

CASE No. 2021-CR-00114 B

Dept. No. 11

RECEIVED

JAN 17 2023

Douglas County
District Court Clerk

JOAN Kathryn Wenger

Petitioner,

vs.

STATE OF NEVADA,

Respondent.

FILED

2023 JAN 17 AM 11:50

BOBBIE R. WILSON
CLERK

Electronically Filed

Jan 27 2023 08:33 AM

Elizabeth A. Brown

Clerk of Supreme Court

NOTICE OF APPEAL

Comes now, Appellant / Petitioner JOAN Kathryn Wenger, on this 10th Day of January, 2023, my appeal to the Appellate Court of Competent Jurisdiction, Pursuant to the rules fixed by the Supreme Court from the decision or order of the Above-named court.

I. Petition For Review And examination of the complete Process of case no. 2021-CR-00114 from Arraignment through sentencing phases; and remand for a competency hearing of defendant's counsel on the following grounds:

Ground One

Brian Filter (herewithin named "counsel") was Appointed to represent ms. Wenger (herewithin named "Defendant") for this case. Mr. Filter / counsel provided incompetent counsel and representation from the beginning. He failed to inform Defendant of her plea options or counters with regard to the charge of Vehicular Homicide, such as D.V.I

with death, vehicular manslaughter, etc. Counsel only advised defendant to accept the charges, plead guilty, and accept the offer to have the D.U.I. thrown out. Counsel was beyond negligent to the defendant,

Ground two

Both the Prosecutor and counsel agreed to, in writing, a sentence of 10-25 yrs. for the defendant. When the court and the prosecutor decided, together, on the higher sentence of Life with the possibility of parole after 10 years, counsel failed to stand up, object or argue, or even attempt to defend the original agreed-to sentence on behalf of the defendant. Again, counsel was negligent in providing any defense, support, or argument for Defendant.

Ground Three

The Prosecutor falsely stated that the defendant actually performed the act of hitting the victim's vehicle as a "reckless and intentional" act. Again, counsel for the defendant simply sat at the table and refused to react in any defense for the defendant whatsoever, thereby allowing the prosecutor to set the stage to present the higher sentence.

Conclusion

It is clear beyond any doubt that the counsel for the defendant never once identified any of the defendant's rights that were very obviously violated by the prosecutor's intentional errors, or how she was prejudiced. The defendant absolutely lost any potential opportunity to receive the

agreed-upon 10-25 yr. sentence due to the complete lack of competent counsel throughout her entire court process.

Based on the foregoing argument, this appellant respectfully requests the court find the defendants' counsel incompetent and completely negligent in his defense of the defendant, and therefore remand for a new hearing.

Respectfully Submitted on this 10th
day of January, 2023

Joan Kathryn Wenger
Appellate / Petitioner
CGTH
3955 W. Russell Rd.
Las Vegas, NV
89118

Form 2. Case Appeal Statement

No. 2021-CR-00114B

Dept. No. II

FILED

2023 JAN 26 AM 11:20

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

BY Victor DEPUTY

JOAN KATHRYN WENGER,

RECEIVED

Appellant,

JAN 26 2023

vs.

Douglas County
District Court Clerk

THE STATE OF NEVADA,

Respondent.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
Joan Kathryn Wenger
2. Identify the judge issuing the decision, judgment, or order appealed from:
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:
Joan Kathryn Wenger #1250827 CGTH 3955 W. Russell Rd., Las Vegas, NV 89118
– In Proper Person
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent=s appellate counsel is unknown, indicate as much and provide the name and address of that respondent=s trial counsel):
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: Appellant was represented by Brian Filter, Esq.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
Unrepresented.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: N/A
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):
The Information was filed July 29, 2021.
10. Provide a brief description of the nature of the action and result in the district court,

including the type of judgment or order being appealed and the relief granted by the Court: This is a criminal matter in which the Judgment of Conviction was filed on November 29, 2021, order filed December 9, 2022.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding: Supreme Court Docket Number 84003
12. Indicate whether this appeal involves child custody or visitation: No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: N/A.

