain all the beauty and goodness that she was.

7           I believe you first need to understand just a bit of who Christa  
8 and Damaso are and how they affected everyone who knew them. I wish  
9 I could back 35 years ago when I gave birth to my precious daughter  
10 Christa. It was on that day, September 30th, 1984, that Christa made our  
11 family complete. She was my baby. I was blessed with five children.  
12 Christa is the namesake for myself and my first child.

13           Christine, who was hit by a car and killed in October of 1978,  
14 she was only five years old. The pain is excruciating, still today, and now  
15 the constant, relentless pain and grief of this senseless, unnecessary  
16 murder -- yes, I believe it to be murder -- of my baby girl and my beloved  
17 son-in-law Damaso. It is unbearable. It is a torture I have no choice but  
18 to endure daily for the rest of my entire life.

19           Christa has two older brothers, Danny and Ian, and one sister,  
20 Anna, who also love and miss her so very, very much. The love and joy  
21 of Christa's presence in our family is now gone forever, void,  
22 irreplaceable.

23           We are all left with only the memories of watching her grow  
24 from the precious baby she was to the sweetest, kindest little girl, and  
25 blossoming into the most beautiful and loving young woman imaginable,



1 always full of love and life. My dear Christa.

2           The deep love Christa had for her family and friends was truly  
3 amazing. I cannot remember even one time while growing up that she  
4 fought with her brothers and sister. She was always the most  
5 kindhearted, sensitive person I've ever known. She radiated love and  
6 compassion, always caring about other's needs, never selfish, evil, or  
7 rude. She did not have a mean bone in her body.

8           Christa also loved to learn, had many talents. As a young girl  
9 she began with piano lessons. She quickly learned to play Fur Elise  
10 because -- and she learned it for me because it was one of my favorite  
11 pieces. How I enjoyed listening to her play it. And, oh, I wish I could hear  
12 her play the piano again.

13           Christa always loved being a part of something bigger than  
14 herself. Not only was Christa a member of her school choir and color  
15 guard team but she also played on her basketball team and ran track.

16           After graduating high school, Christa learned -- continued to  
17 learn and had become skilled in many of her chosen hobbies, including  
18 crocheting, knitting, drawing, painting, flower arranging, theatrical  
19 makeup, bowling, and dancing were a few.

20           Christa also wanted to learn to sew so I bought her a sewing  
21 machine and I was just beginning to teach her to sew. She had just  
22 completed her first sewing project, an apron. And I was looking forward to  
23 teaching her to sew a lot more but now that can never happen.

24           During the last Christmas season, when Christa was with us,  
25 she and I created homemade straw baskets as Christmas presents for her

1 friends and family. And we had planned to get-together every year to  
2 make homemade gifts but now that can never happen either.

3 Her loving husband Damaso was teaching her to skateboard  
4 and also about his passion of filmmaking, videography, and photography.  
5 Her love for learning was endless, just as her love for life.

6 Christa and Damaso started dating in July of 2002, shortly after  
7 her graduation from high school. I'll never forget the one day when  
8 Christa came home from a date with Damaso and she so excitedly said,  
9 mom, I think I found a good one, and that he was. Damaso was Christa's  
10 first boyfriend and he would become the love of her life and soulmate.  
11 They were the perfect match, marrying on June 6th, 2009. Damaso was  
12 our perfect son-in-law for our sweet Christa. I knew I would never have to  
13 worry about my sweet Christa because I knew he would love and protect  
14 her always.

15 Christa and Damaso were the perfect example of what love and  
16 marriage should be. Always showing deep love and respect for each  
17 other every single day since the day they met. Loving and supporting  
18 each other in every aspect of their lives like I've never seen before.

19 We never, we never imagined that in the prime of their lives the  
20 defendant would so carelessly, recklessly, and brutally murdered both of  
21 them.

22 Christa and Damaso lived in our home with us and my 85 year  
23 old mother. We all believed that family should take care of family.

24 My husband had been temporarily working in Florida and when  
25 I went to visit him Christa and Damaso were there to take good care of my

1 mother who couldn't be left home on her own.

2           Your Honor, Christa and Damaso had so many hopes and  
3 dreams that can now never come to be.

4           Christa was working hard to make this world a better place for  
5 all of us. She positively and lovingly touched the lives of every person  
6 fortunate enough to cross her path.

7           Ever since she was a young girl she was always a joy to be  
8 around, always happy, gentle, giving, kind, pure and honest, full of grace  
9 and hope, and that beautiful smile and compassion always melted my  
10 heart. That smile that I never, ever get to see again.

11           She worked hard to accomplish her goals, never giving up on  
12 herself and always encouraging others to never give up on themselves,  
13 including me and the rest of our family and her friends and co-workers,  
14 and her patients, and always her beloved husband Damaso.

15           She listened carefully and cared deeply for others, as did  
16 Damaso. Christa always had an instinctive gift of making people around  
17 her feel important, special, loved, and appreciated. I was always learning  
18 from her wisdom.

19           I believe it was Christa's passion for life and her compassion for  
20 others that led her decision to become a nurse. As an oncology RN at  
21 MountainView Hospital, fighting cancer had become so very dear to her  
22 heart. She truly loved and cared for each of her patients and coworkers.  
23 And as she continued her education, ultimately working toward her  
24 masters, in order to heal and save lives, her dream was to remain in the  
25 oncology field focusing on prevention, research, and education. She

1 worked hard in her education and in her daily life to be the best that she  
2 could be while always continuing to love and give to others.

3 My daughter Christa was the most loving and beautiful person  
4 I've ever known. Anyone who met her automatically fell in love with her  
5 because she was that kind and amazing woman. She was our angel on  
6 earth. She was an exemplary model of the true meaning of love.

7 When Christa was not at the hospital she was either taking  
8 classes, spending quality time with friends or family, or she was helping  
9 Damaso with their business, Cactusboy Productions, which Damaso  
10 worked so hard at full time to build while also giving his talents to  
11 charitable causes on a regular basis.

12 Christa and Damaso had no enemies, together they exuberated  
13 love and happiness, and their infectious smiles and laughter were  
14 magnetic and always brought joy to everyone blessed to have known  
15 them. They always brought out the best in others as they looked at the  
16 positive side of everything and generally engaged in their conversations  
17 with others.

18 Christa and Damaso were both kindhearted and compassionate  
19 in every step of their lives, which they did live to the fullest as they loved  
20 life, the very lives that were so violently and abruptly stolen from them.

21 I didn't think I would ever have to worry about Christa or  
22 Damaso because I knew they were both healthy, responsible adults.  
23 They took care of themselves physically and loved each other deeply.  
24 They made wise decisions and they were both extremely careful drivers.  
25 They would never drive drunk.

1 Christa and Damaso were also on the verge of starting a family.  
2 I was looking so forward to becoming a grandmother again to their  
3 beautiful children that I just knew they were going to have.

4 Christa and Damaso would have been excellent parents, just as  
5 they already were the most loving, absolute best aunt and uncle anyone  
6 could ask for. That will never become to be either.

7 Why? Why? Henry Aparicio is why.

8 Christa was -- I'm sorry.

9 THE COURT: It's okay.

10 THE SPEAKER: -- Christa was a registered organ donor, but  
11 even her very last attempt to save lives could not be granted to her  
12 because of the heinous crime committed against her, as well as against  
13 her husband. Every perfectly, healthy vital organ in Christa's body was  
14 turned to mush, mutilated by Henry Aparicio.

15 I'm sorry.

16 THE COURT: It's okay.

17 Do you want to take a -- we could take a little bit of a break?  
18 Would that be helpful? It's up to you.

19 THE SPEAKER: I just need a second.

20 THE COURT: Okay.

21 THE SPEAKER: Sorry.

22 THE COURT: No, you don't have to apologize. Take your time.

23 THE SPEAKER: I will never forget the moments of that  
24 dreadful phone call from our son, Ian, Christa's brother. Ian was the one  
25 who the coroner's office was first able to reach.

1           My husband works as a night auditor and we were sleeping  
2 when our son's call woke us.

3           My husband Dan, who you just heard from, answered the call  
4 and he suddenly jumped from the bed desperately repeating, no, no, no.  
5 Then his knees buckled. I had already jumped up and was repeatedly  
6 asking him, what, what's wrong? He couldn't speak. He couldn't stand. I  
7 knew something was dreadfully wrong.

8           He finally handed me the phone and my son had to repeat what  
9 he had just told his father. The most horrifying words I would ever hear.  
10 With severe pain in his voice he said, Christa and Damaso were in a car  
11 crash last night and they are both dead.

12           All I could do is scream, no. I screamed, no, no, not again, no,  
13 not again, no. So many times that I don't even know. I can't count. But I  
14 screamed with excruciating pain until my voice was gone.

15           My husband was still unable to speak or stand. We just held  
16 each other and wept and wept and wept with tears.

17           Ian had told me to pack a bag and get ready to go to the airport  
18 and he would buy our airline tickets to get back to Vegas. He immediately  
19 drove to pick us up and took us to the airport. The weepings never  
20 stopped. It still continues ever so frequently, every single day. It feels like  
21 my insides are ripped out of me, at times I feel pain in my chest as though  
22 my heart is being squeezed to death. And other times I can't even feel my  
23 heartbeat as it has been obliterated. Their truly are just no words to  
24 describe how incredibly bad it is.

25           I cry myself to sleep every night envisioning the horrific details

1 of May 15th at 9:08 p.m. Still I can never get a full night's rest because I  
2 am awakened by nightmares of that dreadful night when Christa and  
3 Damaso were so brutally killed. I so vividly envision them just sitting at  
4 the stoplight waiting for light to turn green. And in my dream I smile  
5 because I know they're just talking about their day and their  
6 accomplishments and/or laughing together as they so often did.

7 Then suddenly the vision turns horrifically violent as the  
8 defendant turns his red Mercedes into almost two tons of weapon, driving  
9 over 100 miles an hour at ramming speed into the back of their Prius  
10 without even trying to stop, without even applying the brakes as though  
11 intentionally crashing into them.

12 And I envision their Prius being crushed with Christa and  
13 Damaso inside, being shot across the lanes while tossing and turning and  
14 literally breaking them and crushing them and mutilating them to death.  
15 This is what I have to picture of my daughter's last moments every single  
16 day for the rest of my life.

17 To this day this vision repeats itself almost every morning and  
18 throughout the day. And I wake up in tears just as I went to bed the night  
19 before asking myself, why I am still breathing, why couldn't it have been  
20 me instead? Why? Why? Why? I would give my life in a second if I  
21 could only give mine back to my precious Christa and Damaso.

22 Then each time I'm forced to come to the realization that the  
23 why is because the defendant made selfish, premeditated choices which  
24 led to this violent and gruesome murder of my daughter Christa and  
25 Damaso.

1           This was no accident. Nor was it a mistake. The defendant  
2 knew, he knew he was going out to celebrate his girlfriend's graduation  
3 that night. He knew he would be the one driving. He knew he was going  
4 to drink alcohol, lots of it. He knew how much he had to drink at Dave &  
5 Buster's.

6           After leaving Dave & Buster's, he knew and deliberately drank  
7 even more alcohol at his place of employment, Casa del Matador. He  
8 knew he was majorly intoxicated. He knew he got into his car to drive it.  
9 He knew and chose to drive over 100 miles an hour on Sahara, at a 45  
10 mile an hour speed zone, with absolutely no concern for the law, nor for  
11 the safety of others.

12           The only thing he did not know was who he was going to kill  
13 that night.

14           He gave Christa and Damaso no chance for survival. They  
15 were alive one second with healthy beating hearts, full of love and life;  
16 then suddenly Henry Aparicio took everything away from them, every  
17 dream, every hope, every desire to do good and save lives, every hope  
18 for a family of their own. He took their last breath, their very lives.

19           Nevada Highway Traffic Safety Association, NHTSA I believe  
20 they call it, tells us that a person drives drunk on an average over 80  
21 times before they ever get caught.

22           This was not the defendant's first time and I am convinced it  
23 would not be his last.

24           Almost every day I read in the news, Your Honor, that someone  
25 else has been murdered by a drink driver. How many innocent people



1 have to die?

2 The only deterrent I see is tougher penalties, tougher sentences  
3 for criminals who choose to drive drunk, and therefore choose to kill  
4 innocent people. How many people have to die before the sentences  
5 match the crimes committed? How many families have to be destroyed?

6 Henry Aparicio killed not one but two innocent, loved ones, with  
7 absolutely no regard for their precious lives, nor the lives of all the people  
8 who loved them so dearly and need them in their lives, two lives not  
9 accidentally taken.

10 Should by all moral rights equal to life sentences? What  
11 will stop this completely senseless and heinous killing of precious lives, as  
12 our beloved Christa and Damaso, if maximum sentences are not  
13 imposed?

14 I truly am crushed and completely appalled actually at the 3 to  
15 10 year recommendation by Parole and Probation. They're telling me that  
16 my daughter, Christa's life, is only worth possibly as little as 3 years in  
17 prison and the same for Damaso.

18 How is it that Parole and Probation has to use a point system  
19 that takes every human aspect out of their decision to come up with a  
20 recommendation for sentencing?

21 MR. SHEETS: And, just for the record, the same objection as  
22 with the prior one, Your Honor.

23 THE COURT: Your objection is noted.

24 THE SPEAKER: When an adult, which Henry Aparicio was an  
25 adult, with all adult rights, all adult choices, commits a crime it should not

1 matter how old the criminal is, nor should it matter the age of the victim,  
2 two victims in this case, a crime has been committed and two people are  
3 dead because of it.

4           Your Honor, my daughter and her husband, Christa and  
5 Damaso, they were not inanimate objects whose worth should be  
6 calculated by a point system. Instead they were both living, breathing,  
7 heart beating, responsible, loving people just like you and me, just like  
8 everyone in this courtroom, until Henry Aparicio made his choice to turn  
9 his vehicle into a weapon, ramming Christa and Damaso with so much  
10 force that he turned their internal organs to mush, taking every heartbeat,  
11 every breath, every dream, every hope they ever had, every hope we ever  
12 had for them, every joy of life they gave, everything. He killed them by his  
13 own choice.

14           It was inevitable that he would kill that night from the choices he  
15 made. If it wouldn't have been our beloved Christa and Damaso, who  
16 would it have been? The mother and the young child in the car with her,  
17 that were nearby? Would it have been the sons, the daughters, brothers,  
18 sisters, mothers or fathers of anyone else? Maybe even people that are  
19 here in this courtroom.

20           He was educated. He was not an uneducated person. And he  
21 knew the dangers of driving drunk and he still chose to drive and at four  
22 times the legal limit. Who would it be next?

23           What is precious life worth? I truly would give my life in a  
24 second to give life back to my daughter and her husband but that is  
25 impossible. The defendant is the one who took every last breath from my

1 daughter and every last breath from my son-in-law.

2 He is the one who needs to be held accountable for his actions  
3 by serving the maximum penalty. Because, Your Honor, where's the  
4 justice for my Christa and Damaso? Two lives so selfishly and violently  
5 taken, killed by this defendant.

6 I wholeheartedly believe he is an endangerment to society and  
7 a danger to human life.

8 He has dishonored and wasted the Court's time by not  
9 accepting his responsibility for his choices and his actions. For 15 months  
10 he did that. How can he be trusted to be on our roads? He outright lied,  
11 even about driving the car.

12 And I know, Your Honor, you weren't on this case from the  
13 beginning but there are things I'm going to say that happened in the  
14 beginning, in the courtrooms even.

15 MR. SHEETS: Again, I'm objecting, this is way beyond impact,  
16 Your Honor.

17 THE SPEAKER: He had outright lied --

18 THE COURT: I'm going to overrule the objection.

19 THE SPEAKER: -- about driving the car, the murder weapon  
20 he used to kill our beloved Christa and Damaso. He has tried for the past  
21 17 months to get off scot-free, or 15 months I should say, as though as  
22 some sort of sick joke. Up till today he's shown no remorse and no regard  
23 for anybody's life but his own. He's destroyed so many lives and up to  
24 today with no remorse.

25 I do continually ask myself, what kind of evil can absolutely

1 have no remorse for murdering not one but two completely innocent  
2 people? I will never understand his arrogance, his lies, his evil demeanor,  
3 his laughing in court, which he did, and his trying to intimidate me by  
4 staring me down in the courtroom.

5           And the latter I noticed the first time when we were in  
6 Judge Bell's courtroom on the 17th floor, we were seated in the pews on  
7 the left side of the courtroom and he was the only one seated on the right,  
8 I was the fourth one in, and as we were exiting the pew he slid closer to  
9 us, and as I was exiting he was directly in front of me, and as I walked out  
10 of the pew he glared into my eyes. To me it was cold, unremorseful eyes  
11 is what I saw, as if to intimidate me even more after what he'd already  
12 done. I will never, ever forget that cold, heartless glare. It will haunt me  
13 forever.

14           Twice since that time I had asked the marshal to ask him not to  
15 stare.

16           The defendant's vile crime has put us through a year and a half  
17 of pure hell, 17 months if you want to be more accurate, traveling back  
18 and forth for court dates just to have another delay 'cause the defendant --  
19 because the defendant refused to be accountable for his actions -- sorry --  
20 has been exhausting and costly.

21           The planning and cost of funerals that we should have never  
22 had to plan, and taking on all the extra expenses associated with this  
23 crime, having to spend my senior years as a graver caretaker should not  
24 be my life. My life is destroyed. My family's life forever changed.

25           Every day I try to go on normally but I can't. I have lost

1 purpose.

2 As much as I try to be a good mother and grandmother to my  
3 surviving children and grandchildren, my joy and passion for life has been  
4 stolen from me by this criminal and therefore my children and  
5 grandchildren are being robbed of that joy and passion also.

6 My surviving grandchildren have been robbed of their only aunt.  
7 My surviving daughter robbed of her only sister and best friend. And  
8 Christa's two brothers left without her love and joy.

