

Electronically Filed
Feb 29 2024 10:53 AM
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOASC**
2 STEVEN S. OWENS, ESQ
3 Nevada Bar No. 4352
4 1000 N. Green Valley #440-529
5 Henderson, Nevada 89074
6 Telephone: (702) 595-1171
7 owenscrimlaw@gmail.com
8 *Attorney for Defendant Gerald Whatley*

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 GERALD WHATLEY, JR.,

12 Defendant.
13

CASE NO.: C-21-357412-1
DEPT NO.: XX

NOTICE OF APPEAL

14 Notice is hereby given that GERALD WHATLEY, JR., Defendant in the above-entitled
15 action, appeals to the Nevada Supreme Court from the Judgment of Conviction, filed on June 1,
16 2022.

17 DATED this 23rd day of February, 2024.
18

19 /s/ Steven S. Owens, Esq.
20 STEVEN S. OWENS, ESQ.
21 Nevada Bar No. 4352
22 1000 N. Green Valley #440-529
23 Henderson, Nevada 89074
24 (702) 595-1171
25 Attorney for Defendant
26 GERALD WHATLEY, JR.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February, 2024, I served a true and correct copy of the foregoing document entitled **NOTICE OF APPEAL** to the Clark County District Attorney's Office by sending a copy via electronic mail to:

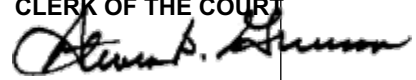
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

Steve Wolfson

Motions@clarkcountynvda.com

BY:

/s/ Steven S. Owens, Esq.
STEVEN S. OWENS, ESQ.
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
(702) 595-1171
Attorney for Defendant
GERALD WHATLEY, JR.



ASTA
STEVEN S. OWENS, ESQ
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
Telephone: (702) 595-1171
owenscrimlaw@gmail.com
Attorney for Defendant Gerald Whatley

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

GERALD WHATLEY, JR.,

Defendant.

CASE NO.: C-21-357412-1
DEPT NO.: XX

CASE APPEAL STATEMENT

1. Appellant filing this case appeal statement: GERALD WHATLEY, JR.

2. Judge issuing the decision, judgment, or order appealed from:

Honorable Eric Johnson

3. Appellant and the name and address of counsel for each appellant:

STEVEN S. OWENS, ESQ.
Nevada Bar No. 4352
1000 N. Green Valley #440-529
Henderson, Nevada 89074
Attorney for Defendant

GERALD WHATLEY, JR., Appellant

4. Respondent and the name and address of appellate counsel:

STEVEN B. WOLFSON
Clark County, Nevada District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89101

STATE OF NEVADA, Respondent

5. Whether any attorney identified above is not licensed to practice law in Nevada:

1 Licensed

2 **6. Whether appellant was represented by appointed or retained counsel in the district**
3 **court:** Appointed

4 **7. Whether appellant is represented by appointed or retained counsel on appeal:**
5 Appointed

6 **8. Whether appellant was granted leave to proceed in forma pauperis, and the date of**
7 **entry of the district court order granting such leave:** N/A

9 **9. Date the proceedings commenced in the district court:** August 2, 2021

10 **10. Brief description of the nature of the action and result in the district court, including**
11 **the type of judgment or order being appealed and the relief granted by the district court:**
12 This is a direct appeal from a judgment of conviction in a criminal case following a jury trial.

13 **11. Whether the case has previously been the subject of an appeal to or original writ**
14 **proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number**
15 **of the prior proceedings:** Whatley v. State, SC#85077; Whatley v. District Court, SC#86185

16 **12. Whether this appeal involves child custody or visitation:** No

17 **13. If this is a civil case, whether this appeal involves the possibility of settlement:** No

18 DATED this 23rd day of February, 2024.

19
20
21 /s/ Steven S. Owens, Esq.
22 STEVEN S. OWENS, ESQ.
23 Nevada Bar No. 4352
24 1000 N. Green Valley #440-529
25 Henderson, Nevada 89074
26 (702) 595-1171
27 Attorney for Defendant
28 GERALD WHATLEY, JR.