Dated this 26th day of January 2023

Victor

Deputy Clerk

P.O. Box 218

Minden, Nevada 89423

(775) 782-9820

Douglas County District Court

Case Summary Report

Case #: 2021-CR-00114
Case Title: State of Nevada vs. Joan Kathryn Wenger
Filed: 07/23/2021
Cause: Felony: Crimes Against Persons DV: N

Case Status: Reopened Date: 12/07/2022

Archived: 08/18/2022, 02/02/2022, 12/12/2021, 12/01/2021, 11/22/2021, 11/19/2021, 10/13/2021,

Parties

<u>Party</u>	<u>Name</u>	<u>Status</u>		
Petitioner	Wenger, Joan Kathryn			
Also Known As:	Joan Kathryn Graziade			
Respondent	State of Nevada			
Defendant	Wenger, Joan Kathryn			
Also Known As:	Joan Kathryn Graziade			
Plaintiff	State of Nevada			
<u>Party</u>	<u>Name</u>	<u>Bar #</u>	<u>Status</u>	<u>Representing</u>
Attorney	Attorney, District		Current	

Charge/Sentence Information

<u>CNT</u>	<u>Section Code</u>	<u>Charge Description</u>
1	484C.130	Vehicular homicide

Events

<u>Date/Time</u>	<u>Type</u>	<u>Result</u>	<u>Reason</u>
08/09/2021	Arraignment	Concluded	
08/16/2021	Arraignment	Concluded	
08/23/2021	Arraignment	Concluded	
10/18/2021	Sentencing Hearing	Concluded	
11/29/2021	Sentencing Hearing	Concluded	

Documents

2021-CR-00114

<u>Date</u>	<u>Code</u>	<u>Description</u>
07/23/2021	DOCO	Order and Commitment
07/29/2021	DINF	Information
08/04/2021	DAPTC	Appointment of Counsel (Criminal Adult)
08/09/2021	DOSH	Order Setting Hearing
08/09/2021	1DDBL	Order Concerning Bail
08/16/2021	DOSH	Order Setting Hearing
08/20/2021	DGPA	Guilty Plea Agreement
08/23/2021	1DDBL	Order Concerning Bail
08/24/2021	DOSH	Order Setting Hearing
08/26/2021	DTRN	Transcript of Proceedings - Continued Arraignment
08/30/2021	DTRN	Transcript of Proceedings - Continued Sentencing Monday, August 16, 2021
09/02/2021	DTRN	Transcript of Proceedings - Arraignment 08/23/2021
10/01/2021	DCOS	Certificate of Service - Douglas DA
10/01/2021	DCOS	Certificate of Service - B. Filter
10/01/2021	DPIR	(Sealed) - CONFIDENTIAL Pre-Sent. Investigation - Presentence Investigation Report
10/15/2021	DCOS	Certificate of Service
10/15/2021	DCOS	Certificate of Service

10/15/2021	DCIN	Confidential Information Identifying - Victim Impact Statement and Medical Statements from Victim's Son, Parole and Probation
10/25/2021	DTRN	Transcript of Proceedings - Sentencing Hearing Monday October 18, 2021
11/23/2021	DMIS	Misc. Document - Submission of Substance Use Evaluation
11/29/2021	DJOC	Judgment of Conviction
12/02/2021	DTRN	Transcript of Proceedings - Sentencing Hearing Monday, November 29, 2021 Minden, Nevada
12/07/2021	DBIO	Breath Ignition Interlock Device Order
12/20/2021	DNOA	Notice of Appeal
12/23/2021	DCAP	Case Appeal Statement
12/28/2021	DNOA	Notice of Appeal
12/28/2021	DDRA	Designation of Record on Appeal
12/29/2021	DCAP	Case Appeal Statement
01/03/2022	DRFD	Receipt for Documents (Supreme Court)
01/21/2022	DORD	Order - of Limited Remand for Designation of Counsel (Supreme Court)
02/02/2022	DN	Notice of - Assignment of Counsel
02/03/2022	DOAC	Order Appointing Counsel
02/14/2022	DATP	Application to Proceed in Forma Pauperis
08/16/2022	DN	Notice of - Transfer to Court of Appeals
09/13/2022	DORD	Order - Order of Affirmance
10/05/2022	DCLC	Clerk's Certificate - (Supreme Court)
10/05/2022	DORD	Order - of Affirmance
10/05/2022	DRMT	Remittitur - (Supreme Court)
12/05/2022	DCTF	Certification - Financial Certificate
12/16/2022	DNCA	Notice of Change of Address

2021-CR-00114B

<u>Date</u>	<u>Code</u>	<u>Description</u>
12/05/2022	PWPOST	Petition for Writ of Habeas Corpus (Post Conviction)
12/05/2022	DFSF	(Sealed) - Financial Disclosure Form - Financial Certificate
12/09/2022	DORD	Order
12/12/2022	DNEO	Notice of Entry of Order
12/14/2022	DAMD	Amended - Notice of Entry of Order
12/19/2022	DACC	Accounting - Inquiry; Inmate Services - Central Administration
01/17/2023	DNOA	Notice of Appeal
01/17/2023	DRSU	Request for Submission - of Motion

1 Case No. 2021-CR-00114B

2 Dept. No. II

FILED
RECEIVED 2022 DEC -9 PM 4:29

3 DEC -9 2022

EDDIE R. WILLIAMS
CLERK

4 Douglas County
District Court Clerk

[Signature] DEPUTY

5
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8

9 JOAN KATHRYN WENGER,

10 Petitioner,

11 vs.