9 The defendant robbed all of Christa's patients and future  
10 patients of the compassion and loving care she would have given them.  
11 He robbed her coworkers and the medical field of a much needed,  
12 outstanding, dedicated, aspiring nurse. So, so many hearts are broken  
13 and lives changed forever.

14 Christa's dad and me, her brothers, sister, nieces and nephews  
15 and cousins, her numerous patients, her coworkers, and the many close  
16 friends of theirs. Many of whom are here today, I believe as you can see.

17 Also Damaso's parents, my sweet son-in-law's parents, whose  
18 father is here today, and siblings and family all because of one selfish  
19 killer.

20 Your Honor, it is my -- I'm sorry.

21 The rest of our entire lives now have to be spent dealing with  
22 this guy who killed our precious baby girl Christa and her loving husband  
23 Damaso. He has murdered the life out of me too. And, again, with all of  
24 my heart, I wish I would have been the one he rammed into that night  
25 instead.

1           This pain, this suffering, these nightmares, this reality knowing I  
2 will never be able to talk with Christa and Damaso again, knowing that I  
3 will never be able to love and hold my grandchildren they were going to  
4 have, knowing I will never be able to give Christa a hug and tell her how  
5 much I love her, and to hear her tell me that she loves me too. It is  
6 unbearable. I miss her so much, the hurting, no words that I can describe  
7 it with.

8           I was so heartbroken and crushed that it's hard to function on  
9 most days. But I know that something must be done to bring awareness  
10 and to convince people not to drive drunk. There's no excuse. There are  
11 taxis, LYFT, UBERs, friends and family that can be called for a ride or  
12 take a bus, or walk, get a room, or just wait.

13           No one has the selfish right to drive drunk and murder  
14 someone. No parent should ever have to suffer the loss of their child,  
15 especially when it is due to such a selfish, senseless, preventable, yet  
16 violently heinous crime.

17           There's not been one single day since May 16th, 2018, almost a  
18 year and a half, over 74 weeks, 520 days that I have not wept for my  
19 precious Christa and dear Damaso.

20           The defendant gave both Christa and Damaso a death  
21 sentence. And I know that I've been convicted of a life sentence by the  
22 defendant, a life of torture, the gut wrenching pain, the mourning and  
23 weeping for them every day for the rest of my entire life. My life is now  
24 forever changed to a life consumed by grief and heartache that affects  
25 every aspect of my soul, my spirit, my physical and emotional well-being,

1 every moment, every cell in my body aches and longs to be with my  
2 beloved child.

3 And now, Your Honor, as I sit before you I place myself in the  
4 most painful and challenging position I've ever been in my entire life, I  
5 have to plead for justice for my baby girl. I have to attempt to be Christa's  
6 voice, her plea to you, Your Honor. I shouldn't have to because she  
7 should be here. She should be alive, as should her husband. But I must  
8 try to convey what I believe would be her last request to you. I knew my  
9 daughter well, and although she was gracious, loving, and kind she was  
10 also very smart, rational, and fair. She always took responsibility for her  
11 own actions and beliefs strongly, that every person should.

12 On behalf of our beloved Christa, I ask you, Your Honor, to  
13 please impose the maximum sentence allowed by law, for each count to  
14 run consecutively, which is a very, very small price to pay for the heinous  
15 crime the defendant committed against our precious daughter Christa and  
16 my dear, sweet son-in-law Damaso.

17 The Parole and Probation point system does not take into  
18 consideration that the victims who were murdered, our beloved Christa  
19 and Damaso were responsible, extraordinary, beautiful souls who were  
20 loved and needed very much in this world. And in no way did they  
21 deserve the torturous deaths that Henry Aparicio inflicted on them.

22 I personally believe, personally, that what he deserves is never  
23 to see the light of day again.

24 To this day I don't understand why he was not charged with two  
25 counts of second degree murder because the facts of the case they do

1 have blatant similarities to other cases, one I think of is the Alan Aldred  
2 (phonetic) case.

3 Both Christa and Damaso, they paid the ultimate price for  
4 Aparicio's atrocious crimes.

5 He is one life who chose to take two lives. He deserves to pay  
6 the ultimate price and he should be held accountable for his choices and  
7 actions, which in this case unfortunately can only be the maximum  
8 sentence of 8 to 20 years for Christa and 8 to 20 years for Damaso to run  
9 consecutively.

10 MR. SHEETS: And, again, same objection.

11 THE SPEAKER: I pray, Your Honor --

12 THE COURT: Noted.

13 THE SPEAKER: -- that in making your decision, please try to  
14 put yourself in our shoes. Please render a sentence as you would if it was  
15 your own child.

16 I thank you, Your Honor, for listening as I pour my heart out to  
17 you. I truly do, in the only way I know how to represent my beloved  
18 Christa and her beloved husband, in the hopes that you will understand a  
19 little bit and the never-ending excruciating pain that the defendant has  
20 caused.

21 Judge Silva, now I put my trust and hope in your power and  
22 wisdom to have true justice for Christa and Damaso for now by imposing  
23 the maximum sentences allowed by law.

24 The very last voice, Your Honor, that I would like for you to hear  
25 is a brief video that Christa made for a class she was enrolled in at the



1 time, before she had no idea what would happen, six days later as she  
2 made this video just six days before she and her husband were so brutally  
3 murdered by the defendant.

4 Judge Silva, I do respectfully thank you, Your Honor, for your  
5 consideration and for allowing me to speak on behalf of our beloved  
6 Christa and Damaso.

7 Thank you.

8 THE COURT: Thank you.

9 MR. SHEETS: Your Honor, if we could have the -- I have not  
10 yet seen the video, if we could have it marked and it's subject to my prior  
11 objection.

12 THE COURT: Yes, it'll be marked as Court Exhibit 10, am I  
13 right? Am I doing my math there? That will be --

14 MR. SHEETS: May I be seated?

15 [Playing video]

16 THE COURT: Thank you very much.

17 THE SPEAKER: May I --

18 THE COURT: Yes, absolutely.

19 Do we have anymore victim speakers this morning, Counsel?

20 MR. MARTINOVSKY: No, that's it, Your Honor.

21 THE COURT: That's it, okay.

22 I'm going to take a brief recess and then I'll be right back on the  
23 bench. So if everyone wants to take a stretch break, it's just going to be a  
24 few moments, you're welcome to do that. But I will be right back.

25 Thank you.

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[Recess taken at 11:17 a.m.]

[Hearing resumed at 11:25 a.m.]

THE COURT: We're going to go back on the record in case C-18-332496-1. Waiting for the defendant to reenter the courtroom.

[Pause in proceeding]

THE COURT: All right. Mr. Aparicio, this is the time for sentencing and I have considered all of the information presented, not only in the PSI but also your statement here in court. I have certainly considered the statements of the family. I've read every letter that was submitted to me and as well as the video and the pictures that were presented here in court today.

Mr. Sheets touched on a sentencing structure that I'm familiar with. In my former life I worked in the federal system and there, as Mr. Sheets talked about it, it sets forth a number of factors to be considered and this has been approved by the Supreme Court of the United States, so I'm sure it's equally applicable in the State of Nevada.

Those factors include the nature and circumstances of the offense and the history and characteristics of the defendant, the need for the sentence imposed to reflect the seriousness of the offense, and to promote respect for the law, and to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, and to protect the family from further crimes of the defendant.

It also requires that I consider a sentence that will provide the defendant with needed educational or vocational training, medical care, or correctional treatment in the most effective manner, and also requires that

1 I also consider potential sentencing disparities amongst defendants with  
2 similar records who have been found similar -- found guilty of similar  
3 crimes, in this instance you pleaded guilty.

4 So I do carry those with me as I sentence every defendant. I  
5 also look to Nevada law to talk about, you know, what is appropriate.  
6 They talk about the judge having wide discretion and everything from  
7 sentencing concurrently to consecutively. And I too am required to  
8 consider the whole defendant and the victims, as well as the conduct of  
9 the defendant when considering what an appropriate sentence is. And  
10 that's what I've done.

11 So I'm going to note that without a doubt the families, and I say  
12 families because it's not just one family, it's not just two families, it's  
13 actually four families that have been impacted by your reckless disregard  
14 for life.

15 The accident, which to call it an accident is an understatement,  
16 is just unimaginable. When I was presented with these photos this  
17 morning I didn't even -- I couldn't tell what kind of vehicle the victims were  
18 in when they were hit by the car you were driving. That's how egregious  
19 your conduct was.

20 And so when I look at you and I consider the fact that you don't  
21 have any criminal convictions, which certainly adheres to your benefit, you  
22 did serve our military, which I thank you for. You know, I think that's  
23 something that isn't emphasized enough in society today.

24 But at the same time you had trouble when you were you in the  
25 military. Your behavior and your poor choices started while you were in

1 the military. When I look at what the offense was, to include the forgery of  
2 a military ID, I can't think of anything that could be potentially more  
3 dangerous for our country that could lead to any number of really bad  
4 things that could happen.

5           You're obviously an intelligent young man. You're articulate.  
6 You have a family who loves and supports you.

7           And so I thank the family for being here today.

8           But you have to pay for the choices that you made and the  
9 choices that you made that night weren't just, I'm going to get into a car  
10 and drive drunk, I'm going to go to one bar, I'm going to drink countless  
11 drinks, and they weren't just, you know, a glass of wine; right, they were  
12 drinks that were very strong, with multiple, if I remember correctly, there  
13 were multiple types of alcohol, in at least one or two of the drinks, and I  
14 remember reading correctly, the types of drinks that were ordered at Dave  
15 & Buster's. And then you actively chose to go to the next place and  
16 continue to drink and drink more.

17           There's -- when I consider all of that, I do believe that a  
18 sentence at the high end of the guidelines is appropriate.

19           I am empathetic to the victims and their frustration at Parole and  
20 Probations justification of the 3 to 10 year sentence.

21           I will tell you this, there is no right or wrong answer when it  
22 comes to the death of somebody. You know, justice is defined any  
23 number of ways. But trying to make someone whole is really what justice  
24 is supposed to do. But we can never do that for you. And I can tell you  
25 that Parole and Probation wouldn't be able to do that for you no matter

1 what system they use to calculate the sentence that they recommend.

2 So let's go through with the sentencing. In accordance with the  
3 laws of the State of Nevada you're hereby adjudged guilty of the crimes of  
4 two counts, driving under the influence resulting in death, which is a felony  
5 in violation of NRS 484C.100, 484C.430, and 484C.105, that carries a 2 to  
6 10 year term in the Nevada Department of Corrections, and a minimum  
7 fine of \$2000 and up to a \$10,000 fine.

8 As well Count 3, reckless driving, which is also a felony in  
9 violation of NRS 484B.653, it's a category B felony, carrying a 1 to 6 year  
10 term in the Nevada Department of Corrections, a minimum fine of \$2000  
11 and up to \$10,000.

12 And you'll also be required to have an interlock device on any  
13 vehicle you have for not less than one year but no more than three years  
14 upon release from custody.

15 I'm going to order that you pay a \$25 administrative assessment  
16 fee, that is standard in every criminal case, as well as a \$150 DNA fee,  
17 and you're to submit to testing for your DNA, and there's a \$3 fee that  
18 goes along with that for the assessment.

19 State, is there any other fees associated with the alcohol blood  
20 testing that happened?

21 MR. MARTINOVSKY: No, Your Honor.

22 THE COURT: Okay. I'm also going to order that you pay  
23 \$47,520.53 in restitution, that is the, I'm going to guess, the minimum  
24 costs that were associated with what the aftermath of this crime and what  
25 the victims went through.

1           So it turns to what the appropriate sentence is, and again  
2 considering the egregious choices that you made that night and balancing  
3 that with the law requiring me to consider the fact that you have no priors,  
4 I am going to sentence you to a minimum of 7 years and a maximum of 20  
5 as to Count 1; a minimum of 7 years and a maximum of 20 as to Count 2,  
6 those will run consecutive; and I'm also going to sentence you to a term of  
7 12 to 48 as to Count 3, and that will also run consecutive. So it will be an  
8 aggregate sentence of 16 to 40 years in the Nevada Department of  
9 Corrections.

10           I do believe that this sentence, and Mr. Sheets I'm going to  
11 disagree with your representation of what the *Booker* case states, I do  
12 believe that sentence is sufficient but not greater than necessary to  
13 achieve the sentencing goals, whether it be in this court or any court, and  
14 that is taking into account the history and characteristics of you, the need  
15 for the sentence imposed to reflect the seriousness of the offense, and to  
16 promote respect for the law, importantly to also afford deterrence for  
17 others to engage in this.

18           As for the victims' families, I don't have an answer for you  
19 because I know that you'll never be made whole.

20           But one thing was said, and I believe, I think mom said it, mom  
21 said, and mom of Christa to be clear for the record, that she always  
22 encouraged others to never give up. That applies to everyone who's  
23 impacted by this case. Do not give up. Fight, fight for her, fight her  
24 happiness, carry that spirit forward, carry their love forward, there's a lot to  
25 be said for that love, you can look at that picture and just feel it.

1           And, I'm sure perhaps you don't agree with this, but perhaps  
2 also forgive, you could hopefully get there. My heart goes out to everyone  
3 who was impacted by this.

4           You will have to live with this for the rest of your life and I  
5 believe that is your life sentence. I hope that you can find the help that  
6 you need. I hope that if you -- when you get out that you do stay true to  
7 your word that you want to help others not make the reckless and wanton  
8 decision that you made the night that you got in that car and weaponized  
9 it, that is what you did.

10          And good luck, Mr. Aparicio.

11          Any questions from the State or from the defense?

12          MR. SHEETS: I think not as to the sentence, but I mean if we  
13 could just do the quick offer of proof on the -- on the objection. I'm not  
14 sure if your bench conference is recorded on the --

15          THE COURT: They are -- they are recorded.

16          MR. SHEETS: Okay.

17          THE COURT: Did you want to lay any other record?

18          MR. SHEETS: No, as long as the bench conference is  
19 recorded, I'm good.

20          THE COURT: The bench conference is recorded.

21          And just for the record, there was an objection made to some of  
22 the exhibits and letters that were received and speakers, I have overruled  
23 those objections. As I stated, I believe the Nevada Constitution defines  
24 victims broadly and therefore I accept everything and considered that in  
25 rendering my sentence here today.

1 MR. SHEETS: Thank you, Your Honor.

2 MR. MARTINOVSKY: Thank you.

3 THE COURT: Anything further?

4 Thank you.

5 [Hearing concluded at 11:35 a.m.]

6 [Hearing recalled at 11:38 a.m.]

7 THE COURT: I apologize, I did the math -- I pronounced the  
8 math incorrectly. So it will be 15 to 40 year sentence. So 7, plus 7  
9 consecutive, and then Count 3 will run consecutive as well.

10 MR. MARTINOVSKY: So it's 15 to 44?

11 MR. SHEETS: 15 to 44?

12 THE COURT: I'm sorry?

13 MR. MARTINOVSKY: 15 to 44?

14 MR. SHEETS: 15 to 44.

15 THE COURT: 15 to 44, yes, I apologize, see.

16 MR. MARTINOVSKY: Okay.

17 THE COURT: So I did lawyer math, I apologize to everyone.  
18 Thank you for laughing at me.

19 MR. SHEETS: I'm sorry, Your Honor.

20 THE COURT: I appreciate that. I can laugh at myself.

21 MR. MARTINOVSKY: Sorry.

22 THE COURT: No, I apologize.

23 I -- I did the math wrong. So I apologize.

24 So thank you for bringing me back here for the clarification.

25 MR. MARTINOVSKY: Thank you.



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THE COURT: Do you have any other questions?

MR. SHEETS: No, that was it, Your Honor.

THE COURT: No? All right.

Thank you very much. I apologize again.

MR. SHEETS: Thanks to the CO for correcting me on that.

THE COURT: I know they --

MR. SHEETS: He did that math. I did lawyer math too.

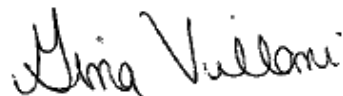
THE COURT: That's why we all have a job and they do a great job.

Thank you.

[Hearing concluded at 11:38 a.m.]

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Gina Villani  
Court Recorder/Transcriber  
District Court Dept. IX

*Steven D. Grierson*

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

HENRY APARICIO aka  
Henry Biderman Aparicio  
#6069038

Defendant.

CASE NO. C-18-332496-1

DEPT. NO. IX

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNTS 1 and 2 – DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (Category B Felony) in violation of NRS 484C.110, 484C.430, 484C.105; and COUNT 3 – RECKLESS DRIVING (Category B Felony) in violation of NRS 484B.653; thereafter, on the 18<sup>th</sup> day of October, 2019, the Defendant was present in court for sentencing with counsel DAMIAN R. SHEETS, ESQ., and good cause appearing,

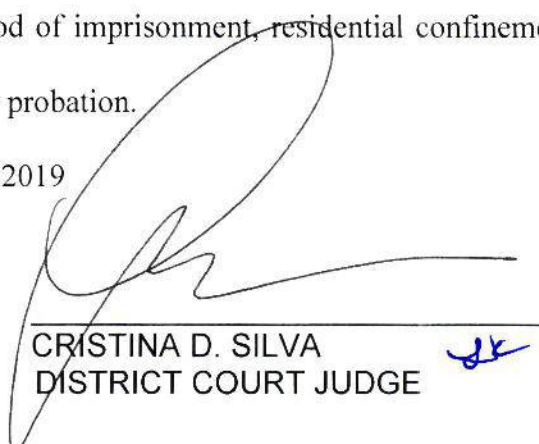
<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

*jb*

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to  
2 the \$25.00 Administrative Assessment Fee, \$47,520.53 Restitution and \$150.00 DNA Analysis  
3 Fee including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the  
4 Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: COUNT 1  
5 – a MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole eligibility of SEVEN (7)  
6 YEARS; COUNT 2 – a MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole  
7 eligibility of SEVEN (7) YEARS, CONSECUTIVE to COUNT 1; and COUNT 3 – a  
8 MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM parole eligibility of  
9 TWELVE (12) MONTHS, CONSECUTIVE to COUNT 2; with FIVE HUNDRED TWENTY-  
10 ONE (521) DAYS credit for time served. The AGGREGATE TOTAL sentence is FORTY-  
11 FOUR (44) YEARS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF FIFTEEN  
12 (15) YEARS.