CASE SUMMARY**CASE NO. C-21-357412-1**

State of Nevada
vs
Gerald Whatley, Jr.

§ Location: **Department 20**
§ Judicial Officer: **Johnson, Eric**
§ Filed on: **07/14/2021**
§ Case Number History:
§ Cross-Reference Case **C357412**
§ Number:
§ Defendant's Scope ID #: **2753951**
§ ITAG Case ID: **2488057**
§ Lower Court Case # Root: **19M24489**
§ Lower Court Case Number: **19M24489X**
§ Supreme Court No.: **85077**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF...*	484C.410.1	F	11/23/2019	Case Status:	06/01/2022 Closed
<i>Filed As:</i> RECKLESS DRIVING	F		8/2/2021		
Arrest: 08/01/2021	MET - Metro				

Related Cases

A-22-861330-W (Writ Related Case)

Statistical Closures

06/01/2022 Guilty Plea with Sentence (before trial) (CR)
06/01/2022 Jury Trial - Conviction - Criminal




DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number C-21-357412-1
Court Department 20
Date Assigned 04/26/2022
Judicial Officer Johnson, Eric

PARTY INFORMATION

		Lead Attorneys
Defendant	Whatley, Gerald Lee, Jr.	Pro Se
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

08/02/2021	 Information [1] Information	In #1
08/02/2021	 Criminal Bindover - Confidential [2] Criminal Bindover (Confidential)	In #2
08/02/2021	 Criminal Bindover [3] Criminal Bindover	In #3








CASE SUMMARY
CASE NO. C-21-357412-1

08/03/2021	 Guilty Plea Agreement Party: Defendant Whatley, Gerald Lee, Jr. <i>[4] Guilty Plea Agreement</i>	In #4
09/29/2021	 PSI <i>[5] Presentence Investigation Report (Unfiled) Confidential</i>	In #5
11/11/2021	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>[6] Transcript of Hearing Held on July 14, 2021</i>	In #6
12/29/2021	 Amended Information <i>[7] Amended Information</i>	In #7
12/29/2021	 Notice of Witnesses and/or Expert Witnesses <i>[8] State's Notice of Witnesses and/or Expert Witnesses [NRS 174.234]</i>	In #8
04/25/2022	 Jury List <i>[9] Jury List</i>	In #9
04/25/2022	 Amended Information <i>[10] Second Amended Information</i>	In #1
04/26/2022	 Verdict <i>[11] Verdict</i>	In #1
04/26/2022	 Instructions to the Jury <i>[12] Instructions to the Jury</i>	In #1
04/26/2022	 Amended Jury List <i>[13] Amended Jury List</i>	In #1
05/04/2022	 Amended Information <i>[14] Third Amended Information</i>	In #1
05/05/2022	 Amended Information <i>[15] Fourth Amended Information</i>	In #1
05/10/2022	 PSI - Supplemental PSI <i>[16] Supplemental Presentence Investigation Report (Unfiled) Confidential</i>	In #1
06/01/2022	 Criminal Order to Statistically Close Case <i>[17] Criminal Order to Statistically Close Case</i>	In #1
06/01/2022	 Judgment of Conviction <i>[18] Judgment of Conviction (Jury Trial)</i>	In #1