ORDER

12 THE STATE OF NEVADA,

13 Respondent.

14

15 THIS MATTER comes before the Court on a *Petition for Writ of*
16 *Habeas Corpus (Post-Conviction)* and *Motion for Leave to Proceed In*
17 *Forma Pauperis*, filed December 5, 2022. The Court has considered
18 the Petition, Motion, and the entirety of the record in case
19 number 2021-CR-00114, entitled *The State of Nevada v. Joan Kathryn*
20 *Wenger ("Defendant")*, incorporated by reference herein. Good
21 cause appearing, the Court finds and orders as follows:

22 I. *Motion for Leave to Proceed In Forma Pauperis*

23 Defendant claims indigence and requests an attorney to assist
24 with pursuit of her post-conviction writ.

25 "If the court is satisfied that the allegation of indigency
26 is true and the petition is not dismissed summarily, the court may
27 appoint counsel to represent the petitioner." NRS 34.750(1). The
28 statute goes on to provide some other considerations. *Id.*

1 The Court is satisfied that Defendant is indigent. However,
2 as seen below, the *Petition for Writ of Habeas Corpus (Post-*
3 *Conviction)* is being summarily dismissed. Additionally, the
4 issues presented are not difficult, Defendant is able to
5 comprehend the proceedings and there is no need for discovery.
6 NRS 34.750(1).

7 Defendant's *Motion for Leave to Proceed in Forma Pauperis* is
8 DENIED.

9 II. *Petition for Writ of Habeas Corpus (Post-Conviction)*

10 Procedural and Factual Background

11 On July 29, 2021, Defendant was charged with Vehicular
12 Homicide with three prior DUI convictions, a violation of NRS
13 484C.130(1) and NRS 484C.440(1), a category A felony.
14 Information. The sentencing range for this offense is life with
15 parole eligibility beginning in 10 years or a definite term of 25
16 years with parole eligibility beginning in 10 years. NRS
17 484C.440(1). The sentence may not be suspended or probation
18 granted. NRS 484C.440(3).

19 On August 23, 2021, Defendant appeared with counsel and
20 entered a plea of guilty to the charged offense pursuant to
21 negotiations memorialized in a written Guilty Plea Agreement
22 ("GPA") executed by the State, Defendant and Defendant's counsel.
23 The GPA stated, in relevant part, "The parties have agreed to
24 mutually recommend that I be sentenced to serve a definite term of

25 ///

26 ///

27 ///

28 ///

1 25 years in prison, with eligibility for parole beginning when a
2 minimum of 10 years has been served." GPA, p. 1, lines 22-24.

3 Further:

4 I understand that, at the time of sentencing, the State
5 may present arguments, facts, and/or witnesses in
6 support of the plea agreement. I understand the State
7 also reserves the right at sentencing to provide the
8 court with relevant information that may not be in the
9 court's possession; to call victims to make a victim
10 impact statement; to comment on the circumstances of
11 the crime and my criminal history; and to correct
12 factual misstatements made by me or my character
13 witnesses.

10

...

11

12 I have not been promised or guaranteed any particular
13 sentence by anyone. I know that my sentence is to be
14 determined by the court within the limits prescribed by
15 statute. I understand that if my attorney, the State
16 of Nevada, or both recommend any specific punishment to
17 the court, the court is not obligated to accept the
18 recommendation.

15

16 GPA at p. 1-2 and p. 4, lines 1-4.

17 Defendant was canvassed by the Court after being sworn. The
18 canvass was thorough, as represented by the 25-page Transcript of
19 Arraignment ("TOA"). The TOA includes the following exchange:

20 COURT: What is your understanding of the maximum penalty
21 for this offense?

21

22 DEFENDANT: Life.

22

23 COURT: All right. That is correct. The maximum prison
24 sentence is life with parole eligibility when ten
25 years have been served. Do you understand that?

24

25 DEFENDANT: Yes.

25

26 COURT: Do you understand the only other alternative to
27 that that the Court could impose would be a
28 definite term of 25 years in prison with a minimum
parole eligibility beginning when ten years have
been served?