13 COURT FURTHER ORDERED, pursuant to NRS 484C.340, 484C.460, prior to any  
14 reinstatement of driving privileges the defendant shall have an interlock device installed and  
15 inspected on his vehicle at his expense for a period of not less than 12 months nor more than 36  
16 months, said period to commence after any period of imprisonment, residential confinement,  
17 confinement in a treatment facility or on parole or probation.

18 DATED this 28th day of October, 2019

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25 CRISTINA D. SILVA  
DISTRICT COURT JUDGE   
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IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY BIDERMAN APARICIO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 80072

**FILED**

OCT 07 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  CHIEF DEPUTY CLERK

Appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of driving under the influence resulting in death and one count of felony reckless driving. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

*Affirmed in part, vacated in part, and remanded.*

Nevada Defense Group and Kelsey Bernstein and Damian Sheets, Las Vegas,  
for Appellant.

Aaron D. Ford, Attorney General, Carson City; Steven B. Wolfson, District Attorney, and Alexander Chen and Jonathan E. VanBoskerck, Chief Deputy District Attorneys, Clark County,  
for Respondent.

Aaron D. Ford, Attorney General, Heidi Parry Stern, Solicitor General, and Jeffrey M. Conner, Deputy Solicitor General, Carson City,  
for Amicus Curiae Office of the Attorney General.

Darin F. Imlay, Public Defender, and Deborah L. Westbrook, Chief Deputy Public Defender, Clark County,  
for Amicus Curiae Clark County Public Defender.

John L. Arrascada, Public Defender, John Reese Petty, Chief Deputy Public Defender, and Kendra G. Bertschy, Deputy Public Defender, Washoe County,  
for Amicus Curiae Washoe County Public Defender's Office.

Rene L. Valladares, Federal Public Defender, and Randolph M. Fiedler, Assistant Federal Public Defender, Las Vegas; Las Vegas Defense Group and Charles R. Goodwin, Las Vegas,  
for Amicus Curiae Nevada Attorneys for Criminal Justice.

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BEFORE THE SUPREME COURT, EN BANC.

*OPINION*

By the Court, HARDESTY, C.J.:

Article 1, Section 8A of the Nevada Constitution, also known as Marsy's Law, and NRS 176.015 both afford a victim the right to be heard at sentencing. The provisions differ, however, in their definitions of "victim." Marsy's Law defines "victim" as "any person *directly and proximately* harmed by the commission of a criminal offense under any law of this State." Nev. Const. art. 1, § 8A(7) (emphasis added). NRS 176.015(5)(d)(1)-(3) defines "victim" in part as any person or relative of any person "against whom a crime has been committed" or "who has been injured or killed as a direct result of the commission of a crime."

In this opinion, we clarify that the definitions of "victim" under Marsy's Law and NRS 176.015(5)(d) are harmonious, if not identical. Although "victim" under Marsy's Law may include individuals that NRS 176.015 does not, and vice versa, neither definition includes anyone and everyone impacted by a crime, as the district court found here. Accordingly, when presented with an objection to impact statement(s) during sentencing, a district court must first determine if an individual falls under either the constitutional definition or the statutory definition of "victim." If the



statement is from a nonvictim, a district court may consider it only if the court first determines that the statement is relevant and reliable. *See* NRS 176.015(6). Because the district court here wrongly concluded that Marsy's Law broadly applies "to anyone who's impacted by the crime" and thus considered statements, over objection, from persons who do not fall under either definition of victim without making the required relevance and reliability findings, we affirm the judgment of conviction, vacate the sentence, and remand for resentencing in front of a different district court judge.

### *FACTS AND PROCEDURAL HISTORY*

After an evening of drinking with his girlfriend, appellant Henry Biderman Aparicio rear-ended Christa and Damaso Puentes's vehicle at the intersection of Sahara Avenue and Hualapai Way in Las Vegas. At the time of impact, the Puentes's vehicle was stopped, while Aparicio's vehicle was traveling roughly 100 miles per hour. Both Christa and Damaso died from their injuries before or near the time first responders arrived.<sup>1</sup>

The State charged Aparicio with two counts of driving under the influence resulting in death, three counts of felony reckless driving, and one count of driving under the influence resulting in substantial bodily harm. Aparicio pleaded guilty to two counts of driving under the influence resulting in death and one count of felony reckless driving, naming Christa and Damaso as the victims. The State agreed to recommend concurrent prison time on the reckless driving charge.

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<sup>1</sup>Aparicio's girlfriend was a passenger in his vehicle at the time and also sustained injuries. However, the charges related to her were dismissed pursuant to the plea agreement.

Shortly before sentencing, the State provided the district court and Aparicio with approximately 50 victim impact letters written by family, friends, and coworkers of the deceased victims. Aparicio filed a written objection to the admission of 46 of the victim impact letters, arguing that the individuals who drafted those letters did not qualify as victims under NRS 176.015(5)(d).<sup>2</sup> Aparicio also voiced multiple objections during the sentencing hearing in response to various in-court witnesses' statements because the testimony exceeded the bounds of victim impact information. Aparicio presented mitigating evidence, including that he had no prior criminal record. The district court overruled the objections and sentenced Aparicio to an aggregate prison term of 15 to 44 years. Aparicio timely appealed, challenging various aspects of his sentencing hearing. A divided court of appeals vacated and remanded for resentencing. We granted review, thereby vacating the decision by the court of appeals.

### *DISCUSSION*

The crux of Aparicio's argument on appeal is that the district court abused its discretion by overruling his objection to the admission of dozens of improper impact letters because they were written almost entirely by nonvictims and relied upon when determining his sentence. Accordingly, Aparicio contends that he is entitled to a new sentencing hearing before a different judge. The State argues that the district court properly considered

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<sup>2</sup>Although an amended version of NRS 176.015 went into effect in July 2020, we cite to the prior version that was in effect at the time of the relevant proceedings in the district court. See 2017 Nev. Stat., ch. 484, § 1, at 3018. Additionally, the sections of the statute that were amended are not relevant to this appeal.

the impact statements, as their authors were victims under Nevada law, specifically NRS 176.015(5)(d) and Article 1, Section 8A(7) of the Nevada Constitution. The State contends further that even if the district court did err, any such error was harmless. We agree with Aparicio and therefore vacate the sentence and remand for a new sentencing hearing before a different district court judge.<sup>3</sup>

*The district court erred when it summarily overruled Aparicio's objection to 46 of the approximately 50 victim impact letters*

NRS 176.015(5)(d) defines "victim" as "(1) A person, including a governmental entity, against whom a crime has been committed; (2) A person who has been injured or killed as a direct result of the commission of a crime; and (3) A relative of a person described in subparagraph (1) or (2)." Under NRS 176.015(5)(b)(1)-(4), a "relative" includes "[a] spouse, parent, grandparent or stepparent," "[a] natural born child, stepchild or adopted child," "[a] grandchild, brother, sister, half brother or half sister," and "[a] parent of a spouse."

Under Marsy's Law, "victim" is defined as "any person *directly and proximately* harmed by the commission of a criminal offense under any law of this State." Nev. Const. art. 1, § 8A(7) (emphasis added). The clause states further that "[i]f the victim is . . . deceased, the term [victim also] includes the legal guardian of the victim or a representative of the victim's

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<sup>3</sup>Aparicio also argues that the district court improperly permitted witnesses to make in-court statements that were disparaging to him, the criminal justice system, and the Nevada Division of Parole and Probation and that the manner in which the letters were submitted to the district court was improper. In light of our disposition, however, we need not address these claims.



estate, *member of the victim's family* or any other person who is appointed by the court to act on the victim's behalf." *Id.* (emphasis added).

The constitutional and statutory definitions of "victim" are similar. In particular, they both recognize that a victim is the person (or persons) who is legally injured or harmed as a direct result of the defendant's criminal conduct—i.e., the person who was the target or object of the offense, or one who was directly and proximately harmed as a result of the criminal act—as well as certain close family members. Neither definition for "victim," however, includes anyone and everyone who was affected by the crime. Under either definition, a "victim" must still be injured or directly and proximately harmed.

Here, the prosecutor submitted approximately 50 impact letters to the district court and characterized all of them as "victim" impact statements. The district court accepted all of the letters and relied on them in making its sentencing decision. However, the district court reviewed the letters in their entirety based upon an erroneous interpretation of Marsy's Law—that "the Nevada Constitution broadly defines victim [as] anyone who's impacted by the crime." We conclude that the district court erred in admitting these letters based upon its erroneous interpretation of Marsy's Law. Once an objection had been lodged, the district court was required to determine, on the record, how each author of the impact statements was "directly and proximately harmed." Nev. Const. art. 1, § 8A(7). In the future, upon objection, district courts must determine on the record whether each individual is a "victim" as defined in Marsy's Law or NRS 176.015(5)(d), and why.

This is not to say that only letters written by victims may be considered at sentencing. As the State correctly points out, NRS 176.015(6)

specifically states that “[t]his section does not restrict the authority of the court to consider *any reliable and relevant evidence* at the time of sentencing.” (Emphasis added.) Therefore, that the district court considered letters from nonvictims was not, in and of itself, a reversible error. *See Wood v. State*, 111 Nev. 428, 430, 892 P.2d 944, 946 (1995) (holding that NRS 176.015 “does not limit in any manner a sentencing court’s existing discretion to receive other admissible evidence” from a nonvictim so long as the evidence is relevant and reliable). However, based on the record before this court, it is clear that the district court treated the objected-to *nonvictim* impact letters the same as victim impact letters and did not determine whether they were relevant and reliable.

Upon objection, a district court is required to examine each statement and determine, in the first instance, whether it is from an individual who is a “victim” under either Marsy’s Law or NRS 176.015(5)(d). If the statements are not from “victims,” then a district court may still examine the statements, but only after a finding that they are relevant and reliable. The district court here adopted all of the impact statements as “victim” impact statements under an erroneous interpretation of Marsy’s Law and did not otherwise determine whether the nonvictim letters were relevant and reliable. We thus conclude that the district court erred.

*The district court’s error was not harmless*

This court will not vacate a judgment of conviction or sentencing decision unless the error affected the defendant’s substantial rights. *See* NRS 178.598 (“Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.”). Accordingly, the State urges this court to affirm Aparicio’s sentence, arguing that “[a]ny error due to the district court considering the victim impact statements . . . would be harmless.”

When determining whether a sentencing error is harmless, reviewing courts “look to the record . . . to determine whether the district court would have imposed the same sentence absent the erroneous factor.” *United States v. Collins*, 109 F.3d 1413, 1422 (9th Cir. 1997) (internal quotation marks omitted). Generally, a reviewing court will not interfere with the sentence imposed by the district court “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

In this case, the district court erred in a manner that cannot be considered harmless. In misconstruing Marsy’s Law as including “anyone who’s impacted by the crime,” the district court mistakenly believed that it had to consider all of the submitted letters as victim impact statements. The district court made clear that it fully considered each of those impact statements, explaining that “I’m accepting those victim impact statements and I have read each and every one of them that was submitted to me.” Additionally, the district court stated that it “accept[ed] everything and considered that in rendering my sentence here today.”

In doing so, the district court did not exercise its discretion, believing that all of the statements constituted victim impact statements. *Cf. Clark v. State*, 109 Nev. 426, 429, 851 P.2d 426, 428 (1993) (remanding for resentencing where it appeared the trial court believed it was required to adjudicate a defendant as a habitual offender, although the adjudication was discretionary). Of the approximately 50 letters submitted, fewer than five came from individuals clearly meeting the statutory or constitutional definition of “victim.” The district court’s consideration, over Aparicio’s objection, of all of the statements without determining whether each one



was from an individual directly and proximately impacted, Nev. Const. art. 1, § 8A(7), fell within NRS 176.015(5)(d), or was relevant and reliable, NRS 176.015(6), makes it impracticable for this court to know, with any degree of certitude, whether the district court's sentencing decision was based upon relevant and reliable evidence or on impalpable or highly suspect evidence. *See Silks*, 92 Nev. at 94, 545 P.2d at 1161. This uncertainty precludes us from determining that the error was harmless as the State argues. The fact that the district court based its decision to consider the statements, at least in part, on a mistaken interpretation of the law, requires us to conclude that these errors were not harmless.

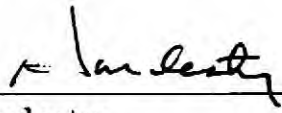
### CONCLUSION

Critical to our system of criminal justice is the importance of protecting victims' rights during sentencing. The passage of Marsy's Law supports such protection, giving victims a voice during that process. Nothing in this opinion should be read to suggest otherwise.

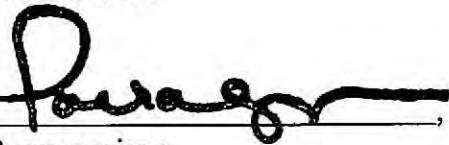
When a district court is faced with an objected-to impact statement at sentencing, it is required to determine whether that statement is from an individual who is a "victim" under Marsy's Law or NRS 176.015(5)(d). A "victim" under Marsy's Law must be directly and proximately harmed; the term does not include anyone and everyone incidentally impacted by the crime. If the district court determines the statement is from a nonvictim, the district court may nonetheless examine the statement so long as it determines that the statement is relevant and reliable. Here, the district court examined all of the letters under an erroneous belief that they were from "victims" as defined in Marsy's Law. Thus, we are required to vacate the sentence and remand this case, despite the inevitable pain and distress this will cause the surviving family members to again participate in a sentencing hearing, because it is not clear


that the district court would have imposed the same sentence absent these errors.

Accordingly, we affirm the judgment of conviction, vacate Aparicio's sentence, and remand to the district court for resentencing before a different district court judge.

, C.J.  
Hardesty

We concur:


, J.  
Parraguirre

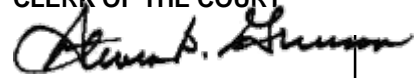
, J.  
Stiglich

, J.  
Cadish

, J.  
Silver

, J.  
Pickering

, J.  
Herndon



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

THE STATE OF NEVADA,	)	CASE NO. C-18-332496-1
	)	
Plaintiff,	)	DEPT. NO. XXX
	)	
vs.	)	
	)	
HENRY APARICIO, a/k/a	)	
HENRY BIDERMAN APARICIO,	)	
	)	
Defendant.	)	
	)	

BEFORE THE HONORABLE JERRY A. WIESE, DISTRICT COURT JUDGE  
TUESDAY, JANUARY 25, 2022

**RECORDER'S TRANSCRIPT OF HEARING:  
SENTENCING**

APPEARANCES:

FOR THE STATE: ALEXANDER G. CHEN, ESQ.

FOR THE DEFENDANT: DAMIAN R. SHEETS, ESQ.

RECORDED BY: VANESSA MEDINA, COURT RECORDER  
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC  
(Hearing recorded via Bluejeans Videoconference/Audio)

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1                   LAS VEGAS, NEVADA, TUESDAY, JANUARY 25, 2022

2                   (Case called at 8:46 a.m.)

3                   MR. SHEETS: Can we approach, Your Honor, on Mr.  
4 Aparicio?

5                   THE COURT: Come on up.

6                   THE MARSHAL: So Page 8, Henry Aparicio, C-332496.

7                   MR. SHEETS: Can we approach?

8                   Thank you, Your Honor.

9                   (Bench conference begins.)

10                  MR. SHEETS: I was hoping he would be brought over  
11 here from CCDC today since it's such a large-scale sentencing.

12                  THE COURT: We don't bring anybody over here.

13                  MR. SHEETS: Well, my concern is, we're dealing with  
14 a potential sentencing here where last time, he got 15 to 44  
15 years. And I know even with the pandemic going on, absent a  
16 waiver from the defendant, the fed courts have at least been  
17 holding that he's being deprived of his right to a  
18 face-to-face sentencing with the Court.

19                  And my concern is, ultimately, there are victims  
20 here in person. There are family members in support in  
21 person. And you know, being in shackles, and in jail garb  
22 over a video creates situations where I think he gets less of  
23 the impression that he should be able to give Your Honor,  
24 especially as it pertains to your ability to look him in the  
25 eye, size him up as an individual, assess the emotions of what



1 he's saying and I think that's all very, very important.

2 And that's generally why the federal courts here  
3 have adopted that position, that they've required a waiver in  
4 those circumstances. You know --

5 THE COURT: I don't know what the federal courts  
6 have done. I mean, we've been in the same situation in state  
7 court for the last year-and-a-half.

8 MR. SHEETS: Yeah. And I'm aware. I mean, it's the  
9 same reason why, you know, I think it's -- it's a critical  
10 stage of the proceeding and, you know, that's why they have to  
11 be here for preliminary hearings, that's why they have to be  
12 here for trials, and I feel the same way as a sentencing.

13 I mean, I'm willing, if Your Honor is willing, to  
14 wait so they could bring him over today. I can stay in the  
15 building. I can come back. I just think it would be the most  
16 fair to him to have him here so that when he talks to Your  
17 Honor, you can truly see his emotion and what he's feeling  
18 from his point as well. I think that's such a critical part  
19 of your decision when there's such a broad range of sentences  
20 that you could give here.

21 THE COURT: Well, I -- I understand the concern, but  
22 I think we've been doing pretty good during COVID using the  
23 video in order to communicate with people. I think I can see  
24 him, I can see his face, and I can see his mannerisms through  
25 the video.

1           If we have problems with the video, maybe you have  
2 an issue, but I think as long as the video's working we're  
3 just going to go forward with it as it is.