CASE SUMMARY
CASE NO. C-21-357412-1

06/16/2022	 Request Filed by: Defendant Whatley, Gerald Lee, Jr. <i>[19] Transcript Request</i>	In #1
06/20/2022	 Request Filed by: Defendant Whatley, Gerald Lee, Jr. <i>[20] Amended Transcript Request</i>	In #2
07/13/2022	 Recorders Transcript of Hearing <i>[21] Transcript of Hearing Held on December 16, 2021</i>	In #2
07/13/2022	 Recorders Transcript of Hearing <i>[22] Transcript of Hearing Held on May 26, 2022</i>	In #2
07/22/2022	 Notice of Acceptance of Offer Filed By: Defendant Whatley, Gerald Lee, Jr. <i>[23] Notice of Appeal</i>	In #2
07/22/2022	 Case Appeal Statement Filed By: Defendant Whatley, Gerald Lee, Jr. <i>[24] Case appeal statement</i>	In #2
07/22/2022	 Notice of Appeal (Criminal) Party: Defendant Whatley, Gerald Lee, Jr. <i>[25] Notice of Appeal</i>	In #2
08/01/2022	 Court Recorders Invoice for Transcript <i>[26] Court Recorder's Invoice (Unfiled)</i>	In #2
08/03/2022	 Recorders Transcript of Hearing <i>[27] Transcript of Hearing Held on December 16, 2021</i>	In #2
08/03/2022	 Recorders Transcript of Hearing <i>[28] Transcript of Hearing Held on May 26, 2022</i>	In #2
08/04/2022	 Recorders Transcript of Hearing <i>[29] Transcript of Hearing Held on April 25, 2022</i>	In #2
08/04/2022	 Recorders Transcript of Hearing <i>[30] Transcript of Hearing Held on April 26, 2022</i>	In #2
10/19/2022	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[31] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>	In #2
11/15/2022	 Motion to Dismiss Counsel Party: Defendant Whatley, Gerald Lee, Jr. <i>[32] Motion to Withdraw Attorney of Record and Request for Transcripts inter alia</i>	In #2

CASE SUMMARY
CASE NO. C-21-357412-1

01/03/2024	 Opposition Filed By: Plaintiff State of Nevada <i>[33] State's Opposition to Petitioner's Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant</i>	In #:
01/31/2024	 Motion Filed By: Plaintiff State of Nevada <i>[34] Motion to Refer Defendant to Department of Corrections for Forfeiture of Statutory Credits</i>	In #:
01/31/2024	 Clerk's Notice of Hearing <i>[35] Clerk's Notice of Hearing</i>	In #:
02/05/2024	 Motion for Appointment of Attorney Filed By: Defendant Whatley, Gerald Lee, Jr. <i>[36] Motion for Court Appointed Counsel</i>	In #:
02/22/2024	 Order <i>[37] Order Appointing Counsel</i>	In #:
02/23/2024	 Notice of Appeal (Criminal) <i>[38] Notice of Appeal</i>	In #:
02/23/2024	 Case Appeal Statement Filed By: Defendant Whatley, Gerald Lee, Jr. <i>[39] Case Appeal Statement</i>	In #:
<u>DISPOSITIONS</u>		
08/03/2021	Plea (Judicial Officer: Johnson, Eric) 1. RECKLESS DRIVING Guilty PCN: Sequence:	
12/16/2021	Amended Plea (Judicial Officer: Johnson, Eric) Reason: Plea Withdrawn 1. RECKLESS DRIVING Plea Withdrawn PCN: Sequence:	
04/25/2022	Amended Plea (Judicial Officer: Johnson, Eric) Reason: Amended Plea Withdrawn 1. DRIVING UNDER THE INFLUENCE Not Guilty PCN: Sequence:	
04/26/2022	Disposition (Judicial Officer: Johnson, Eric) 1. DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE *...* Guilty PCN: Sequence:	
05/05/2022	Amended Plea (Judicial Officer: Johnson, Eric) Reason: Amended 1. DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER	

CASE SUMMARY**CASE NO. C-21-357412-1**

THE INFLUENCE OF...*

Guilty

PCN: Sequence:

05/05/2022 **Amended Disposition** (Judicial Officer: Johnson, Eric) Reason: Amended

1. DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF...*

Guilty

PCN: Sequence:

05/26/2022 **Adult Adjudication** (Judicial Officer: Johnson, Eric)

1. DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF...*

11/23/2019 (F) 484C.410.1 (DC53916)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:4 Years, Maximum:15 Years