28

1 DEFENDANT: Yes.
2 COURT: Has anybody made any promises to you regarding what
3 your sentence will be in this case?
4 DEFENDANT: No.
5 COURT: Do you understand that what sentence you'll receive
6 is entirely up to the Court?
7 DEFENDANT: Yes.
8 COURT: Do you understand that you are not eligible for
9 probation for this offense?
10 DEFENDANT: Yes.
11 COURT: So at the time of sentencing the Court could if the
12 Court deemed it appropriate sentence you to serve a
13 period of life imprisonment with minimum parole
14 eligibility beginning when ten years have been
15 served or the Court could impose a definite term of
16 25 years in prison with minimum parole eligibility
17 beginning when ten years have been served. Do you
18 understand that?
19 DEFENDANT: Yes.
20 COURT: So in other words at the time of sentencing those
21 are the two options that are available to the
22 Court. Do you understand?
23 DEFENDANT: Yes.
24 COURT: Knowing that do still desire to plead guilty?
25 DEFENDANT: Yes.
26 GPA, p. 10-11. Defendant stated that she was satisfied with her
27 representation. GPA p. 8.
28 Defendant appeared with counsel for sentencing on October 18

1 and November 29, 2021. Defendant received and reviewed the Pre-
2 Sentence Investigation Report ("PSI") and was provided with a full
3 opportunity to suggest factual corrections. Transcript of
4 Sentencing, October 18, 2021 ("TS1"), p. 5-8, Transcript of
5 Sentencing, November 29, 2021 ("TS2"), p. 2-5. Defendant's
6 counsel made a recommendation consistent with the plea agreement
7 and made arguments in support thereof. TS2, p. 5-8. Defendant
8 made a statement. TS2, p. 9-14. The State made a recommendation
9 consistent with the plea agreement and made arguments in support
10 thereof. TS2, p. 13-20. Victim impact statements were received.
11 The Court imposed a sentence of life with parole eligibility
12 beginning when a minimum of ten years have been served. *Judgment*
13 *of Conviction.*

14 Defendant filed a direct appeal arguing that the State
15 breached the plea agreement by implicitly arguing for a higher
16 sentence than agreed. An *Order of Affirmance* was entered on
17 September 9, 2022, Court of Appeals Case No. 84003-COA.
18 *Remittitur* issued on October 4, 2022.

19 On December 5, 2022, Defendant filed the pending *Petition for*
20 *Writ of Habeas Corpus (Post-Conviction)* and *Motion for Leave to*
21 *Proceed In Forma Pauperis.*

22 Discussion

23 Defendant does not claim that her guilty plea was involuntary
24 or otherwise seek to withdraw her plea. Rather, Defendant is not
25 satisfied with her sentence of 10 to life given that she bargained
26 for a joint recommendation of 10 to 25 years.

27 Defendant's dissatisfaction with her sentence is not, in and
28 of itself, a legal basis for relief. A petitioner must make more

1 than conclusory claims for relief and must support claims with
2 specific factual allegations that, if true, would entitle him/her
3 to relief. *Pangallo v. State*, 112, Nev. 1533 (1996). A
4 petitioner is not entitled to an evidentiary hearing on factual
5 allegations belied or repelled by the record. *Hargrove v. State*,
6 100 Nev. 498 (1984). If a court determines that a petitioner is
7 not entitled to relief and an evidentiary hearing is not required,
8 the court "shall" dismiss the petition without a hearing. NRS
9 34.770.

10 Ground One

11 Defendant alleges "absolute ineffective assistance of
12 counsel." *Petition*, p. 7. As supporting facts, Defendant states,
13 "My PD, Brian Filter, never offered me options, nor did he argue
14 for/fight for my agreed-upon 10-25 yr. sentence." *Id.* Also, "My
15 P.D. did not argue for me on this matter or any matter for me.
16 Prejudice and miscarriage of justice." *Id.*

17 Defendant's contention that counsel did not argue or fight
18 for the bargained for 10-25 year recommendation is belied by the
19 record. TS2, p. 5-8. Defendant does not reveal any facts or
20 arguments that counsel failed to assert that would have changed
21 the outcome and/or suggest that counsel's performance was
22 deficient. Defendant's contention that counsel failed to offer
23 her "options" is conclusory and Defendant does not say what
24 options counsel failed to reveal that would have changed the
25 outcome. The two sentencing options available to the Court were
26 fully addressed during the arraignment and in the GPA. At
27 sentencing, Defendant's counsel recommended the bargained for
28 option and made appropriate arguments in support. Defendant well

1 understood that the Court was not bound by the recommendations.
2 Defendant's sentence was within the range set by statute.