4           MR. SHEETS: And that's fair. So for the purposes  
5 of a record, has this been recording it, so that I don't --

6           THE COURT: Yep.

7           MR. SHEETS: -- have to --

8           THE COURT: It has.

9           MR. SHEETS: So I can just simply lodge it in one  
10 phrase over there?

11          THE COURT: Correct.

12          MR. SHEETS: Okay. Excellent.

13          THE COURT: It's on the record.

14          MR. SHEETS: Thank you.

15          MR. CHEN: One brief question I have, Your Honor, is  
16 we do have a video that I know the mom wishes to play. It's a  
17 short video from the victim herself prior to her passing, but  
18 she wants to show that video.

19          Am I able to hook up my laptop to the screens then  
20 to present that evidence?

21          MR. SHEETS: Have I been provided that?

22          MR. CHEN: It's a --

23          THE COURT: You didn't give it to the other side?

24          MR. CHEN: He's seen it before. It's a sentencing.  
25 Discovery rules don't apply to this.

1 THE COURT: But it was shown at the last sentencing  
2 hearing?

3 MR. CHEN: It was, yes.

4 THE COURT: Okay.

5 MR. SHEETS: And I think I objected at the last  
6 sentencing to it as well.

7 THE COURT: Yeah, but it's not a surprise then.

8 MR. SHEETS: And now we're here for a new  
9 sentencing. And I'm not sure that qualifies as a victim  
10 statement, because it's not discussing the impact that the  
11 crime may or may not have had on that individual, as  
12 contemplated under the statute.

13 THE COURT: It wasn't addressed in the Supreme  
14 Court's remand.

15 MR. SHEETS: They didn't -- they didn't have to get  
16 there.

17 THE COURT: Right.

18 MR. SHEETS: They -- the Supreme Court's remand was  
19 that the assessment had not been completed by the Court as to  
20 whether or not those were proper. I objected on the record  
21 when it was brought up on the record.

22 So I think the only thing to do would -- would be  
23 the Court would have to conduct that same analysis that's put  
24 forth by the Supreme Court as to whether or not that qualifies  
25 as a victim statement, a victim's impact statement, and I

1 don't think events that occurred prior to the knowledge of  
2 your death would provide that.

3 MR. CHEN: I think you get to basically know about  
4 the victim. They're going to talk about the victim at length.  
5 If it were irrelevant as to what the victim's personality were  
6 like, then the individuals wouldn't be able to talk about her.  
7 They would only be able to talk about their own personal pain.

8 But I certainly think the statement -- or the  
9 Statute 176.015 as well as Marsy's Law is broad enough to  
10 encompass the victims themselves, what they were like, and the  
11 impact to those who were survived by the victims.

12 MR. SHEETS: I don't think so. And it's interesting  
13 that the State talks about Marsy's Law, and the statute almost  
14 as if Marsy's Law modifies the statute, but we now have a  
15 ruling that says the opposite of that.

16 It says they're read in direct harmony with each  
17 other, and it says impact, and it's very clear as to what can  
18 be talked about. It doesn't say we can go into a complete  
19 personality assessment of who the victim was. We can only  
20 talk about the impact that it's had on those that have been  
21 defined as victims within the statute.

22 THE COURT: Under 176.015, Sub 6, it says, "This  
23 section does not restrict the authority of the Court to  
24 consider any reliable, relevant evidence at the time of  
25 sentencing."

1           And the Court acknowledged that caveat in their  
2 decision, in their remand to this Court.

3           So I don't -- I haven't seen it. I don't know what  
4 it says. Assuming it is a -- something from the actual victim  
5 herself, I'll probably hear it in harmony with the mother or  
6 whoever it is that's giving the statement. I'll probably  
7 allow it. I'll let you know once I hear it if I find that  
8 it's reliable, and credible, and relevant.

9           MR. SHEETS: Thank you, Your Honor.

10          MR. CHEN: Excellent. Thank you.

11          THE COURT: Okay. Thanks.

12                   (End of bench conference.)

13          THE COURT: All right.

14          THE DEFENDANT: Hello, Your Honor.

15          THE COURT: Good morning.

16           So this is State versus Henry -- is it Aparicio?  
17 How do you say your last name, sir?

18          THE DEFENDANT: Aparicio, Your Honor.

19          THE COURT: Aparicio. Okay, thank you.

20          THE DEFENDANT: Yes, sir.

21          THE COURT: This is -- we're on for sentencing  
22 today. Any reason we should not go forward, Mr. Sheets?

23           MR. SHEETS: No, Your Honor. The only thing I would  
24 note is what we talked about at the bench was that the defense  
25 would object for the reasons that Your Honor said, as is

1 recorded at the bench conference, that I believe that Mr.  
2 Aparicio has a right to be in the courtroom in person, face to  
3 face, for a variety of reasons that were put on the record up  
4 there at the bench. And that's what I would submit on, Your  
5 Honor.

6 THE COURT: All right. I appreciate that. And I  
7 told you, based on -- as long as we have good video  
8 connection, we're going to go ahead and go forward.

9 I'm assuming since this has happened once already  
10 that this question's been asked, but have you reviewed the PSI  
11 with your client?

12 MR. SHEETS: Yes, we have reviewed it at the prior  
13 sentencing, and I'd left the original copy with Mr. Aparicio  
14 after that original sentencing.

15 THE COURT: Are there any Stockmeier issues that  
16 need to be addressed today?

17 MR. SHEETS: No, Your Honor.

18 THE COURT: All right. Mr. Aparicio, I believe this  
19 has already happened, but I'm going to -- I'm going to --  
20 pursuant to the Guilty Plea Agreement, I hereby adjudicate you  
21 guilty of Count 1, driving under the influence resulting in  
22 death. It's a Category B felony.

23 Count 2, driving under the influence resulting in  
24 death, Category B felony.

25 And Count 3, reckless driving, a Category B felony.

1           The State did retain the right to argue as to Counts  
2 1 and 2, but had no opposition to concurrent service of time  
3 between the reckless driving count and the two counts of  
4 driving under the influence resulting in death.

5           I assume that's still the negotiation between the  
6 parties.

7           MR. CHEN: It is, Your Honor.

8           There is one record to be made, and I have to have  
9 defense counsel weigh in on this, is that at the previous  
10 sentencing, there was an issue regarding Stockmeier about his  
11 employment, which was 12 months prior, rather than the months  
12 that are noted in the PSI. For the purposes of making sure  
13 that we keep the same record, I just want to see if that is a  
14 correct statement, because it was raised with the Court last  
15 time.

16           MR. SHEETS: That's very possible, Your Honor. That  
17 would -- to my -- I honestly can't tell you if I remember that  
18 being the case, and I'm sorry for that, Your Honor, as to the  
19 employment status. I think the Court ruled that that didn't  
20 raise to the level of Stockmeier, if I'm correct.

21           THE COURT: I would agree. It's not going to affect  
22 his ability to parole.

23           It looks like the PSI indicates that prior to his --  
24 prior to the instant offense, he was employed at Casa Del  
25 Matador Tequila House Restaurant for eight months as a server.

1 He worked between 20, 40 hours a week. He worked 20 to 40  
2 hours a week for eight months as a server at Andiron Steak &  
3 Sea Restaurant, previously worked as a server at Olive Garden  
4 in Reno, and transferred to Las Vegas, attempting to promote  
5 to an assistant manager.

6 And then I think probably what there was an issue  
7 with is the next line says, number of months employed  
8 full-time in the 12 months prior to the commission, it says,  
9 zero. That seems to be at odds with the information contained  
10 in the employment status paragraph.

11 I'll consider what's in the employment status  
12 paragraph about his prior employment instead of the number of  
13 months employed.

14 MR. SHEETS: Thank you, Your Honor.

15 THE COURT: Okay. But I agree that I don't think  
16 that rises to a Stockmeier issue, so we can go forward, I  
17 think.

18 What does State want to tell me on this?

19 MR. CHEN: Thank you, Your Honor.

20 As the Court already knows, what the facts are in  
21 this case, it was a tragedy leading to the deaths of two  
22 innocent individuals. And I just want to cover some of the  
23 evidence that would have been presented had this matter gone  
24 to trial, because I think it's important for the Court to  
25 know, and I think it's important for the Court to hear it to



1 understand and put in perspective the family's feelings when  
2 they speak before Your Honor later today.

3           This family has been at every single -- just about  
4 every single court hearing since the beginning of this case.  
5 They've sat through and listened to various motions,  
6 arguments, petitions, so they have a pretty good understanding  
7 of what's happened.

8           And in this particular case, we have the defendant,  
9 who had drank multiple shots at Dave & Buster's on video.  
10 He's seen getting in his car and driving to Casa Matador.  
11 He's seen drinking multiple shots at that location.

12           When he's finally escorted out by the bartender, he  
13 gets in his car, and it's soon thereafter that we have the  
14 tragedy that occurred at Sahara and Hualapai, where Christa  
15 and Damaso were simply sitting in their car, waiting at a red  
16 light.

17           This was all on video, Your Honor, or at least what  
18 was on video was him drinking and then getting into the car,  
19 the car which ended up being part of the accident. And I  
20 think that's relevant because this family, who has sat through  
21 all of these proceedings and has seen the Petition for Writ of  
22 Habeas Corpus that were filed in this case, and they obviously  
23 had to see the defense and the defendant argue that the State  
24 hadn't proven that he was, in fact, the driver.

25           Now, I understand, and we maybe understand in this

1 legal relevance that of course he has an opportunity to file  
2 these motions and he gets to litigate it in court. But from  
3 the family's perspective, seeing what they've seen, and then  
4 seeing and knowing the evidence in this case, and then seeing  
5 the defendant try to say that he wasn't behind the wheel in a  
6 petition, obviously is problematic for them, and it's part of  
7 the struggle that they deal with in this case.

8 And I fully anticipate that we're going to hear  
9 later that the defendant accepts responsibility, which he did  
10 accept some responsibility, and the State concurs with that.  
11 He pled guilty. We're not going forward with a trial.  
12 However, that statement means a lot of different things in  
13 terms of how much acceptance there is.

14 And although he's pled guilty, I think the Court  
15 should pay attention to the fact that he did have a count  
16 dismissed and that he -- so he got a benefit there, and that  
17 should be the main benefit that he got, was that that count  
18 was dismissed.

19 When we're talking about these statutes, we realize  
20 that there is a large discrepancy in terms of how much time a  
21 person can get on a DUI resulting in substantial harm or  
22 death. It could be as low as 2 to 5 years, it could be as  
23 high as 8 to 20 years.

24 In this particular case, based upon the facts of his  
25 drinking, based upon the speed he was going, and based upon

1 the devastation that it caused, he absolutely deserves a  
2 sentence that's on the higher end of the spectrum.

3 I fully anticipate that we'll hear about his alcohol  
4 issues, which it's certainly possible, Your Honor. I know  
5 that there's reference to his military service and that that  
6 caused his alcohol issues.

7 Whether one can correlate the other -- one with the  
8 other, it's hard to say, because most people in the military  
9 have to be at least 18 years of age. So unless a person  
10 developed an alcohol issue as a teen, then really, most  
11 alcohol issues probably develop somewhere after the age of 18,  
12 and that's -- so it's not an excuse as to what happened here.

13 What we have here in the PSI is that Mr. Aparicio  
14 says he drank just about every day, including while at work,  
15 presumably drove his car to work. This just happened to be  
16 the first time that there was a tragedy, and an unfortunate  
17 tragedy at that.

18 So based upon the fact that this is his only  
19 criminal history, I think the Court can still consider the  
20 fact, though, that he's admitting that he's drinking all the  
21 time, he's drinking while he's at work. And this is not to  
22 say that his alcohol problems or the problems he may have had  
23 makes him a bad person, because I'm not here to say that he's  
24 necessarily a bad individual, but what I am here to say is  
25 that individuals should be held accountable for their actions.

1           This one happened to be a terrible tragedy resulting  
2 in the loss of innocent life of two individuals who were in  
3 love, from what I understand, who were a great couple  
4 together. And because of that, I'm not here to say that Mr.  
5 Aparicio is a horrible human being, but I am here to say that  
6 he absolutely needs to be held responsible for his actions.

7           Because of that, I'm going to ask that you sentence  
8 him to 8 to 20 years on Count 1, and 7 to 20 years on Count 2  
9 to run consecutively, and that Count 3 be run concurrently  
10 from the other two counts. Thank you, Your Honor.

11           THE COURT: Thank you.

12           Counsel? Defense?

13           MR. SHEETS: Your Honor --

14           THE COURT: Did you want to have your client make a  
15 statement first, or you want to go first?

16           MR. SHEETS: Mr. Aparicio, would you like to go  
17 first, or would you like me to speak first?

18           THE DEFENDANT: You go ahead, Mr. Sheets.

19           MR. SHEETS: Okay. I'll go first, Your Honor.

20           This -- I don't think there's any denying in a case  
21 like this that there's -- that tragedy is the only way that  
22 you can describe what's gone on. We do have two innocent  
23 people who have lost their lives as the result of my client's  
24 actions that day.

25           And my client, as much as I think the State would

1 like to paint the picture of some acceptance of  
2 responsibility, he accepted a DUI death guilty plea with a  
3 right to argue, up to consecutive, on each of those two lives.  
4 He took the reckless, and the reckless pertains to the  
5 passenger in his vehicle, who was also drunk at the same time,  
6 but is in perfect health today.

7           When you look at this case, I think it's tragic all  
8 around. And I'd like to address the State's arguments  
9 specifically as it pertains to the evidence in this case to  
10 put the entire matter into your perspective.

11           And my concern, obviously, is that the picture is  
12 painted that because my client exercises his right to a  
13 defense, that that should be any way construed against him as  
14 an individual for a refusal to accept responsibility, when,  
15 oftentimes, the job of defense counsel is to seek out the best  
16 possible resolution for the client in a case where there has  
17 been no offer made.

18           I think it's important to put into perspective the  
19 history of this case because it puts Your Honor in the shoes  
20 of where Mr. Aparicio is at.

21           As the PSI makes clear, Mr. Aparicio doesn't  
22 remember much about that night. That's been his position the  
23 entire time. When officers arrive on the scene, Mr. Aparicio  
24 is outside the car. The passenger, who's later determined to  
25 be the passenger, is in the vehicle, and she's in between the

1 two seats. Mr. Aparicio, in that vehicle, had been in a heavy  
2 accident, and he doesn't particularly know what's going on.

3 When the police talk to him at the hospital, they go  
4 through it with him, and they tell him that he was driving a  
5 car that killed these people. Emotionally, he says, I killed  
6 these people? And is in tears at the thought that he could  
7 have been the one responsible for this.

8 That being said, this case goes to the preliminary  
9 hearing, again, as there is no offer. The preliminary hearing  
10 goes forward. With no offer in place, preliminary hearing is  
11 the only option.

12 At the preliminary hearing, not one of the State's  
13 10 or so witnesses identify Mr. Aparicio behind the wheel.  
14 They can't do it. They're unable to do it. It's bound up  
15 based off of his response, I killed these people, after having  
16 been asked by the officer -- or told by the officer that he  
17 had done so.

18 The Court concluded that's slight or marginal  
19 evidence.

20 Our Court -- the blood that's drawn from Mr.  
21 Aparicio is done outside the two-hour period, and in the  
22 defense's opinion, this is defense counsel, is done in a way  
23 that doesn't meet the standards under Armstrong.

24 None of those particular questions that are needed  
25 to be asked per State versus Armstrong in order to provide the

1 proper background for extrapolation, none of those were asked.  
2 None of that information was gathered. So the defense files a  
3 motion to suppress the blood, as a defense counsel would in a  
4 case where there is no offer.

5 THE COURT: Mr. Sheets, if it helps, I'm not going  
6 to hold anything against the defendant because you litigated  
7 issues that were appropriate to be litigated.

8 MR. SHEETS: Well, and I appreciate that. And I  
9 guess the context comes from, at the end of the day, on that  
10 legal motion, Judge Smith says, your client killed these  
11 people, so I'm denying your legal motion to suppress the  
12 blood. And he actually says, your client killed these people.

13 And at that point, he says, we're going to trial,  
14 we're going right now, has no knowledge that we filed a writ,  
15 and I indicate at -- indicate to the Court that we have filed  
16 the writ. And he asked why I would file a writ, like I had no  
17 basis, without having ever read the preliminary hearing  
18 transcript. And it got to the point where the only time I  
19 could remember in my career I had to move to recuse a Judge.

20 And during that hearing, Chief Judge Bell even said  
21 to the State, how did this not appear to be biased? How do  
22 these statements not create that idea? I understand things  
23 are emotional, but this sure seems like it's biased. I'm  
24 going to take it under advisement.

25 Quickly, suddenly, and before he planned, Judge

1 Smith retires, and the case is reassigned to Judge Silva. We  
2 ask Judge Bell to consider again whether or not the bias could  
3 have impacted the legal motions. Judge Bell says, not my  
4 point anymore, it's moot, bring it up with the new Judge.

5 We go to Judge Silva. We ask her to reconsider it  
6 because of what we thought was the inherent, underlying bias.  
7 She denies the motion, and we end up set for trial.

8 And I say this because it's important when we talked  
9 about acceptance of responsibility in my talking to my client.  
10 In my conversations with my client, I believed at that point,  
11 with Judge Bell's -- Chief Judge Bell's comments, Judge  
12 Smith's comments, and Judge Silva's, I'm not going to touch  
13 another Judge's ruling.

14 And that's what she said. She said, I'm not going  
15 to touch another Judge's ruling. I believe we had reversible  
16 error, as it -- as it went down to the fundamental fairness as  
17 it pertained to both the preliminary hearing writ, and as it  
18 pertained to the evidentiary issue. And that's a conversation  
19 I had with my client prior to trial.

20 In spite of all that, my client elects to plead  
21 guilty, and not to a small set of charges. He elects to take  
22 responsibility for two DUI deaths, and one reckless causing  
23 injury, three felonies where the State has the right to argue  
24 that two of those go consecutive, with the full knowledge that  
25 any of those appellate rights that would exist as to those



1 underlying biases are being given away, and he does so because  
2 he tells me he can't take the guilt anymore. I think that's  
3 -- that's incredibly important when we're looking at who he is  
4 as an individual.