Credit for Time Served: 31 Days


Condition

1. Interlock Device, pursuant to NRS 484C.340, 484C.460, prior to any reinstatement of driving privileges, the Defendant shall have an Interlock Device installed and inspected on Defendant s vehicle at Defendant s expense for a period of 36 months, said period to commence after any period of imprisonment, residential confinement, confinement in a treatment facility or on parole or probation

Fee Totals:

Administrative Assessment Fee	25.00
\$25	
Criminal Fine	2,000.00
DNA Fee \$150	150.00
Genetic Marker Analysis AA Fee	3.00
\$3	

Fee Totals \$	2,178.00
---------------	----------

HEARINGS08/03/2021  **Initial Arraignment** (10:00 AM) (Judicial Officer: Johnson, Eric)**MINUTES**

Plea Entered;

Journal Entry Details:

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED ELECTRONICALLY. DEFT. WHATLEY ARRAIGNED AND PLED GUILTY TO RECKLESS DRIVING (F). Court ACCEPTED plea and ORDERED, matter REFERRED to the Division of Parole and Probation (P & P) and SET for SENTENCING. Court DIRECTED Def. to report to P & P immediately. OR 11/30/2021 10:00 AM SENTENCING;

SCHEDULED HEARINGS**Sentencing** (11/30/2021 at 9:30 AM) (Judicial Officer: Johnson, Eric)11/30/2021  **Sentencing** (9:30 AM) (Judicial Officer: Johnson, Eric)**MINUTES**

Continued;

Journal Entry Details:

Court noted this was the time set for sentencing, however, it wanted more information regarding the negotiations and stated it was not inclined to follow the negotiations without further information. Mr. Smith requested the matter be continued for the negotiating deputy to be present. COURT ORDERED, matter CONTINUED. OR CONTINUED TO: 12/16/2021 9:30 AM;

SCHEDULED HEARINGS

CASE SUMMARY**CASE NO. C-21-357412-1****Sentencing** (12/16/2021 at 9:30 AM) (Judicial Officer: Johnson, Eric)

12/16/2021

**Sentencing** (9:30 AM) (Judicial Officer: Johnson, Eric)**MINUTES**

Trial Date Set;

Journal Entry Details:

Court noted this matter was previously on for sentencing and the Court had serious concerns with the negotiations, therefore it continued to matter for further explanation. Mr. Lexus provided the reasoning behind the negotiations. Court stated it was not inclined to grant the Defendant probation and would allow the Defendant to withdraw his plea if he chose. Ms. Park argued for the Court to follow the negotiations. Colloquy as to whether the Court wanted Defendant to file a written motion to withdraw plea. Mr. Lexus stated the State had no objection to the Defendant withdrawing his plea. Ms. Park orally requested to withdraw the plea and trial date set in ordinary course. COURT ORDERED, Defendant's oral motion to withdraw plea GRANTED and trial date SET. OR 04/19/2022 8:30 AM CALENDAR CALL 04/25/2022 9:00 AM TRIAL DATE;

SCHEDULED HEARINGS**Calendar Call** (04/19/2022 at 8:30 AM) (Judicial Officer: Johnson, Eric)**CANCELED Jury Trial** (04/26/2022 at 10:00 AM) (Judicial Officer: Johnson, Eric)*Vacated*

02/01/2022

**Status Check: Trial Setting** (9:30 AM) (Judicial Officer: Johnson, Eric)*Status Check: Reset Trial (Defendant has not Waived Speedy Trial)*

Matter Heard;

Journal Entry Details:

Court noted this was a status check to verify the Defendant waived his right to a speedy trial when the trial dates were set at the December 16, 2021 hearing. Following colloquy, Defendant waived his right to a speedy trial. COURT stated, trial dates STAND. OR;

04/19/2022

**Calendar Call** (8:30 AM) (Judicial Officer: Johnson, Eric)

Matter Heard;

Journal Entry Details:

Court noted this was the time for calendar call and inquired where the matter stood. Mr. Lexus announced ready for the State. Ms. Park stated she would be ready, however, she has a conflict next week as it was her contract week with North Las Vegas Municipal Court and she would need to handle morning calendar in municipal court before the trial start time Monday - Thursday. Colloquy regarding scheduling. Mr. Lexus stated the trial should be quick and he did not anticipate a problem if the trial started around 11:30 am or 12:00 pm Monday - Thursday. COURT SO NOTED and ORDERED, central calendar call SET. OR 04/20/2022 2:00 PM CENTRAL CALENDAR CALL (LLA);

04/20/2022

**Central Calendar Call** (2:00 PM) (Judicial Officer: Trujillo, Monica)*Central Calendar Call: 3 Days / 5-7 Witnesses*

Matter Heard;

Journal Entry Details:

Court noted deft not present. Upon Court's Inquiry, matter has not resolved. Both sides are ready for trial. COURT ORDERED, Matter SET for jury trial. O.R. 4/26/22 10:00 A.M. JURY TRIAL (DEPT 1);

04/25/2022

**Jury Trial** (9:00 AM) (Judicial Officer: Johnson, Eric)

Matter Heard;

Journal Entry Details:

2nd Amended Information FILED IN OPEN COURT OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Lexus advised a 2nd amended information was being filed removing NRS statute numbers from the description of the charge. No opposition from Ms. Park. Colloquy regarding trial schedule. PROSPECTIVE JURY PANEL PRESENT: Vior dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding releasing jurors for hardship. PROSPECTIVE JURY PANEL PRESENT: Vior dire continued. Preemptory challenges exercised. Jury selected and sworn. Clerk the 2nd Amended Information. Opening statements by Mr. Lexus and Ms. Park. COURT ORDERED, matter CONTINUED. OUTSIDE THE PRESENCE OF THE JURY PANEL: Jury instructions SETTLED on the record. Court advised Deft. of his right not to testify. Evening recess. OR CONTINUED TO: 04/26/2022 11:00 AM;

04/26/2022

CANCELED Jury Trial (10:00 AM) (Judicial Officer: Johnson, Eric)

CASE SUMMARY**CASE NO. C-21-357412-1**

Vacated

04/26/2022

**Jury Trial** (11:00 AM) (Judicial Officer: Johnson, Eric)**MINUTES**

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Court ADMONISHED Deft. for being late. JURY PRESENT: Testimony and exhibits presented. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Mr. Lexis wanted to note drinking after the fact was not a valid defense which could be raised. Upon Court's inquiry, Ms. Park stated they were not raising this defense. COURT ORDERED, drinking after the fact could not be used as a defense. Upon Court's inquiry as to Ms. Park and Defendant being on the same elevator as juror, Ms. Park stated her and the Defendant were on the elevator and the juror stepped in; there was no contact. While in the elevator the Defendant did state to her he was stressed. Based upon Ms. Park's representation of the events, Mr. Meng had no objections to continuing. JURY PRESENT: Testimony and exhibits presented. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Court advised the Defendant of his right not to testify. JURY PRESENT: State RESTS. Defense RESTS. Closing argument by Mr. Meng on behalf of the State. Closing argument by Ms. Park. Rebuttal closing argument by Mr. Lexis on behalf of the State. At the hour of 2:45pm, the jury RETIRED to deliberate. JURY PRESENT: all parties present as before except Mr. Lexis. At the hour of 4:15pm, the jury returned with a verdict in accordance with the written verdict, which was FILED IN OPEN COURT. Jury FOUND Defendant GUILTY of DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR ALCOHOL. Jury thanked and excused. OUTSIDE THE PRESENCE OF THE JURY: Mr. Meng orally requested the Defendant be remanded into custody. Arguments by Mr. Meng and Ms. Park. COURT stated its FINDINGS and ORDERED, Defendant REMANDED INTO CUSTODY. Following colloquy regarding the Presentence Investigation (PSI) Report completed 9/29/2021, COURT FURTHER ORDERED, matter referred to the Division of Parole and Probation (P&P) for a supplemental PSI and sentencing SET. CUSTODY 05/26/2022 8:30 AM SENTENCING;