3 Defendant is not entitled to an evidentiary hearing or relief
4 on Ground One.

5 Ground Two

6 Defendant alleges the "Prosecutor lied." *Petition*, p. 7. In
7 support, Defendant alleges the prosecutor "said my crime was
8 intended. Of course it was not. My remorse is huge." *Id.*

9 Defendant already raised this issue in her direct appeal
10 wherein she contended that the State breached the plea agreement.
11 The issue was considered and denied by the Court of Appeals. To
12 the extent Defendant might be trying to raise a new issue
13 regarding comments made by the State at sentencing, any such issue
14 could have been and should have been raised during Defendant's
15 direct appeal. In any event, the prosecutor's opinions regarding
16 Defendant's *mens rea* are the prosecutor's opinions and nothing in
17 the GPA prohibited the prosecutor from making the opinions known
18 to the Court at the time of sentencing. Some of the comments were
19 in response to things brought up by Defendant. To the extent the
20 prosecutor's opinion was based on factual representations, the
21 factual representations conform to the offense synopsis contained
22 in the Pre-Sentence Investigation Report. Defendant reviewed the
23 PSI prior to sentencing with counsel and did not dispute any
24 factual corrections upon which the prosecutor relied. Defendant
25 does not now claim or cite to any specific misstatement of fact
26 argued by counsel and/or relied upon by the Court. Defendant was
27 extended a full opportunity to address her *mens rea* and offer any
28 remorse. Defendant took advantage of the opportunity through

1 arguments made by counsel, her own statements during her lengthy
2 allocution and in a written statement attached to the PSI, all of
3 which were considered by the Court.

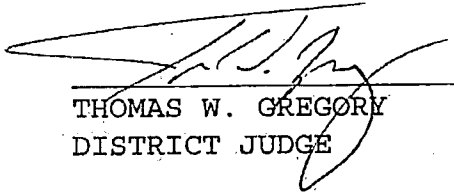
4 Defendant is not entitled to an evidentiary hearing or relief
5 on Ground Two.

6 Conclusion

7 Defendant's Petition for Writ of Habeas Corpus (Post-
8 Conviction) is summarily DISMISSED.

9 IT IS SO ORDERED.

10 DATED this 9th day of December, 2022.

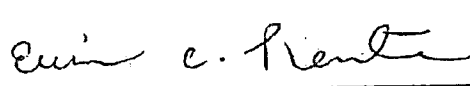
11
12 
13 THOMAS W. GREGORY
14 DISTRICT JUDGE

15 Copies served by mail/hand delivery on December 9th, 2022,
16 addressed to:

17 Joan Kathryn Wenger (Mail)
18 Inmate # 1250827
19 JCC
20 P.O. Box 19859
Jean, Nevada 89019

21 Douglas County District Attorney's Office (Hand Delivery)
22 P.O. Box 218
Minden, Nevada 89423

23 Office the Attorney General (Mail)
24 100 North Carson Street
25 Carson City, Nevada 89701

26 
27 Erin C. Plante
28

1 Case No. 2021-CR-00114B

2 Dept. No. II

RECEIVED

DEC 12 2022

Douglas County
District Court Clerk

FILED

2022 DEC 12 PM 2:29

BOBBIE R. WILLIAMS
CLERK

BY *[Signature]* DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 JOAN KATHRYN WENFER,

10 Petitioner,

11 vs.

NOTICE OF ENTRY OF ORDER

12 STATE OF NEVADA,

13 Respondent.

14 _____/

15 PLEASE TAKE NOTICE that on December 9, 2022, the Court
16 entered a decision or order in this matter, a true and correct
17 copy of which is attached to this notice.

18 You may appeal to the appellate court of competent
19 jurisdiction pursuant to the rules fixed by the Supreme Court from
20 the decision or order of this court. If you wish to appeal, you
21 must file a notice of appeal with the clerk of this Court within
22 33 days after the date of this notice is mailed to you.

23 This notice was mailed on December 12, 2022.

24

25

26

27

28

CLERK OF COURT

By *[Signature]*

DEPUTY

1 Copies served this 12th day of December 2022 to:

2 Joan Kathryn Wenger

3 Inmate# 1250827

4 P.O. Box

5 Jean, Nevada 89019

6 Brian Filter

7 P.O. Box 2079

8 Minden, Nevada 89423

9 Douglas County District Attorney's Office

10 1038 Buckeye Road

11 Minden, Nevada 89423 (hand delivered)

12

13 Office of the Attorney General

14 100 N. Carson Street

15 Carson City, Nevada 89701

16

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Deputy Court Clerk

CASE NO: 2021-CR-00114

DEPT NO. II

State of Nevada

v.