5 And then I want to go talk about alcoholism. We  
6 have an individual who took his first drink at 17 years old.  
7 He joins the United States military, which is -- and there's a  
8 history of alcoholism in his family.

9 He was raised in a household where the record at the  
10 prior sentencing and some of the records in the Pre-Sentence  
11 Investigation Report reflect a household where alcoholism was  
12 ever-present.

13 Usually, when someone joins the military, it's how  
14 you -- it's how you get yourself straightened and on the right  
15 path. And what ended up happening was the addiction continued  
16 and then was fueled as he would drink with older soldiers and  
17 older members.

18 And if you look at the history, ironically, I think  
19 consistent with the alcoholism and the progression of the  
20 alcoholism, as you look in his military history, an altered or  
21 damaged or modified military ID is where that charge stems,  
22 which ultimately ended up in an oral reprimand.

23 And then, when he was injured, he was then demoted  
24 and discharged when he was injured in his knee. So I think  
25 that's important because it shows that, where the military

1 service was intended as a way to try to get him back on the  
2 right path, it ended up further spiraling at that time.

3 I think it's important as we've seen the progression  
4 of this case to see where Mr. Aparicio has -- has moved on and  
5 where he has developed himself or is developing himself  
6 emotionally as a result of this case.

7 And I think it's important because the interview,  
8 he's very candid, he's very open, indicates that he began  
9 drinking weekly after he was in the Army, and then it turned  
10 into daily drinking. He discussed that it interfered with his  
11 ability to stay active, his ability to work out in the Army,  
12 his getting drunk, his being hungover, the continued drinking  
13 after he was released from the military, and the effect it had  
14 on his performance to the point where he was spending almost  
15 \$800 a week on alcohol.

16 When he's discussing whether he got treatment for  
17 alcoholism, he says, quote, "I was ignorant about the  
18 situation. I didn't think I had a problem." And as we could  
19 see in that video that Mr. Chen was talking about at the bar  
20 where he was drinking, which I believe is where he may have  
21 actually worked as well, one of the things he talked about was  
22 the support group around him, the friends, were all drinking  
23 too, similarly in the military.

24 When this happened, when this event occurred and  
25 these individuals passed away, it made a big impact not only

1 on the families of the victims, the friends of the victims,  
2 the family of my client, my client's relationships with his  
3 friends, with his fiancée, he lost his fiancée, it had an  
4 impact on him up here.

5 We never want somebody to have to learn a lesson or  
6 have their moment of redemption in this kind of way. We never  
7 want a situation where, in order for one human to learn a  
8 lesson, another human has to lose their life. But in Mr.  
9 Aparicio's case, the only thing that he can do is to endeavor  
10 to make himself the best person that he can be from that point  
11 on forward.

12 In prison, there's a very simple way to begin to  
13 address the dependency that alcoholism brings about in that  
14 you can't consume it. It's a forced situation where you're  
15 forced to be dry and it is -- it also provides an opportunity  
16 for one to treat.

17 As we have gone through the years I guess now with  
18 Mr. Aparicio, I have seen what I believe to be a progression  
19 in both understanding the level of his alcoholism, and trying  
20 to cope with the effects of what that alcoholism led him to  
21 do, and how he allowed that alcoholism to become a part of his  
22 life and, by way a part of others' lives as well.

23 I would now turn your attention to my client's  
24 criminal history, or lack thereof. When considering  
25 sentencing, one of the things that I prefer, honestly, about

1 the federal system over the state system is that it sets forth  
2 what I think are very real guidelines or recommendations of  
3 areas to look when you're sentencing somebody.

4 And the federal system adopts the approach that the  
5 defendant should be sentenced to that which is minimally  
6 necessary to ensure the goals of sentencing. And those goals  
7 are to promote respect for the law, general and specific  
8 deterrents, to ensure the ability of the defendant to be  
9 successful upon release, and to give the opportunity and --  
10 give the defendant an opportunity to develop those skills  
11 which may be necessary in order for him to be successful upon  
12 his release.

13 And when looking at all of those factors, and the  
14 ability to be successful, it looks to what treatment programs  
15 might exist, whether or not one sentence versus another is  
16 going to act to accomplish those goals more so than a  
17 different sentence.

18 And I would put forth that I think that Parole and  
19 Probation has at least tried to undergo an effort to look at a  
20 series of guidelines and variables within an individual's life  
21 that can be interpreted to determine whether or not somebody  
22 will be successful, what kind of risks they provide -- or what  
23 kind of risks they present to the public upon release, the  
24 danger that they have, and what they believe that a proper  
25 sentencing might be.

1           And as we go through their -- the Parole and  
2 Probation rubric that was attached to this sentencing, Parole  
3 and Probation comes up with a recommendation of 36 to 120  
4 months, consecutive to 36 to 120 months, concurrent to 12 to  
5 48 months.

6           And that is based on an assessment of a considerable  
7 number of factors which include his prior criminal history,  
8 his present offense, any prior sentences, sophistication,  
9 premeditation, social history, and any adjustments that may or  
10 may not occur based on things like honesty, cooperation,  
11 attitude, availability of resources, drug abuse, alcohol  
12 abuse, all of the things that are being talked about at this  
13 very sentencing.

14           And as we look at that individual rubric, we have  
15 none across the board for criminal history. No felonies, no  
16 misdemeanors, no pending unrelated cases, no subsequent  
17 criminal history, no prior incarceration, no jail sentences,  
18 no juvenile commitments, over five years free of a conviction  
19 because there are none, no prior supervision, no criminal  
20 pattern.

21           They do enhance it, and he accumulates negative  
22 points for the severity of this matter. Zero points for the  
23 circumstance of the arrest. Negative one point because  
24 there's multiple people. Negative 10 points because of death.

25           They give him a point for a moderate sophistication

1 because of the alcoholism and how it pertains to this  
2 particular case. And they conclude that there is somewhat of  
3 a benefit for the plea bargain, and I think that's probably an  
4 appropriate way to look at it, again, as he has taken the most  
5 serious charges that pertains to each particular victim that  
6 has died.

7           Next, it considers his age, his employment. It even  
8 considers employment to be sporadic and not regular, but  
9 financially adequate, that he's employable, the family's  
10 moderately supportive, that he has a high school diploma,  
11 honorable discharge from the United States military, and then  
12 it looks to other adjustments. So, commitment. He's local.  
13 He's in-state. Not applicable for program participation.

14           Honesty and cooperation, they mark him as candid  
15 with a positive attitude, that there are available resources,  
16 that his alcohol abuse was excessive, and that his attitude at  
17 the time of the offense was indifferent, and they penalize him  
18 for that. And at the conclusion of all that, Parole and  
19 Probation comes to that recommended sentence.

20           So I have a statement that Mr. Aparicio had made at  
21 the prior sentencing that I still thought was a good statement  
22 to make. I would honestly -- I would read it into the record  
23 today if Your Honor hasn't read the transcript from the prior  
24 sentencing, as my guess is, is it was a handwritten statement  
25 by my client that he had not shown me at his prior sentencing

1 -- until the prior sentencing, that it was genuine and I  
2 thought it really reflected what had been going on through his  
3 mind emotionally.

4 And I'd like to put that out there because I think  
5 then he can talk to Your Honor about where he has gone  
6 emotionally since that time.

7 His statement read as follows:

8 For those of you who do not know me, my name is  
9 Henry Biderman Aparicio. I need to address both the parents  
10 of Christa and Damaso. I understand that an apology cannot  
11 begin to amend the amount of pain, anguish, and sorrow that I  
12 have caused you.

13 However, the fact of the matter is, I am sorry,  
14 very, very sorry that I took your beautiful son and daughter  
15 away from you. I've seen firsthand the burden and the despair  
16 and suffering my parents went through when my brother passed  
17 away. It is very hard for me to live with the fact that my  
18 reckless actions placed that hardship upon your families that  
19 are now very much incomplete.

20 To Christa's brothers, sisters, family, and friends,  
21 I am sorry for taking them from this world too soon. Not a  
22 day has passed that I do not think of the two of them. In my  
23 prayers, I ask God for forgiveness. I pray that one day  
24 Christa and Damaso will find it in their souls to forgive me  
25 for what I did. I must ask my own family for forgiveness.

1 They too have been become -- have become victims through my  
2 reckless actions.

3 Although I am still of this world and still of this  
4 life, I assure you a part of me died that night. The young,  
5 naive, and arrogant boy that got behind the wheel of the car  
6 that night is no more, for what remains is a man whose  
7 childish actions condemn his future to prison and uncertainty.

8 On May 15th, 2018, I took more than two special  
9 lives away. A piece of myself went with them that night. It  
10 was the worst night of my life, and I know many of you feel  
11 the same way. If I could go back and turn the clock back, I  
12 would in a heartbeat. I am sorry for being selfish. I was 23  
13 years old on that fatal night.

14 I've seen pictures of Christa and Damaso Puente.  
15 They look like fun, loving, great people whose future held so  
16 much promise. I feel so much guilt. I've never felt so  
17 horrible about anything in my life. I killed two happy,  
18 young, loving people, and that is the first thing on my mind  
19 when I wake up every day and is the last thing on my mind  
20 before I fall asleep. That is the only thing that occupies my  
21 mind during sleepless nights while I stare at the ceiling.

22 The last couple of holidays, I did not think of  
23 myself. The only thing that was on my mind was how Christa  
24 and Damaso should have been spending their holidays with their  
25 families. I'm sorry you could not spend one more birthday



1 with them. I'm sorry you didn't have a chance to say your  
2 last goodbye. I am not okay with what I did. I am sorry.

3 I am not a bad person, and I know sorry is not good  
4 enough, nothing I say will be, but sorry I am. Guilt and  
5 remorse is really what I feel. I did not go out that night  
6 seeking to hurt anybody.

7 I made a very bad decision. I accept full  
8 responsibility for what I have done. I ruined both of your  
9 families and mine. What I did was terribly immature, terribly  
10 selfish, and terribly life-changing for everyone involved. I  
11 made a horrific and unforgivable mistake.

12 That was written completely at the hands of Mr.  
13 Aparicio without guidance by this office at that first  
14 sentencing. And I just -- as an attorney who has done this a  
15 considerable amount of time, we look at aggravators and  
16 mitigators, and I think even acts as harsh as this, I think  
17 the actions of a defendant from this point forward and from  
18 that point forward can be telling about who somebody can  
19 become and what they can become.

20 And essentially, asking for the max on two DUI  
21 deaths, which would be almost the same as going to trial, I  
22 think would just be patently -- a patent disservice to the  
23 concept of acceptance of responsibility, the concept of having  
24 no prior criminal history, to having that history of  
25 alcoholism.

1 I think the recommendation, and Parole and Probation  
2 took into account all of these things, looked at those factors  
3 that I discussed into the future, and I agree with their  
4 recommendation. And I ask Your Honor to consider 36 to 120,  
5 consecutive to 36 to 120, concurrent to 12 to 48. And I would  
6 submit.

7 THE COURT: Mr. Aparicio, would you like to make a  
8 statement?

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

10 THE COURT: Go ahead.

11 THE DEFENDANT: First, I want to thank you, Your  
12 Honor. And I want to address the family of both Christa and  
13 Damaso Puente, and I want to apologize.

14 Again, I am sorry. There's not much I can say. I  
15 didn't write nothing down. This is how I feel. My heart  
16 hurts every morning I wake up. Every night I go to sleep, it  
17 hurts. I'm sorry. I did not mean to go out there that night  
18 and take their lives away.

19 I'm not a bad man, I promise you, I swear. I'm not  
20 a happy person. I don't -- these past four years that I've  
21 been in prison, I try to tell people, use an Uber, use a Lyft,  
22 don't go -- don't do what I did. It's not -- I just want to  
23 say I'm sorry. That's it.

24 THE COURT: Thank you, sir.

25 All right. Just for the record, because this was

1 remanded on the letters that were submitted, I have considered  
2 the victim letters from Ian Malone, one of Christa's older  
3 brothers, from Dan Wilson, Christa's brother. And from Peggy  
4 Buell, her grandmother.

5 Those were the three that I found to be victim  
6 letters that complied with the statutes and were actual family  
7 members.

8 The remainder -- I know that under the statute, I --  
9 under 176.015, I can consider any reliable and relevant  
10 evidence at the time of sentencing. The Supreme Court said  
11 that I -- Judge Silva would have had to consider -- make a  
12 statement as far as the reliability and relevance of those  
13 things.

14 I feel like the three letters that I've reviewed are  
15 sufficient. I know that we have victim speakers that had been  
16 noticed today. As long as they -- I believe that they are Dan  
17 Malone, the father; Diane Malone, the mother; Anna Malone, the  
18 sister; Ian Malone, the brother; and Danny Wilson, who's a  
19 stepbrother, all of Christa. I think they would all qualify  
20 under the statute as victims, so I'm going to allow them if  
21 they're here.

22 MR. CHEN: Yes. Your Honor, I can make a  
23 representation that everyone speaking today is someone who is  
24 actually defined as a victim pursuant to either statute or  
25 Marsy's Law, or both.

1           We also noticed Emanuel -- or, I'm sorry, Damaso  
2   Puentes. It's the father of the -- one of the deceased in this  
3   case. So he is present to give a victim statement as well,  
4   but those are the individual -- every other individual is  
5   listed as an actual victim.

6           THE COURT: It was probably on a different notice.  
7           Are you okay with that, Mr. Sheets?

8           MR. SHEETS: Are we talking about the addition of  
9   the father of the --

10          MR. CHEN: Yeah.

11          MR. SHEETS: I'm fine with that.

12          THE COURT: Okay.

13          MR. CHEN: Thank you.

14          MR. SHEETS: That's fair.

15          THE COURT: All right. So we hear from the victim  
16   speakers last. Who's going to be the first?

17          MR. SHEETS: Is it okay, Your Honor, if I have a  
18   seat?

19          THE COURT: That's fine.

20          MR. SHEETS: Thank you.

21          MR. CHEN: Your Honor, permission for the victim  
22   speaker to sit as he gives his statement?

23          THE COURT: That's fine. We're going to have you  
24   sworn in first, sir.

25          If you'd please raise your right hand to be sworn.

1 DANIEL MALONE, STATE'S WITNESS/VICTIM SPEAKER, SWORN

2 THE CLERK: Please state and spell your name for the  
3 record.

4 MR. MALONE: My name's Daniel Malone. D-a-n-i-e-l.  
5 Last name, Malone, M-a-l-o-n-e.

6 THE COURT: Okay, thank you, sir. Go ahead.

7 VICTIM STATEMENT BY MR. MALONE

8 MR. MALONE: Okay, Your Honor. The first statement  
9 letter I'm going to read is from my stepson, Dan Wilson.

10 Your Honorable Judge Jerry Wiese, my name is Dan  
11 Wilson, and I am the oldest brother of Christa Malone Puente.  
12 I have held off writing this victim's impact statement as long  
13 as I could have, I guess to reserve myself the extra pain it  
14 will no doubt bring by writing it.

15 Christa was the youngest of our family, my mom's  
16 baby girl. I am 10-and-a-half years older than Christa, so  
17 there was quite an age difference between us. I think the  
18 difference in age allowed me to see clearer what an amazing  
19 person she was and how she had grown to be a person that one  
20 could only sit back and admire.

21 Her smile could calm you and brighten your day. She  
22 was surely a ray of light in the dark world in which we live.  
23 Christa was extremely caring for others and a very unselfish  
24 person. I think creating joy and happiness in others is what  
25 truly made her happy.

1           My dear sister had also found her soulmate in Damaso  
2           Puente. Those two together lived a real-life Romeo and Juliet  
3           love story. They were two hearts that had become one, a  
4           beautiful sight to behold just watching them together. They  
5           were, together, so full of life and love, a bond most can just  
6           dream of.

7           Hanging out with the two of them was such a  
8           privilege. They could make you both -- they could both make  
9           you laugh all day long and completely forget anything that  
10          might be troubling you. Just the faces they would make back  
11          and forth to each other, I miss that so much.

12          On the morning of May 16th, 2018, I was working in  
13          St. Louis, which is where I live. My cell phone starting  
14          ringing, and the caller ID said Dan Malone, my stepdad. I  
15          answered the call, and all he said was my name. My heart  
16          dropped in my chest and a lump formed in my throat. I knew  
17          there was something very wrong. My first thought was, is my  
18          mom okay, because surely, she would be calling me if it was  
19          something else.

20          My dad said to me that there had been a terrible  
21          accident and that Christa and Dom had been killed the night  
22          before in Las Vegas. I knew when my mom had not been the one  
23          to contact me, I'm sure, at that point, she would not have  
24          been able to say those words to me.

25          Shock, disbelief, pain, and tears came instantly at

1 the same exact moment. I could not complete my duties on the  
2 job, I knew that for certain. I called my boss -- excuse me.  
3 I called my boss for a replacement and did the best I could to  
4 drive home, trying to see straight through the tears and  
5 crying.

6           The moment that I was told of the deaths of my baby  
7 sister and her incredible husband, I felt cheated, cheated of  
8 time, cheated of being able to see them again, and cheated out  
9 of goodbyes. I will never again be able to be comforted by my  
10 sister's smile, completely lose myself in the laughter they  
11 both would induce upon me, and never again be astonished by  
12 experiencing the deep, deep love they showed for each other  
13 and the ones around them.

14           All that I feel now is heartache and utter loss.  
15 Still, I wake up each morning and try to convince myself this  
16 heinous crime did not happen, that Christa and Dom can't  
17 possibly be gone. But on my drive to work, I realize it is  
18 real that they were both taken from us. I hate driving now,  
19 especially alone. For me, it is time to -- for me, it is the  
20 time I think of them most, with no one there to talk of  
21 something else, anything else.

22           It is there in the truck, thinking of them, that I  
23 hurt most. There are other times as well that I think of  
24 them, but for sure those two hours of the day, five and six  
25 times a week, reliving this crime of Christa and Dom being

1 stolen from us physically hurts my chest so bad that it  
2 actually hurts my back, lumps in the throat, and random tears  
3 fall without warning.