SCHEDULED HEARINGS**Sentencing** (05/26/2022 at 8:30 AM) (Judicial Officer: Johnson, Eric)

04/26/2022

**Minute Order** (1:00 PM) (Judicial Officer: Jones, Tierra)

Minute Order - No Hearing Held;

Journal Entry Details:

As this case was originally assigned to Department 20, and then reassigned to Department 1 through Central Trial Calendar Call, after Central Calendar Call, Department 20 became available for trial in the instant case. Pursuant to EDCR 1.31(b)(4), this case is reassigned to Department 20.;

05/26/2022

**Sentencing** (8:30 AM) (Judicial Officer: Johnson, Eric)

Defendant Sentenced;

Journal Entry Details:

Upon Court's inquiry, Ms. Park, and Defendant advised there are no issues with the Presentence Investigation (PSI) Report pursuant to the Stockmeier decision. Exhibit Presented (See Worksheet). DEFT WHATLEY ADJUDGED GUILTY of DRIVING AND OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR ALCOHOL (F). Arguments by counsel and statement by Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, and the \$150.00 DNA Analysis fee including testing to determine genetic markers WAIVED as previously taken, \$3.00 DNA Collection Fee and a \$2000.00 fine. Deft. SENTENCED to a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of FOUR (4) YEARS in the Nevada Department of Corrections (NDC) with THIRTY-ONE (31) DAYS credit for time served. COURT FURTHER ORDERED, pursuant to NRS 484C.340 and NRS 484C.460, prior to reinstatement of the Defendant's driving privileges, an interlock device shall be installed and inspected on his vehicle at the Defendant's expense for a period of 36 months, said period to commence after any period of imprisonment, residential confinement, confinement in a treatment facility, or on parole or probation. BOND, if any, EXONERATED. NDC;

12/06/2022

**Motion** (8:30 AM) (Judicial Officer: Johnson, Eric)

Motion to Withdraw Counsel and for Transcripts

Motion Granted; Motion to Withdraw Counsel and for Transcripts

Journal Entry Details:

COURT ORDERED, Defendant's Motion to Withdraw Counsel and for Transcripts, GRANTED. Ms. Park to provide Defendant a copy of his file. NDC CLERK'S NOTE: The above minute order was emailed to: Leslie Park at leslieparklaw@gmail.com. /lg 12-6-22;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-21-357412-1

02/15/2024	Motion (8:30 AM) (Judicial Officer: Johnson, Eric) Matter Heard;	
02/15/2024	Motion for Appointment of Attorney (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Motion for Court Appointed Counsel</i> Counsel Confirmed;	

DATE	FINANCIAL INFORMATION	
	Defendant Whatley, Gerald Lee, Jr.	
	Total Charges	2,238.80
	Total Payments and Credits	142.10
	Balance Due as of 2/26/2024	2,096.70

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GERALD LEE WHATLEY, JR., aka
Gerald L. Whatley Jr.
#2753951

Defendant.

CASE NO. C-21-357412-1

DEPT. NO. XX

JUDGMENT OF CONVICTION
(JURY TRIAL)

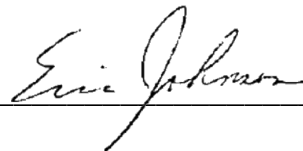
The Defendant previously entered a plea of not guilty to the crime of DRIVING UNDER THE INFLUENCE (Category B Felony) in violation of NRS 484C.110, 484C.410, 484C.105, and the matter having been tried before a jury and the Defendant having been found guilty of the crime of DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR ALCOHOL (Category B Felony) in violation of NRS 484C.110, 484C.410, 484C.105; thereafter, on the 26th day of May, 2022, the Defendant was present in court for sentencing with counsel LESLIE A. PARK, Esq., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said felony offense(s) and, in addition to the \$25.00 Administrative Assessment Fee, \$2,000.00 Fine and \$150.00 DNA Analysis Fee including testing to determine genetic markers, WAIVED if previously