Joan Kathryn Wenger

DATE: 11/29/2021

JUDGE: Thomas W. Gregory

CLERK: Courtni Walker

COURT REPORTER: Nicole Hansen - Capitol Reporters

PLAINTIFFS COUNSEL: A.J. Hames

DEFENDANTS COUNSEL: Brian Filter

LAW CLERK: Ian Worrell

BAILIFFS: Eric Lindsay/George Schramm

PAROLE & PROBATION: Chantel Ewing/ Andrea Senda

The above-entitled matter was before the Court this being the time set for SENTENCING. The defendant was present in court and represented by counsel.

DEFENDANT'S EXHIBITS MARKED AND ADMITTED:
B, C

STATE'S EXHIBITS MARKED AND ADMITTED:
4, 5, 6, 7, 8

WITNESSES SWORN AND TESTIFIED:

Brian Staugaard
Rebecca Parsons
Thomas Staugaard
Linda Kubany
Thomas Kubany

The Pre-sentence Report is on file with the Court; copies were received and acknowledged. Mr.

Filter advised the Court of the factual errors contained in the report.

The Court inquired of anything in mitigation or aggravation.

Mr. Filter request the defendant be sentenced to 10-25 years in prison with parole eligibility after 10 years.

Mr. Hames requested the defendant be sentenced to 10-25 years in prison and ordered to pay restitution in the amount of \$36,299.18 and \$136.88 in extradition costs.

The defendant addressed the Court on her own behalf.

No sufficient legal cause was shown by the defendant as to why judgment should not be pronounced against her. The Court adjudged the defendant guilty of the crime of Vehicular Homicide, a violation of NRS 484C.130(1) and NRS 484C.440(1), a category A felony.

The Court sentenced the defendant as follows:

- * Imprisonment with the Nevada Department of Corrections for a term of life with a minimum parole of eligibility of ten (10) years;
- * The defendant shall effect restitution in the amount of \$36,299.18;
- * The defendant shall pay extradition costs in the amount of \$136.88;
- * The defendant shall pay fines and fees to the District Court Clerk in the amount of three dollars (\$3.00) as an administrative assessment fee pursuant to NRS 176.0623(1) for obtaining and testing the genetic markers, one hundred fifty dollars (\$150.00) as a fee for obtaining and testing samples of blood and saliva to determine genetic markers pursuant to NRS 176.0915(1), twenty-five dollars (\$25.00) as an administrative assessment fee pursuant to NRS 176.062, and sixty dollars (\$60.00) as a lab fee pursuant to NRS 453.575;
- * The defendant shall attend a victim impact panel;
- * Per NRS 484C.460, the Defendant shall have an interlock device installed and inspected on any motor vehicle she owns or operates, at her expense, for a period of not less than twelve (12) months nor more than thirty-six (36) months, said period to commence after any period of imprisonment, residential confinement, confinement in a treatment facility or on parole or probation and all other applicable provisions of NRS 484C.340 and NRS 484C.460;
- * The defendant is ordered to appear the Monday after her release from incarceration to set up a payment schedule for the Court ordered fees and restitution.

The defendant is given credit for two hundred fifty (250) days pre-sentence confinement time.

The Court ordered any bail or bond to be exonerated.

The defendant was remanded to the custody of the Douglas County Sheriff.

The Court will prepare the Judgment of Conviction.

CASE NO: 2021-CR-00114

DEPT NO. II

State of Nevada

v.

Joan Kathryn Wenger

DATE: 10/18/2021

JUDGE: Thomas W. Gregory

CLERK: Courtni Walker

COURT REPORTER: Nicole Hansen - Capitol Reporters

PLAINTIFFS COUNSEL: AJ Hames

DEFENDANTS COUNSEL: Brian Filter

LAW CLERK: Ian Worrell

BAILIFFS: Eric Lindsay/George Schramm

PAROLE & PROBATION: Jennifer Pongasi

The above-entitled matter was before the Court this being the time set for SENTENCING. The defendant was present in court and represented by counsel.

SWORN AND TESTIFIED:

John Staugaard

Pam Staugaard Blanchard

DEFENDANT'S EXHIBITS MARKED AND ADMITTED:

A

COURT'S EXHIBITS MARKED AND ADMITTED:

1, 2

The Pre-Sentence Report is on file with the Court; copies were received and acknowledged. Mr. Hames advised the Court of the factual errors contained in the report. Mr. Filter advised the Court of the factual errors contained in the report.

The Court inquired of anything in mitigation or aggravation.

Mr. Filter recommended the defendant be sentenced to 10-25 years in prison but requested a continuance so the defendant can obtain a substance abuse evaluation.

The Court continued sentencing to November 29, 2021 at 9:00 a.m. and ordered the defendant to obtain the substance abuse evaluation and that Mr. Filter be provided funding of \$250.00 for the evaluation.