4 Sometimes I feel that I am being selfish by feeling  
5 sorry for myself that I'll never see Christa and Dom again. I  
6 feel as if I shouldn't have the right to mourn for them so  
7 much because of the impact that it had on my mom and dad.

8 I think to myself that it hurts me this bad, what  
9 must it be like for them? I never want to know their pain. I  
10 have three children of my own, and I don't know that I would  
11 be strong enough to continue on with this loss of one of my  
12 children.

13 And for my sweet mother, it is the second child that  
14 has been taken from her. We lost my older sister Christine in  
15 1978. She was killed in California by a hit-and-run driver  
16 while riding her bike in a quiet neighborhood. I was only  
17 four years old and too young to fully understand what had  
18 happened, but I do remember the effect on my mother. Every  
19 night, which seemed like for years, she would cry, cry from  
20 deep in her heart. I remember it waking me up, and I would go  
21 into her room and try to comfort her.

22 And now it has happened again. Another child,  
23 another sweet, innocent girl taken from her. This time, we  
24 know for sure it was preventable.

25 When Henry Aparicio decided to drive completely and



1 utterly intoxicated on the night of May 15th, 2018, he also  
2 made the decision to take the lives of Christa and Dom. Sure,  
3 he didn't know them, but he did indeed murder them. If it  
4 hadn't been them, it would surely have been another family  
5 mourning the loss of a loved one.

6 I look at it like this. There's not much of a  
7 difference between driving intoxicated at speeds of 100 miles  
8 per hour and shooting bullets into a crowd. The chances of  
9 someone getting seriously hurt or killed is extremely high in  
10 both cases.

11 So when Mr. Aparicio got into the car in his  
12 condition and drove that recklessly, he accomplished the  
13 results that were so likely to happen. He killed my sister,  
14 and he killed Damaso. He took away my mom and dad's baby  
15 girl. He stole my brother and sister's best friend. He ended  
16 the beautiful love story between Christa and Dom. He never  
17 let me see or visit them again. He destroyed my kids'  
18 relationship with their aunt and uncle. He brought darkness  
19 by taking our ray of sunshine.

20 Since May 16th, 2018, I have found my feelings of  
21 loss and emotional pain are no less. However, I do feel as if  
22 additional heartache and emotional stress have been inflicted.  
23 I don't know how long it is supposed to take to heal from this  
24 catastrophic event or if it's even possible.

25 I do know that it has not been nearly enough time

1 yet to feel any differently at all about the loss of our dear  
2 Christa and Damaso. I still miss them more than I can  
3 express. I still feel guilty about not making a way to spend  
4 more time with them while they were here.

5 Another Christmas without Christa and Damaso is  
6 taking its toll on my emotions. Makes me think of all the  
7 things that my family will not be able to share with them,  
8 such as birthdays, holidays, my kids' weddings, and most of  
9 all, just loving them and letting them know how much they  
10 meant to everyone's life they touched.

11 Judge Wiese, we are asking you for justice for what  
12 I call double murders of two completely innocent, upstanding  
13 people. Myself and our families have endured over three-and-  
14 a-half years of horrifying devastation that it seems will  
15 never end. This man must be held accountable for the two  
16 lives he has taken and the lives he has so negatively  
17 impacted.

18 Absolutely nothing changes the facts of Mr.  
19 Aparicio's crimes against Christa and Damaso. This man has  
20 pled guilty to killing two completely innocent people.  
21 Christa and Damaso do deserve complete justice for the heinous  
22 and murderous crimes that he committed against them, and the  
23 families, friends, coworkers, and loved ones of my beloved  
24 sister Christa and her husband, Damaso, deserve whatever  
25 closure is possible so that we may all continue to mourn their

1 tragic loss and early deaths.

2           Personally, I don't feel as if Mr. Aparicio deserves  
3 to ever get out of prison for his brutal and fatal criminal  
4 acts he committed against my beloved sister, Christa, and  
5 Damaso. He has taken from this world two of the most  
6 beautiful souls that most of us have ever or ever -- will ever  
7 be lucky enough to know. I hope he stays in prison for long  
8 enough to feel a fraction of the pain that he has induced upon  
9 us. This will take a very, very long time.

10           So now, Judge Wiese, we turn to you and hope you can  
11 see just what this man has put us through and what he has  
12 taken away from so many, and we trust that you will make the  
13 decision in his sentencing that will hold him accountable and  
14 responsible for his violent and heinous actions.

15           Dear Judge, I ask you to please sentence Mr.  
16 Aparicio to the maximum penalty for each count he is charged  
17 and that the sentencing for each count run consecutively to  
18 bring justice for Christa and Damaso.

19           Thank you, Your Honor, for taking the time to listen  
20 to my thoughts and concerns. I wish I had the ability to  
21 convert the feelings in my heart to paper more clearly, but  
22 this seems to be the best I can do to share my feelings and  
23 emotion with you.

24           Respectfully, Dan Wilson, loving brother of Christa  
25 Diane Malone Puente.

1                   And this --

2                                 (Pause in the proceedings.)

3                   MR. CHEN: Just so the record's clear, I believe  
4 Your Honor stated you did get to review Ian Malone's  
5 statement, which was one of the letters supplied last time.

6                   THE COURT: Correct.

7                   MR. CHEN: Thank you.

8                   THE COURT: Yeah, I reviewed Dan's, too. I mean,  
9 what he read was a little bit different from the letter I had  
10 from Dan. There was a couple of additions, but it was  
11 similar.

12                  MR. MALONE: Okay. Now, before I read my letter,  
13 Your Honor, I need my wife to leave the room so that she  
14 doesn't hear this portion of it.

15                  To the Honorable Judge Jerry Wiese, Christa Diane  
16 Malone Puente, our precious angel and a gift to us from our  
17 Heavenly Father, born on September 30th, 1984, killed on May  
18 15th, 2018.

19                  According to the coroner's autopsy report, there are  
20 numerous -- there are numerous abrasions on the face,  
21 extending across the forehead to the left eyelid and down the  
22 bridge of the nose. The nose is fractured. There is a  
23 laceration of the posterior scalp. There are numerous  
24 palpable skull fractures. Upon palpation, there was a  
25 deformity and a crepitus palpated through the head and skull

1 with brain matter exposed. Crepitus, as I understand it,  
2 means an audible grating or crunching sensation produced by  
3 motion.

4           There was apparent blood-like substance noted from  
5 the ears. There is an abrasion of the upper right arm with  
6 associated contusion. There are numerous abrasions to the  
7 back. The pelvis is fractured. There are numerous scattered  
8 abrasions and contusions of the legs. There are left and  
9 right fibula fractures as well.

10           These, Your Honor, are the images I'm left with for  
11 the rest of my life and the reason I wasn't able to say  
12 goodbye to her one last time. To this day, I thank God that I  
13 was spared not having to go identify her body. Why? All  
14 because Henry Aparicio decided to get behind the wheel with a  
15 blood-alcohol level of .032, four times the legal limit. Four  
16 times.

17           To this day, I still think about all the what-ifs.  
18 What if they would have stayed at Damaso's parents' house to  
19 eat dinner? What if they would have taken a different  
20 off-ramp? What if the light had turned green before the  
21 impact? What if they would have just gone straight home? The  
22 what-ifs are endless.

23           But, Your Honor, I was looking at the things from  
24 their perspective. Instead of what if my daughter and  
25 son-in-law, our precious Christa and Damaso, had done this or

1 had done that, the question I should have been asking myself  
2 and still do is, what if Henry Aparicio had decided not to  
3 drunk -- drive drunk, excuse me, that night, especially since  
4 there were quite a few different alternatives to get home,  
5 alternatives that he was well aware of because of his  
6 employment in the alcohol and food industry.

7           If he had decided beforehand that night that he  
8 wasn't going to drive drunk, Your Honor, one, he would have  
9 not gotten behind the wheel with a blood-alcohol level of  
10 .032, four times the legal limit, but he did, and he would not  
11 have rear-ended Christa and Damaso's car at over 100 miles per  
12 hour with absolutely no signs of braking or swerving to miss  
13 them, but he did.

14           Think about that, Your Honor. Over 100 miles per  
15 hour. That's 150 feet per second, the length of a football  
16 field every two seconds. Even if Damaso had looked in the  
17 rear-view mirror and saw those headlights coming, he had no  
18 chance to react. The impact was so powerful that he pushed  
19 the back of the car into the front, and in the middle of it  
20 all was my daughter Christa and son-in-law Damaso. He crushed  
21 them like someone stepping on an aluminum can. They never had  
22 a chance. The images of what he did to my precious daughter,  
23 Christa, and Damaso haunts me every single day.

24           And this is just the picture, Your Honor, of what  
25 the car was and what happened to the car afterwards.

1           Now, all I have are memories of her growing up and  
2 all the joy and love she gave her mother and me. I think  
3 about how Christa and Damaso were doing everything possible to  
4 start a family, and now I can only imagine the grandchildren  
5 I'll never get to love and never get to hold. My sweet little  
6 girl is only in my future now, and when I see her again, it  
7 will be forever, and no one will ever get to take her away  
8 from me again.

9           I hope and pray, Your Honor, that today, you will be  
10 the one to say enough is enough. Unless we as a society start  
11 taking seriously the effects of drunk driving and the impact  
12 on all of the families that are just as devastated as we are  
13 at the loss of their loved ones, only to have our hopes dashed  
14 by very lenient sentences, I'm afraid that this vicious cycle  
15 will never end.

16           Please, Your Honor, I am asking you to do the right  
17 thing now and hand down the maximum sentence allowed under the  
18 law. Thank you.

19           THE COURT: Thank you, sir.

20           Who's next?

21           DAMASO PUENTE SILVA, STATE'S WITNESS/VICTIM SPEAKER SWORN

22           THE CLERK: Please state and spell your name for the  
23 record.

24           MR. PUENTE SILVA: My name is Damaso Puente Silva.  
25 D-a-m-a-s-o, P-u-e-n-t-e, Silva, S-i-l-v-a.

1 THE COURT: Go ahead, sir.

2 VICTIM STATEMENT BY MR. PUENTE SILVA

3 MR. PUENTE SILVA: Good morning, Your Honor. I'm  
4 here today to -- Your Honor, to show my wounds are still open,  
5 to show the painful burden I'm still carrying, to show the  
6 pain I'm suffering for not having my son Damaso and my  
7 daughter-in-law Christa. To show I truly believe in this  
8 judicial system, to show I truly believe that nobody is above  
9 and below the law. I'm here today, Your Honor, to see justice  
10 once more being served. I'm here today for Damaso and  
11 Christa.

12 Thank you, respectfully, Your Honor.

13 That's all I have.

14 THE COURT: Thank you, sir.

15 Who's next, Counsel?

16 Good morning, ma'am. Please raise your right hand  
17 to be sworn in.

18 DIANE MALONE, STATE'S WITNESS/VICTIM SPEAKER, SWORN

19 THE CLERK: Please state and spell your name for the  
20 record.

21 MS. MALONE: Diane Malone. D-i-a-n-e, M-a-l-o-n-e.

22 THE COURT: Thank you, ma'am.

23 MS. MALONE: Thank you.

24 THE COURT: Mr. Sheets, I didn't ask you before.

25 Did you have any questions for either of the prior witnesses?



1 MR. SHEETS: I did not, Your Honor.

2 THE COURT: All right, thank you.

3 Go ahead, Ms. Malone.

4 MS. MALONE: Okay, thank you. May I sit? Okay.

5 (Pause in the proceedings.)

6 MR. CHEN: Your Honor, in addition to her statement,  
7 there is a sister, Anna, who is -- who has written a letter.  
8 She can't be here today on behalf of her mom. I don't believe  
9 Your Honor has received them, but there are pictures as well.  
10 I did ask her to bring copies for everyone, including Mr.  
11 Sheets, so they could follow along.

12 Could I provide this to Your Honor as well as to  
13 defense counsel so you can follow along?

14 THE COURT: That's fine. Make sure Mr. Sheets gets  
15 a copy.

16 MS. MALONE: I'll read this one.

17 VICTIM STATEMENT BY MS. MALONE

18 Thank you, Your Honor.

19 Honorable Judge Jerry Wiese, Christa, my sweet  
20 sister, there really was no more innocent and sweet. Ever  
21 since she was born, she was always smiling, laughing, and  
22 happy. Christa glows. I think of her face as a child and  
23 then her face as a woman, and that glow has never changed.

24 You know, a lot of times, the younger sister looks  
25 up to the older one, but in this case, it's me, the older

1 sister, that looks up to the younger one. I wish I could have  
2 been a lot more like her. I wish I could have told her I was  
3 sorry for anything wrong I've ever done or said to her in our  
4 entire lives. I wish I could have told her that I love her.  
5 It's beyond words how much it hurts that I can't.

6 Christa has always been the most compassionate,  
7 loving person. She met the only one in this world made for  
8 her in 2002, which is her husband, Damaso. He was the  
9 funniest, nicest person, and was very kind, and an amazing  
10 husband to my sister, and loved her more than his own life.  
11 It made Damaso happy to make others happy, and he loved to  
12 make people laugh.

13 If someone was having trouble or hurting, Christa  
14 and Damaso would hurt with you and do anything to help you.  
15 They were the very best couple, and they had a magnetism about  
16 them. So many people wanted to be a part of their lives. It  
17 was -- I was lucky enough to have them be the best friends I  
18 ever had for all those years. They were the most important  
19 part of my life through every good time and every tough time.

20 All of a sudden, that was taken from me with one  
21 phone call, the worst phone call of my life. I told my mom  
22 not to tell me that, tell me anything but that. My heart  
23 broke into a million pieces. My soul was fractured. I didn't  
24 want to eat, because they couldn't eat. No matter how hungry  
25 I was, I felt guilty. Why should I get to when they can't?

1 The pain of it is indescribable.

2 I would look at the sky so closely, I felt I was  
3 almost there. And the feeling I had was that I wanted to die  
4 too because I had to see where they were and make sure that  
5 they were okay, but there was nothing I could do. The only  
6 feeling is utter helplessness. There was nothing I could do  
7 to help them, to save them.

8 The defendant took my only sister from me. I have  
9 no other sister. He took my children's only aunt from them.  
10 They have no other aunt. He took my best friends away. I am  
11 lost without them in my life. There is a huge hole inside me  
12 that will never fill.

13 My children have also lost their mama and papa  
14 because of what they have lost, and my parents will never be  
15 the same again, and my children have lost a big part of me as  
16 well. He took everyone's happiness.

17 My mom already lost her firstborn child when she was  
18 only five years old because she was hit by a car in the street  
19 in front of their house, and now she lost her last child and  
20 son-in-law because they were also crushed by a car, crushed by  
21 the defendant. I'll never get to speak to them again. I'll  
22 never get to share things and beautiful moments in this life  
23 with them.

24 Christa and Damaso were trying to have children,  
25 trying to have a family. Their children and my children will

1 never get to grow up together like they were supposed to,  
2 children and grandchildren that would have bounced on their  
3 knees and spoiled them with love. They would have been the  
4 best parents and then grandparents. The defendant took it all  
5 from them, everything.

6 Damaso was building their business. Filmmaking was  
7 his passion. He loved Christa, skateboarding, filmmaking,  
8 their friends, and he loved life, just being alive. They both  
9 did. They were on such a great path, preparing their lives  
10 for the future.

11 Christa worked hard and studied long to become an  
12 oncology nurse. She had so many more years of helping people  
13 left in her because she cared about others. A lot of her  
14 patients and coworkers loved her. Being an oncology nurse,  
15 she was trying to make so many of her patients' last moments  
16 be as special as they could, and she did just that.

17 But what about Christa and Damaso's last moments?  
18 The defendant made hers and her soulmate's last moments one of  
19 the most horrifying I could ever imagine. He chose to get  
20 into the car and drive. He chose to push the gas pedal down  
21 to the floor after turning onto Sahara Boulevard, and he chose  
22 to run into them at 100 miles an hour, and drove almost 4,000  
23 pounds of metal into their bodies and crushed them, making  
24 them take their last breath.

25 They had no protection from him. They had no chance

1 while simply waiting for a light to change. Who could help  
2 them? Who could save them from him? Christa and Damaso did  
3 not deserve this fate.

4 I shouldn't have to go to a grave in the cemetery  
5 and see their names on a headstone. I shouldn't have to talk  
6 to their grave, and weep, and tell them how sorry I am that  
7 this happened to them, how this should not be. He took two of  
8 the world's brightest lights and shut their light out.

9 Why is it that all so often, the one who gets behind  
10 the wheel and kills gets to live, and the innocent die? The  
11 defendant is guilty, and the innocent were killed by him. Why  
12 did he do this to them? He doesn't deserve the chance to do  
13 this to someone else. He showed no remorse before, and he  
14 showed no remorse for what he's done, for what he took from us  
15 and the world. Sorry.

16 He has ruined so many of our lives. I go around in  
17 a daze every day. The thought of what happened to them stops  
18 me in my tracks and takes my breath away. I keep wanting to  
19 wake up from a nightmare, but I can't. This nightmare is a  
20 living, waking nightmare, and this hurts forever. Time has  
21 not changed anything. It is not any easier. It's just as  
22 hard now as it was the day I found out he killed them. Days  
23 get harder all the time because it makes me feel even further  
24 away from the last time I saw them or spoke to them, and all I  
25 want to do is be so, so close.

1           I wish everyone knew what it was like walking into  
2 their home for the first time after they were killed by the  
3 defendant. The home still felt warm, like they were even --  
4 like they were there, even though their bodies were cold and  
5 destroyed. They left the comfort of their home on May 15th to  
6 carry out a normal day, but they were not allowed to return,  
7 even though that is exactly what they wanted to do, return  
8 home, and they were almost there.

9           I wish everyone knew what it was like to -- oh, I'm  
10 sorry, I already read that. No, wait.

11           I wish everyone knew what it was like to walk into  
12 their home, the way everything was left, as if they just  
13 walked out the door and would be back any minute now, how  
14 their animals are searching the house, still waiting for them.