The defendant was remanded to the custody of the Douglas County Sheriff.

CASE NO: 2021-CR-00114

DEPT NO. II

State of Nevada

v.

Joan Kathryn Wenger

DATE: 08/23/2021

JUDGE: Thomas W. Gregory

CLERK: Courtmi Walker

COURT REPORTER: Capitol Reporters - Kathy Jackson

PLAINTIFFS COUNSEL: AJ Hames

DEFENDANTS COUNSEL: Brian Filter

LAW CLERK: Ian Worrell

BAILIFFS: Eric Lindsay/George Schramm

PAROLE & PROBATION: Kris Thomas

The above-entitled matter was before the Court this being the time set for ARRAIGNMENT. The defendant was present in court in custody and her true name was ascertained. The Court affirmed the lower court's appointment of Brian Filter to represent the defendant in all further proceedings.

WITNESSES SWORN AND TESTIFIED:

Joan Kathryn Wenger

STATE'S EXHIBITS MARKED:

1, 2, 3

STATE'S EXHIBITS ADMITTED:

1, 2, 3

The Information was filed with the Court on July 29, 2021; copies were received and acknowledged and the defendant waived the formal reading thereof. The Information charges the defendant with VEHICULAR HOMICIDE, a violation of NRS 484C.130(1) and NRS

484C.440(1), a category A felony.

The Guilty Plea Agreement is on file with the Court. The defendant advised that she understands its contents and that she entered into the agreement freely and voluntarily.

To the Information, the defendant entered a plea of GUILTY.

The Court advised the defendant of all her legal and constitutional rights, and of the elements of the offense. The defendant understands the maximum penalty as outlined in the Plea Agreement and that sentencing lies solely with the Court. The Court advised the defendant that it can consider all original charges when determining the appropriate sentence in this matter. The Court advised the defendant that payment of restitution may be ordered if deemed appropriate by the Court. The defendant stated her involvement in the matter.

The Court accepted the plea of the defendant as having been freely, voluntarily, and intelligently made and ordered it entered on the record.

Sentencing is set for October 18, 2021, at 9:00 a.m., and the matter was referred to the Division of Parole and Probation for a pre-sentence report and a substance abuse evaluation.

The Court ordered the defendant to appear at the time set for sentencing and advised the defendant that failure to appear would result in the issuance of a bench warrant and the filing of additional charges.

The defendant was remanded to the custody of the Douglas County Sheriff.

CASE NO: 2021-CR-00114

DEPT NO. II

State of Nevada

v.

Joan Kathryn Wenger

DATE: 08/16/2021

JUDGE: Thomas W. Gregory

CLERK: Courtni Walker

COURT REPORTER: Capitol Reporters - Kathy Jackson

PLAINTIFFS COUNSEL: A.J. Hames

DEFENDANTS COUNSEL: Brian Filter

LAW CLERK: Ian Worrell

BAILIFFS: Eric Lindsay/George Schramm

PAROLE & PROBATION: Andrea Senda

The above-entitled matter was before the Court this being the time set for CONTINUED ARRAIGNMENT. The defendant was present in court in custody and represented by counsel.

Mr. Filter requested this matter be continued for one week.

Hearing no objection the Court continued this matter to August 23, 2021, at 9:00 a.m.

The defendant was remanded to the custody of the Douglas County Sheriff.

CASE NO: 2021-CR-00114

DEPT NO. II

State of Nevada

v.

Joan Kathryn Wenger

DATE: 08/09/2021

JUDGE: Thomas W. Gregory

CLERK: Courtni Walker

COURT REPORTER: Capitol Reporters - Kathy Jackson

PLAINTIFFS COUNSEL: Erik Levin

DEFENDANTS COUNSEL: Brian Filter

LAW CLERK: Ian Worrell

BAILIFFS: Eric Lindsay/ George Schramm

PAROLE & PROBATION: Jennifer Pongasi

The above-entitled matter was before the Court this being the time set for ARRAIGNMENT. The defendant was present in court in custody. The Court affirmed the lower court's appointment of Brian Filter to represent the defendant in all further proceedings.

Mr. Filter requested a one-week continuance.

Hearing no objection, the Court continued the arraignment to August 16, 2021, at 9:00 a.m.

The Court ordered the defendant's bail remain as previously ordered and imposed the conditions as set forth in the order concerning bail.

The defendant was remanded to the custody of the Douglas County Sheriff.