15           I wish everyone knew what it was like to have to  
16 sort through Christa and Damaso's closet and their dresser  
17 drawers with all their clothes in them just the way they left  
18 them, the fresh laundry on the bed that didn't -- she didn't  
19 get around to folding that day, Christa's makeup and little  
20 things they had around the house, to go through the sweet  
21 notes they would leave each other, and birthday and  
22 anniversary cards that were set out, going through their life  
23 and closing it all up into a dark box.

24           If everyone knew what it was like to feel everything  
25 the defendant has forced us to feel, there would be no doubt

1 in their minds to give the maximum sentence they possibly --  
2 can possibly be received. Christa never got to see her 34th  
3 birthday, and Damaso never got to see his 40th birthday. They  
4 were supposed to have so many more. Why should their killer  
5 get to see his same birthdays outside of prison?

6 As I'm writing this on January 7th, 2022, it has  
7 been three years, seven months, and 20 days since the  
8 horrendous criminal deaths of my loving sister and  
9 brother-in-law, Christa and Damaso.

10 Every day is a painful day because they were stolen  
11 from us. What my family and I have to go through the rest of  
12 our lives can never be lessened. Nothing has changed since  
13 that night. The crime committed is still the same. It is  
14 fresh in our minds, just as it is every day.

15 I ask you, Your Honor, to please give the defendant  
16 the maximum sentences for Christa's death and the maximum  
17 sentences for Damaso's death by law to run consecutively.  
18 Thank you, Honorable Judge, for reading and listening to what  
19 my heart truly feels.

20 Anna Bravo (phonetic), loving sister of Christa;  
21 loving sister-in-law of Damaso.

22 I'm sorry.

23 THE COURT: Just one minute, ma'am.

24 COs, I know we're after 10:00 o'clock. Do we have a  
25 little bit more time?

1 THE CORRECTIONAL OFFICER: Yes, Your Honor.

2 THE COURT: Okay, thank you.

3 MS. MALONE: Are we good?

4 THE COURT: Go ahead, ma'am.

5 MS. MALONE: Okay. I'm sorry.

6 Okay. I'm going to read my statement to you, Judge  
7 Wiese, because if I don't read it, I will lose focus.

8 THE COURT: I understand.

9 MS. MALONE: Thank you.

10 Your Honor, I am Diane Malone. I am Christa's  
11 mother. I will be speaking to you from my heart and what I  
12 believe to be the truth.

13 It's been over three-and-a-half years, the continual  
14 devastation. The constant heartache has become more intense  
15 and more detrimental to my psychological and physical well-  
16 being. But, Your Honor, I will now attempt to properly convey  
17 the severity and depth of how devastating, how forever painful  
18 May 15th, 2018 is to me, our families, and the many friends  
19 and coworkers of my precious daughter Christa and her loving  
20 husband, Damaso.

21 But how can I possibly convey to you everything I  
22 believe I should say on Christa's behalf in this time I have  
23 before you? There are no number of words that could possibly  
24 tell of the beauty and goodness that she was.

25 I believe you first need to understand just a bit of



1 who Christa and Damaso are and how they affected everyone who  
2 knew them. I truly wish I could go back 37-and-a-half years  
3 when I gave birth to my precious daughter, Christa. It was on  
4 that day, September 30th, 1984, that Christa began to bless  
5 our family and make it complete. Christa was my precious  
6 baby, whom I love with every ounce of my being.

7 I was blessed with five children, and Christa Diane  
8 Malone Puente was the namesake for myself and my first child,  
9 my first daughter, Christine (phonetic), who was hit by a car  
10 and killed in October 1978, and she was only five years old.

11 The pain is excruciating today, and now the  
12 constant, relentless pain and grief of this senseless,  
13 unnecessary murder -- and, yes, I believe it to be murder --  
14 of my baby girl Christa and my beloved son-in-law Damaso is  
15 unbearable. It is a torture that I have no choice but to  
16 endure daily for the rest of my life.

17 Christa still has two older brothers, Danny and Ian,  
18 and one sister, Anna, who have also been emotionally  
19 traumatized, and they love and miss her so very, very much.

20 The love and joy of Christa's presence in our family  
21 is now gone forever, void, irreplaceable. We are left with  
22 only the memories of watching her grow from the precious baby  
23 she was to the sweetest, kindest little girl, then blossoming  
24 to the most beautiful and loving young woman imaginable.  
25 Always full of love and life, my dear Christa.

1           The deep love that Christa had for her family and  
2 friends was truly amazing. I cannot remember even one time  
3 while growing up that she fought with her brothers or sister.  
4 She was always the most kindhearted, sensitive person I've  
5 ever known. She radiated love and compassion, always caring  
6 about others' needs, never being selfish, evil, or rude. She  
7 did not have a mean bone in her body.

8           Christa had a passion for learning, and she had many  
9 talents. As a young girl, she began with piano lessons, and  
10 she quickly learned to play Fur Elise because she knew it was  
11 one of my favorite pieces, and I just wish I could hear her  
12 play it again.

13           Christa always loved being a part of something  
14 bigger than herself. Not only was Christa a member of her  
15 school choir and color guard team, but she also played on the  
16 basketball team and ran track.

17           After graduating high school at Palo Verde, Christa  
18 continued to learn and had become skilled in many of her  
19 chosen hobbies, including crocheting, knitting, drawing,  
20 painting, flower arranging, theatrical makeup, bowling,  
21 dancing, just to name a few.

22           Christa also wanted to learn to sew, so I bought her  
23 a sewing machine and was just beginning to give her sewing  
24 lessons. She had just completed her first sewing project, an  
25 apron, and I was really looking forward to teaching her to sew

1 a lot more, but now that can never happen.

2           During the last Christmas season that we were able  
3 to share with Christa and Damaso, Christa and I created  
4 homemade spa baskets on -- as Christmas presents for her  
5 friends and family, and we had planned to get together every  
6 year going forward to make homemade gifts together, but now  
7 that can never happen either.

8           Christa's loving husband Damaso was teaching her to  
9 skateboard, and also constantly teaching her and sharing his  
10 knowledge of filmmaking, videography, and photography with  
11 her. Her love for learning was endless, just as her love for  
12 life.

13           Christa and Damaso started dating in July of 2009,  
14 shortly after Christa's graduation from high school. I'll  
15 never forget the one day when Christa came home from a date  
16 with Damaso, and she so excitedly said, Mom, I think I found a  
17 good one, and that he was. Damaso was Christa's first  
18 boyfriend, and he would become the love of her life and her  
19 soulmate. They were a perfect match, marrying on June 6th,  
20 2009.

21           Damaso was our perfect son-in-law for our sweet  
22 Christa. I thought I would never have to worry about Christa  
23 because I just knew how much Damaso loved her and that he  
24 would always protect her and care for her.

25           Christa and Damaso were the perfect example of love

1 and marriage, always showing deep love and respect to each  
2 other every single day since the day they met, loving and  
3 supporting each other in every aspect of their lives, like  
4 I've never seen before.

5 Their lives always complimented each other in every  
6 possible way. We never imagined that in the prime of their  
7 lives, that Henry Aparicio would so carelessly and brutally  
8 commit such reckless indifference to human life against both  
9 Christa and Damaso.

10 Christa and Damaso lived in a home with us and my  
11 85-year-old mother at the time. We all believed that family  
12 should take care of family. At that time, my husband had been  
13 temporarily working in Florida, and when I went to visit him,  
14 Christa and Damaso were there to take good care of my mother,  
15 who could not be left to live on her own.

16 After the horrific deaths of Christa and Damaso, on  
17 September 22nd, 2019, my mother wrote, quote, "There was  
18 nothing I could do to take the nightmare away. I hardly slept  
19 and cried most the time, along with my daughter, Diane. I  
20 eventually had to move in with my granddaughter for a while,  
21 then moved to Fenton, Missouri, to be close to my son. My  
22 entire life was turned upside down, and the stress has caused  
23 me to become more and more forgetful. Now I am becoming  
24 unable to sometimes remember the death, and each time someone  
25 talks about Christa, I have to be reminded again and

1 experience the nightmare over and over like it just happened.  
2 The stress is unbearable for this old person," unquote.

3 And now, my mother has passed away last August 17th.  
4 I undoubtedly believe this level of grief and stress added to  
5 her failing health and death.

6 Your Honor, Christa and Damaso had so many hopes and  
7 dreams that can now never come true. Christa was working hard  
8 to make this world a better place for all of us. All of her  
9 life, her life that was cut so short, she positively and  
10 lovingly touched the lives of every person fortunate enough to  
11 cross her path.

12 Ever since she was young, she was always a joy to be  
13 around, always happy, gentle, giving, kind, pure, honest, full  
14 of grace, and how her beautiful smile and compassion always  
15 melted my heart, that smile that I never get to see again.

16 She worked so hard to accomplish her goals, never  
17 giving up on herself and always encouraging others to never  
18 give up on themselves, including me and the rest of her family  
19 and her friends, coworkers, patients, and always her beloved  
20 husband, Damaso.

21 She listened carefully and cared deeply for others,  
22 as did Damaso. Christa always had an instinctive gift of  
23 making people around her feel important, special, loved, and  
24 appreciated. I was always learning from her wisdom.

25 I believe it was Christa's passion for life as well

1 as her passion for others that led her to the decision to  
2 become a nurse. As an oncology RN at Mountain View Hospital,  
3 fighting cancer had become so very dear to her heart.

4 She truly loved and cared for each of her patients  
5 and her coworkers as she was continuing her education,  
6 ultimately working toward her master's degree in order to heal  
7 and save lives.

8 Her dream was to remain in oncology, focusing on  
9 prevention, research, and education. She worked hard in her  
10 education and in her daily life to always be the best she  
11 could be while always loving and always giving to others.

12 My daughter Christa was the most loving and  
13 beautiful person I have ever known. Anyone who met her  
14 automatically fell in love with her as she was that kind of  
15 amazing woman, our angel on earth. She was an exemplary model  
16 of the true meaning of love.

17 When Christa was not at the hospital, she was either  
18 taking classes, spending quality time with friends or family,  
19 or she was helping Damaso with their business, Cactusboy  
20 Productions, which Damaso worked so hard at full-time to build  
21 while also freely giving his talents to charitable  
22 organizations, such as Opportunity Village, regularly.

23 Christa and Damaso had no enemies. Together, they  
24 exuberated love and happiness, and their infectious smiles and  
25 laughters were magnetic and always brought joy to everyone

1 blessed to have known them. They always brought out the best  
2 in others as they looked at the positive side of everything  
3 and genuinely engaged in their conversations as they truly  
4 cared for others.

5 Christa and Damaso were both kindhearted and  
6 compassionate in every step of their lives, which they lived  
7 to the fullest. They loved life, the very lives that were so  
8 violently and abruptly stolen from them.

9 I didn't think I would ever have to worry about  
10 Christa nor Damaso because I knew they were both healthy,  
11 responsible adults. They took care of themselves physically,  
12 and they loved each other deeply. They made wise decisions,  
13 and they were both extremely careful drivers. They would  
14 never drive drunk.

15 Christa and Damaso were also on the verge of  
16 starting a family. I was looking forward to becoming a  
17 grandmother again to the beautiful children that I just knew  
18 they were going to have. Christa and Damaso would have been  
19 excellent parents, just as they were the most loving, absolute  
20 best aunt and uncle anyone could ask for, but that would never  
21 come to be either, and it's -- why? Because of Henry  
22 Aparicio.

23 Christa was a registered organ donor, but even her  
24 very last attempt to save life could not be granted to her  
25 because of the heinous crime committed against her as well as

1 against her husband. Every perfectly healthy vital organ in  
2 Christa's body was turned to mush and mutilated.

3 I will never forget the moments of that dreadful  
4 phone call from our son, Ian, Christa's brother. Ian was the  
5 one the coroner's office was first able to reach. My husband  
6 worked as a night auditor, and we were sleeping when our son's  
7 call woke us up. My husband Dan answered the call, and he  
8 suddenly jumped from the bed, desperately repeating, no, no,  
9 no. Then his knees buckled.

10 I had already jumped up and was repeatedly asking  
11 him, what? What's wrong? He couldn't speak. He couldn't  
12 stand. I knew something was dreadfully wrong. He finally  
13 handed me the phone, and my son had to repeat what he had just  
14 told his father, the most horrifying words I would ever hear.  
15 With severe pain in his voice, he said, Christa and Damaso  
16 were in a car crash last night, and they are both dead.

17 All I could do is scream, no. I screamed, no, no,  
18 no, not again, no, so many times that I can't count, but I  
19 screamed with excruciating pain until my voice was gone. My  
20 husband was still unable to speak or stand. We just held each  
21 other and wept, and wept, and wept. With tears, Ian had told  
22 me to pack my bag and get ready to go to the airport and that  
23 he would buy our airline tickets to get us back to Vegas. He  
24 immediately drove to pick us up and took us to the airport.

25 The weeping never stopped, and it still continues



1 ever so frequently, every single day. It feels like my  
2 insides have been ripped out of me, and at times, I feel pain  
3 in my chest as though my heart is being squeezed to death, and  
4 other times, I can't even feel my heartbeat, as if it's been  
5 obliterated. There truly are just no words to describe how  
6 incredibly bad and how incredibly painful it is.

7 I cry myself to sleep envisioning the horrific  
8 details of May 15th, 2018, at 9:08 p.m. It has now been three  
9 years, eight months, 10-and-a-half days. The nightmares never  
10 leave.

11 Still to this day, I can never get a full night's  
12 sleep, because I am awakened by nightmares of that dreadful  
13 night when our precious Christa and Damaso were so brutally  
14 killed, yes, by the defendant.

15 I so vividly envision them just sitting at the  
16 stoplight, waiting for the light to turn green, while talking  
17 about their day and their accomplishments, and are laughing  
18 together as they so often did.

19 Then, suddenly, the vision turns horrifically  
20 violent as the defendant turns his red Mercedes into almost  
21 two tons of weapon, driving over 100 miles an hour at ramming  
22 speed into the back of Christa and Damaso's Prius without even  
23 attempting to stop, never applying the brakes, as though  
24 intentionally crashing into them and brutally killing both of  
25 them.

1 I envision their Prius being crushed with Christa  
2 and Damaso inside, being shot across the lanes while tumbling  
3 and turning, literally breaking them, crushing them, and  
4 mutilating them to death.

5 This is what I have to picture my precious  
6 daughter's and son-in-law's last moments, a memory that is  
7 forever seared into my mind each and every day for the rest of  
8 my life. All Christa and Damaso were doing while on their way  
9 home was sitting at a stoplight at Sahara and Hualapai,  
10 waiting for the light to change. They were just sitting  
11 there.

12 Did Christa or Damaso say anything in those last  
13 moments before Henry Aparicio raced toward them at ramming  
14 speed? At 100 miles an hour, there would have been no time to  
15 even react. What level of fear did they have to suffer in  
16 their last moments? These thoughts haunt me and impact my  
17 very being every single day.

18 Now, every time I see a white Prius or a red  
19 Mercedes, or if I even cross Sahara at Hualapai, the vision  
20 immediately appears. It is a life sentence of grief. To this  
21 day, the vision repeats itself most every morning and  
22 throughout the days. I wake up in tears just as I went to bed  
23 the night before, and I ask myself, why? Why am I still  
24 breathing? Why couldn't it have been me instead? Why?

25 I would give my life in a second if I could only

1 give life back to my precious Christa and Damaso. And each  
2 day, I'm forced to come to the realization that the why is  
3 because the defendant, Henry Aparicio, made a selfish,  
4 premeditated choices which led to his violent, gruesome  
5 murders by reckless indifference of Christa and Damaso.

6 It was no accident, nor was it a mistake. Christa  
7 and Damaso's killer knew he was going out to celebrate his  
8 girlfriend's graduation. He knew he would be the one driving.  
9 He knew he was going to drink alcohol, and lots of it. He was  
10 four times the legal limit. He knew how much he had to drink  
11 at Dave & Buster's.

12 Then, after leaving Dave & Buster's, he knew and  
13 deliberately drank even more alcohol at his place of  
14 employment, Casa Del Matador. He knew he was majorly  
15 intoxicated. He knew he got into the car to drive it, even  
16 after a coworker tried to talk him out of it. He knew the  
17 dangers of driving under the influence because he had to  
18 attend alcohol server training class in order to be a  
19 bartender at Casa Del Matador.

20 Knowing all of the above, he still chose to drive  
21 over 100 miles an hour on Sahara, which is a 45-mile-an-hour  
22 speed zone, with absolutely no concern for the law nor for the  
23 safety of others. The only thing he did not know is who he  
24 may kill that night.

25 He gave Christa and Damaso no chance for survival.

1 They were alive one second with healthy, beating hearts full  
2 of love. Then, suddenly, Henry Aparicio took everything away  
3 from them, every dream, every hope, every possibility to do  
4 good and save lives, every hope for a family of their own. He  
5 stole their very last breaths, their very lives.

6 The National Highway Traffic Safety Association  
7 tells us that a person drives drunk on the average 87 times  
8 before they ever get caught the first time. Every day in this  
9 country, 749 men, women, and children are killed and injured  
10 in alcohol-related crashes. Almost every day, I read in the  
11 news that someone else has been randomly killed by a drunk  
12 driver. How many innocent people have to die?

13 The only deterrent that I see is tougher penalties,  
14 tougher sentences for the criminals who choose to drive drunk,  
15 therefore putting the lives of innocent people at risk due to  
16 their own choices. How many people must die before the  
17 sentences match the crimes committed? How many families have  
18 to be destroyed?

19 Henry Aparicio killed not one but two completely  
20 innocent loved ones, with absolutely no regard for their  
21 precious lives nor for the lives of all the people who love  
22 Christa and Damaso so dearly and need them in their lives. I  
23 need them.

24 I understand that he's not eligible for life  
25 sentences, but surely his sentence should come as close as

1 legally possible for these gruesome, fatal crimes against  
2 Christa and Damaso, and for the lifetime of pain and suffering  
3 that all of their loved ones have no choice but to endure.

4           What will stop this completely senseless and heinous  
5 killing of precious lives, as with our beloved Christa and  
6 Damaso, if maximum sentences aren't imposed?

7           When an adult commits a crime, it should not matter  
8 how old the criminal is, nor should it matter the age of the  
9 victims. We are told this is the defendant's first DUI  
10 conviction, but this is also the first time Christa and Damaso  
11 died, and it was at the hands of this defendant. A crime has  
12 been committed, and two people are dead because of it, it's  
13 our Christa and Damaso.

14           Your Honor, my daughter and her husband, Christa and  
15 Damaso, were not inanimate, statistical objects. Instead,  
16 they were both living, breathing. I'm sorry.

17           Your Honor, this process has been so overwhelmingly  
18 hard to the point that, ever so frequently, I feel totally  
19 crushed, like I just can't go on. When we first met with the  
20 DA, he was explaining to us that Aparicio was claiming he  
21 wasn't the driver of the car.

22           We have attended every single hearing, having to  
23 listen to these types of theories, worried that he would not  
24 be held accountable for his egregious actions. It has  
25 remained a grueling process throughout.

1           His parents still get to see him. They still get to  
2 talk with their son, and they can -- he can talk with them.  
3 He's alive. Henry Aparicio took all of that away from us,  
4 even Christa and Damaso's very lives. There really is no  
5 reason why the innocent, why Christa and Damaso and their  
6 loved ones should not get the full and complete justice that  
7 is due them.

8           I believe this defendant has been selfish and  
9 dangerous. I will never understand his arrogance, and his  
10 laughing in the courtroom, and his trying to intimidate me as  
11 we -- by staring me down in the courtroom.

12           MR. SHEETS: Your Honor, at this point, I'm going to  
13 object. I think this is going beyond the impact of the  
14 alleged crime.

15           THE COURT: Sustained. Let's just talk about how  
16 it's affected you, ma'am.

17           MS. MALONE: Okay. The defendant's vile crime has  
18 put us through three years, eight months, 10-and-a-half days  
19 of pure hell. We have traveled back and forth for court dates  
20 endless times and encountered many delays, all because the  
21 defendant refused to be responsible and accountable for his  
22 actions from the very beginning, all the while knowing he was  
23 guilty of all the crimes he was originally charged with.

24           It has been exhausting and costly, the planning and  
25 cost of funerals that we should never have had to plan, and

1 taking on all the extra expenses associated with these crimes  
2 he has committed.

3 I've had to spend my senior years as a gravesite  
4 caretaker, and I've had to ask dear friends of Christa's and  
5 Damaso's to take care of their gravesite when I could not be  
6 in town. This should not be. My life emotionally and  
7 physically has been destroyed, and my life -- my family's life  
8 is forever changed.

9 Every day, I try to pretend and go on normally, but  
10 I simply can't. I have lost purpose. As much as I try to be  
11 a good mother and grandmother to my surviving children and  
12 grandchildren, my joy and passion for life has been stolen  
13 from me by this criminal, and therefore, my children and  
14 grandchildren are being robbed of that passion and joy I would  
15 have otherwise been able to give to them.

16 My grandchildren have been robbed of their only  
17 aunt, my surviving daughter, Anna, robbed of her only sister  
18 and best friend, and Christa's two brothers, Danny and Ian,  
19 left without Christa and Damaso's love and joy.

20 The defendant robbed all of Christa's patients and  
21 future patients of the compassion and loving care she would  
22 have given them. He robbed her coworkers, many of whom needed  
23 to seek counseling after Christa and Damaso's horrific,  
24 violent deaths, and the medical field was robbed of a  
25 much-needed, outstanding, dedicated aspiring oncology nurse

1 who just wanted to save lives.

2           So many hearts are broken and lives destroyed and  
3 changed forever; Christa's dad and me, her sister, her  
4 brothers, nieces, nephews, cousins, her numerous patients,  
5 coworkers, and many close friends of theirs, many of whom are  
6 here today, as well as Damaso's parents, siblings, and  
7 families, all because of one selfish killer, Henry Aparicio.

8           The rest of our entire lives now must be spent  
9 dealing with this guy who committed this murderous act on our  
10 precious baby girl Christa and her loving husband, Damaso. He  
11 has murdered the life out of me too, and, again, with all my  
12 heart, I wish I could have been the one that he rammed into  
13 and mutilated to death that night.

14           This pain and suffering, these nightmares, this  
15 reality, knowing I will never be able to talk with Christa and  
16 Damaso again, knowing I will never be able to love and hold my  
17 grandchildren that they were going to have, knowing I will  
18 never be able to give my Christa a hug and tell her how much I  
19 love her, and to hear her tell me she loves me too, is  
20 unbearable.

21           I miss Christa and Damaso so much that there are not  
22 even words that could possibly express it. I am so  
23 heartbroken and crushed that it's hard to function most days,  
24 but I know that something must be done to bring awareness and  
25 to convince people not to drive drunk.



1           There is no excuse. There are taxis, Lyft, Uber,  
2 friends or family that can be called to get a ride, or take a  
3 bus, or walk, get a room, or simply wait. No one has the  
4 selfish right to drive drunk and kill someone. No parent  
5 should ever have to suffer this kind of loss of their child or  
6 loved one, especially when it is due to such a selfish,  
7 senseless, preventable, and yet violently heinous crime.

8           There has not been even one single day since May  
9 16th, 2018, that I have not wept for my precious Christa and  
10 dear Damaso. This defendant gave both Christa and Damaso a  
11 death sentence. Our precious Christa and Damaso paid the  
12 ultimate price with their very lives for the brutal and  
13 violent criminal actions of Henry Aparicio, and it was 100  
14 percent his fault.

15           He should have to pay the full penalty to give even  
16 a glimpse of justice for what he did to Christa and Damaso,  
17 and now -- and now that I've been issued a life sentence, a  
18 lifetime of emotional torture and gut-wrenching pain, and  
19 mourning and weeping for Christa and Damaso every day for the  
20 rest of my entire life.

21           My life's now forever changed to a life consumed by  
22 grief and heartache that affects every aspect of my soul, my  
23 spirit, my physical and emotional well-being.

24           Every moment, every cell in my body aches and longs  
25 to be with my beloved child. We don't get good-time credit or

1 parole benefits. We never imagined life without Christa and  
2 Damaso, because they were both so vitally important to our  
3 families. I still so desperately need them, but I can't have  
4 them. I can't even talk to them.

5 I believe the Nevada justice system is failing  
6 Christa and Damaso and us. It appears our justice system is  
7 failing to protect the innocent.

8 MR. SHEETS: Your Honor, I'm going to object again.  
9 We're going beyond the impact and now having social commentary  
10 on the system.

11 MR. CHEN: I think it goes within the realm of her  
12 feelings about what she'd like to see happening today, so if  
13 -- the State's allows it --

14 THE COURT: I'll allow this for a minute.

15 MR. SHEETS: I guess as a -- just as a retort to the  
16 State, feelings about what she would like to see happen,  
17 again, this is to address the impact of the crime, not to  
18 render legal opinions as to what sentence should be. And I  
19 would just point that out, Your Honor.

20 THE COURT: I understand, Mr. Sheets. We have to be  
21 a little bit lenient. I'll consider it as it applies --

22 MS. MALONE: It's just my --

23 THE COURT: -- to the sentence.

24 MS. MALONE: I'm sorry. It's just my beliefs. It's  
25 just how I feel. Why is it that criminals get to demand more

1 while the totally innocent get forgotten and ignored? It  
2 shouldn't be.

3 No one can tell me that my precious daughter Christa  
4 and Damaso weren't brutally and violently killed, as their  
5 internal organs were turned to mush and their bodies broken up  
6 by their killer. The killer is not the victim. He is the  
7 criminal, and he should pay the full penalty.

8 There are no number of letters that change even one  
9 fact of this horrendous crime that brutally killed our beloved  
10 Christa and Damaso. The defendant intentionally preplanned  
11 that night with the heavy drinking and driving. He killed two  
12 people, our precious Christa and Damaso, and that is the fact.

13 And now, Your Honor, as I'm before you, I find  
14 myself in the most painful and challenging position I've ever  
15 been in. I must plead for justice for my baby girl. I have  
16 to attempt to be Christa's voice, her plea to you, Your Honor.  
17 I shouldn't have to, because she should be here. She should  
18 be alive, as should Damaso. But I must try to convey what I  
19 believe would be her last request to you.

20 I knew my daughter well, and although she was  
21 gracious, loving, and kind, she was also very smart, rational,  
22 and fair. She always took responsibility and accountability  
23 for her own actions, and she believed strongly that every  
24 person should.

25 On behalf of our beloved Christa, I ask you, Your

1 Honor, to please impose the maximum penalty allowed by law for  
2 each count to run consecutively, which is a very small price  
3 to pay for the heinous, murderous crimes the defendant  
4 committed against our precious daughter and her husband.

5 Christa and Damaso were responsible, extraordinary,  
6 beautiful souls, who were loved and needed very much in this  
7 world, and in no way did they deserve the torturous deaths  
8 inflicted on them.

9 The love and joy of Christa's presence in our family  
10 is now gone, forever void, and irreplaceable. Every single  
11 day is filled with heartache and grief, missing my baby girl  
12 and her husband. He is one life who stole two beautiful  
13 lives. He deserves to pay the ultimate price and should be  
14 held accountable for his choices and his actions.

15 And I thank you, Your Honor, for listening to me as  
16 I pour out my heart to you in the only way I know how to  
17 represent my beloved Christa and her husband in the hopes you  
18 will understand just a little bit of the never-ending,  
19 excruciating pain the defendant has caused. I pray that no  
20 one else in this courtroom ever has to experience this kind of  
21 pain because it never goes away. It never ends.

22 Judge Wiese, I trust and hope in your power and  
23 wisdom to see that true justice for Christa and Damaso  
24 prevails by imposing the maximum penalties allowed by law to  
25 run consecutive.

1           And as part of my impact statement, I do have a  
2 couple more pictures that I'd like for you to take a look at  
3 if you would, please.

4           THE COURT: As long as Mr. Sheets has seen it.

5           MS. MALONE: I have a copy for him if he wants them.

6                   (Pause in the proceedings.)

7           THE COURT: COs, are you still there?

8           THE CORRECTIONAL OFFICER: We are still there.

9           DC 12 starts in 15 minutes.

10          THE COURT: Okay. Thank you.

11          Counsel, I didn't realize that we were going to go  
12 so --

13          MS. MALONE: I'm sorry.

14          THE COURT: -- many hours with the -- the victim  
15 statements. If we have more, we're going to have to continue  
16 this.

17          MR. CHEN: We are just finishing this up.

18          MS. MALONE: This is it. I just have one paragraph  
19 to read to you if I could, just a little short --

20          THE COURT: Go ahead. We needed to be done --

21          MS. MALONE: Okay.

22          THE COURT: -- 40 minutes ago, so.

23          MS. MALONE: Oh, I'm so sorry.

24          I just ask you please for your -- the very last  
25 voice that you hear of my statement be the voice of our

1 precious daughter, Christa. It's a very short video clip that  
2 Christa made for a class she was enrolled in at the time.

3 MR. CHEN: Excuse me, Your Honor.

4 (Pause in the proceedings.)

5 MR. SHEETS: And just for the record, as to the  
6 video, I'd renew the objection I made at the bench,  
7 understanding Your Honor's ruling.

8 MR. CHEN: Your Honor, understanding where we are  
9 today and --

10 MS. MALONE: I'm so sorry.

11 MR. CHEN: -- the statement that she's given, I've  
12 talked to her about the video. We're going to forego the  
13 video and just ask Your Honor to render a sentence.

14 THE COURT: Do we have additional victim speakers?

15 MR. CHEN: That's the last of the speakers.

16 THE COURT: Any questions, Mr. Sheets?

17 MR. SHEETS: I have none, Your Honor.

18 THE COURT: All right. Thank you, ma'am.

19 I apologize. We try to give everybody the time that  
20 you need, but because of COVID and the fact that we're doing  
21 video appearances, we only have the jail video until 10:00  
22 o'clock. We're at 10:40 right now, so.

23 MS. MALONE: I'm sorry.

24 THE COURT: Are you sure there's nothing else?

25 MR. CHEN: That's the extent of the --

1 THE COURT: All right.

2 MR. CHEN: -- victim statements.

3 THE COURT: All right. Mr. Aparicio, these cases  
4 are always the hardest for me, because it's very difficult to  
5 put somebody in prison for a significant period of time, but  
6 it's also very difficult for the family of somebody who's  
7 lost.

8 I don't know that anybody ever feels satisfied or  
9 happy at the end of one of these sentencing hearings. But as  
10 part of my job, I feel like I have the responsibility to do  
11 mercy and justice on behalf of the State.

12 I have considered Judge Silva's prior sentence, and  
13 I don't believe that it was unreasonable. So here's what  
14 we're going to do.

15 In addition to the \$25 administrative assessment  
16 fee, there's a \$150 DNA fee if that's not previously been  
17 taken, additional \$3 DNA fee, and \$250 to the Indigent Defense  
18 Fund.

19 On Count 1, I'm going to sentence you to 7 to 20  
20 years in the Nevada Department of Corrections.

21 On Count 2, 7 to 20 years in the Nevada Department  
22 of Corrections consecutive to Count 1.

23 Count 3, 12 to 48 months in Nevada Department of  
24 Corrections consecutive to Count 2, with an aggregate 15 to 44  
25 years.

1 I believe there's also restitution in the amount of  
2 \$47,520.53.

3 In addition, pursuant to NRS 484C, prior to any  
4 reinstatement of driving privileges, you have to have an  
5 interlock device installed and inspected on your vehicle at  
6 your expense for a period of not less than 12 months, no more  
7 than 36 months after any release.

8 Anything else that needs to go on the record,  
9 Counsel?

10 MR. CHEN: He has 1,351 days of credit for time  
11 served.

12 THE COURT: 1,351 days credit time served.

13 Mr. Sheets, do you agree?

14 MR. SHEETS: If I have a reason to doubt it, I would  
15 -- I'll put it back on calendar. I --

16 THE COURT: That'll be the credit that will be  
17 applied --

18 MR. SHEETS: And just so I --

19 THE COURT: -- unless Mr. Sheets comes up with a  
20 different number.

21 MR. SHEETS: Yes, Your Honor. Thank you.

22 THE COURT: Anything else, Counsel?

23 MR. CHEN: No. Not from the State, Your Honor.

24 MR. SHEETS: No, Your Honor.

25 THE COURT: All right. Thank you.



1  
2  
3  
4

Good luck, sir.

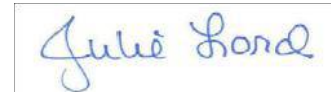
Thank you, folks, for all being here.

MS. MALONE: Thank you.

(Proceeding concluded at 10:40 a.m.)

\* \* \* \* \*

ATTEST: I hereby certify that I have truly and correctly  
transcribed the audio/visual proceedings in the above-entitled  
case to the best of my ability.

A rectangular box containing a handwritten signature in blue ink that reads "Julie Lord".

---

VERBATIM DIGITAL REPORTING, LLC

AJOCP

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

HENRY APARICIO  
aka Henry Biderman Aparicio  
#6069038

Defendant.

CASE NO. C-18-332496-1

DEPT. NO. XXX

AMENDED JUDGMENT OF CONVICTION  
(PLEA OF GUILTY)

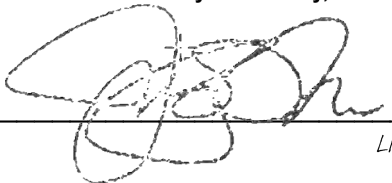
The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNTS 1 and 2 – DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (Category B Felony) in violation of NRS 484C.110, 484C.430; COUNT 3 – RECKLESS DRIVING (Category B Felony) in violation of NRS 484B.653; thereafter, on the 25<sup>th</sup> day of January, 2022, the Defendant was present in court for sentencing with counsel DAMIAN R. SHEETS, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee, \$47,520.53 Restitution and \$150.00 DNA Analysis Fee including

1 testing to determine genetic markers (WAIVED if previously taken) plus \$3.00 DNA  
2 Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections  
3 (NDC) as follows: COUNT 1 – a MAXIMUM of TWENTY (20) YEARS with a MINIMUM  
4 parole eligibility of SEVEN (7) YEARS; COUNT 2 – a MAXIMUM of TWENTY (20)  
5 YEARS with a MINIMUM parole eligibility of SEVEN (7) YEARS, CONSECUTIVE with  
6 COUNT 1; COUNT 3 – a MAXIMUM of FORTY-EIGHT (48) MONTHS with a  
7 MINIMUM parole eligibility of TWELVE (12) MONTHS, CONSECUTIVE with COUNT  
8 2; with ONE THOUSAND THREE HUNDRED FIFTY-ONE (1,351) DAYS credit for  
9 time served. The AGGREGATE TOTAL sentence is FORTY-FOUR (44) YEARS  
10 MAXIMUM with a MINIMUM of FIFTEEN (15) YEARS.  
11

12  
13 COURT FURTHER ORDERED, pursuant to NRS 484C.340, 484C.460, prior to  
14 any reinstatement of driving privileges the defendant shall have an interlock device  
15 installed and inspected on his vehicle at his expense for a period of THIRTY-SIX (36)  
16 months, said period to commence after any period of imprisonment, residential  
17 confinement, confinement in a treatment facility or on parole or probation.  
18

19 Dated this 26th day of January, 2022

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23 **E4B FB0 536E 1492**  
24 **Jerry A. Wiese**  
25 **District Court Judge**  
26  
27  
28

1 **CSERV**

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3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

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6 State of Nevada

CASE NO: C-18-332496-1

7 vs

DEPT. NO. Department 30

8 Henry Aparicio  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Amended Judgment of Conviction was served via the court's electronic  
13 eFile system to all recipients registered for e-Service on the above entitled case as listed  
below:

14 Service Date: 1/26/2022

15 Damian Sheets

dsheets@defendingnevada.com

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