STATE'S EXHIBIT LIST

CASE NAME: THE STATE OF NEVADA VS. JOAN KATHRYN WENGER

CASE NUMBER: 2021-CR-00114

DATE OF HEARING: NOVEMBER 29, 2021

JUDGE: THOMAS W. GREGORY

DEPT NO: II

ATTORNEY: A.J. HAMES

PURPOSE OF HEARING: SENTENCING HEARING

[illegible]

DEFENDANT'S EXHIBIT LIST

CASE NAME: JOAN KATHRYN WENGER

CASE NUMBER: 2021-CR-00114

DATE OF HEARING: NOVEMBER 29, 2021

JUDGE: THOMAS W. GREGORY

DEPT NO: II.

ATTORNEY: BRIAN FILTER

PURPOSE OF HEARING: SENTENCING HEARING

[illegible]

COURT'S EXHIBIT LIST

CASE NAME: STATE OF NEVADA VS. JOAN KATHRYN WENGER

CASE NUMBER: 2021-CR-00114

DATE OF HEARING: OCTOBER 18, 2021

JUDGE: THOMAS W. GREGORY

DEPT NO: II

ATTORNEY: BRIAN FILTER

PURPOSE OF HEARING: SENTENCING HEARING

[illegible]

DEFENDANT'S EXHIBIT LIST

CASE NAME: STATE OF NEVADA VS. JOAN KATHRYN WENGER

CASE NUMBER: 2021-CR-00114

DATE OF HEARING: OCTOBER 18, 2021

JUDGE: THOMAS W. GREGORY

DEPT NO: II

ATTORNEY: BRIAN FILTER

PURPOSE OF HEARING: SENTENCING HEARING

[illegible]

STATE'S EXHIBIT LIST

CASE NAME: STATE OF NEVADA VS. JOAN KATHRYN WENGER

CASE NUMBER: 2021-CR-00114

DATE OF HEARING: AUGUST 23, 2021

JUDGE: THOMAS W. GREGORY

DEPT NO: II

ATTORNEY: AJ HAMES


PURPOSE OF HEARING: CONTINUED ARRAIGNMENT

[illegible]

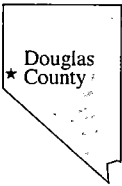
1 STATE OF NEVADA)
2) ss
3 COUNTY OF DOUGLAS)

4 I, BOBBIE R. WILLIAMS, Clerk of the Court, Douglas County,
5 State of Nevada; said Court being a Court of Record, having common
6 law jurisdiction, and a Clerk and a Seal, do hereby certify that the
7 foregoing are true copies of the following originals in Case No.
8 2021-CR-00114B JOAN KATHRYN WENGER vs. THE STATE OF NEVADA, Notice
9 of Appeal, Case Appeal Statement, District Court Docket Entries,
10 Judgment(s) or Order(s) Appealed From, Notice of Entry of the
11 Judgment(s) or Order(s) Appealed From, District Court Minutes, and
12 Exhibit Lists.
13
14

15 IN TESTIMONY WHEREOF, I have
16 hereunto set my hand and affixed my
17 Official Seal at Minden, in said
18 County and State this 26TH day of
19 January, 2023.
20

21
22 
23 Clerk of the Court

24 
25 Apprentice Court Clerk
26
27
28



BOBBIE R. WILLIAMS
CLERK OF COURT
COURT ADMINISTRATOR
JURY COMMISSIONER

District Court Clerk's Office
(775) 782-9820
Tahoe Justice Court
(775) 586-7200
East Fork Justice Court
(775) 782-9955

Transmittal to the Supreme Court

To: Nevada Supreme Court
210 South Carson Street
Carson City, Nevada 89710

Date: January 26, 2023

Re: District Court Case #: 2021-CR-00114B

District Court Case Name: JOAN KATHRYN WEGNER vs. THE STATE OF NEVADA.

The following documents are transmitted to the Supreme Court pursuant to the July 22, 1996 revisions to the Nevada Rules of Appellate Procedure. Checked items are **NOT** included in this appeal:

Notice of Appeal

Case Appeal Statement

- ✓ Certificate That No Transcript Is Being Requested
- ✓ Defendant=s Request for Transcript of Proceedings
- ✓ Notice of Posting of Appeal Bond

District Court Docket Entries

Judgment(s) or Order(s) Appealed From

Notice of Entry of the Judgment(s) or Order(s) Appealed From

District Court Minutes

Exhibit Lists

- ✓ Order (NRAP FORM 4)
- ✓ Certification Order directing Entry of Judgment pursuant to NRCP 54(b)
Supreme Court filing fee (\$250.00), if applicable.

Respectfully,
BOBBIE WILLIAMS
CLERK OF THE COURT

By: A Victor
Aubrey Victor
Apprentice Court Clerk