1 taken, plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the Nevada
2 Department of Corrections (NDC) as follows: a MAXIMUM of FIFTEEN (15) YEARS
3 with a MINIMUM parole eligibility of FOUR (4) YEARS; with THIRTY-ONE (31) DAYS
4 credit for time served.
5

6 COURT FURTHER ORDERED, pursuant to NRS 484C.340, 484C.460, prior to
7 any reinstatement of driving privileges, the Defendant shall have an Interlock Device
8 installed and inspected on Defendant's vehicle at Defendant's expense for a period of
9 36 months, said period to commence after any period of imprisonment, residential
10 confinement, confinement in a treatment facility or on parole or probation.
11
12
13
14
15
16

17 Dated this 1st day of June, 2022

18
19 
20

21 1FA AD4 30E2 ABF0
22 Eric Johnson
23 District Court Judge
24
25
26
27
28

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-21-357412-1

7 vs

DEPT. NO. Department 20

8 Gerald Whatley, Jr.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 03, 2021

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

August 03, 2021 10:00 AM Initial Arraignment

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Park, Leslie A.	Attorney
	State of Nevada	Plaintiff
	Torre, John T.	Attorney
	Whatley, Gerald Lee	Defendant

JOURNAL ENTRIES

- NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED ELECTRONICALLY. DEFT. WHATLEY ARRAIGNED AND PLED GUILTY TO RECKLESS DRIVING (F). Court ACCEPTED plea and ORDERED, matter REFERRED to the Division of Parole and Probation (P & P) and SET for SENTENCING. Court DIRECTED Deft. to report to P & P immediately.

OR

11/30/2021 10:00 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 30, 2021

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

November 30, 2021 9:30 AM Sentencing

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Park, Leslie A.	Attorney
	Smith, Tyler D.	Attorney
	State of Nevada	Plaintiff
	Whatley, Gerald Lee	Defendant

JOURNAL ENTRIES

- Court noted this was the time set for sentencing, however, it wanted more information regarding the negotiations and stated it was not inclined to follow the negotiations without further information. Mr. Smith requested the matter be continued for the negotiating deputy to be present. COURT ORDERED, matter CONTINUED.

OR

CONTINUED TO: 12/16/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 16, 2021

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

December 16, 2021 9:30 AM Sentencing

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:	Lexis, Chad N.	Attorney
	Park, Leslie A.	Attorney
	State of Nevada	Plaintiff
	Whatley, Gerald Lee	Defendant

JOURNAL ENTRIES

- Court noted this matter was previously on for sentencing and the Court had serious concerns with the negotiations, therefore it continued to matter for further explanation. Mr. Lexus provided the reasoning behind the negotiations. Court stated it was not inclined to grant the Defendant probation and would allow the Defendant to withdraw his plea if he chose. Ms. Park argued for the Court to follow the negotiations. Colloquy as to whether the Court wanted Defendant to file a written motion to withdraw plea. Mr. Lexus stated the State had no objection to the Defendant withdrawing his plea. Ms. Park orally requested to withdraw the plea and trial date set in ordinary course. COURT ORDERED, Defendant's oral motion to withdraw plea GRANTED and trial date SET.

OR

04/19/2022 8:30 AM CALENDAR CALL

C-21-357412-1

04/25/2022 9:00 AM TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 01, 2022

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

February 01, 2022 9:30 AM Status Check: Trial Setting

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Park, Leslie A.	Attorney
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney
	Whatley, Gerald Lee, Jr.	Defendant

JOURNAL ENTRIES

- Court noted this was a status check to verify the Defendant waived his right to a speedy trial when the trial dates were set at the December 16, 2021 hearing. Following colloquy, Defendant waived his right to a speedy trial. COURT stated, trial dates STAND.

OR

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 19, 2022

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

April 19, 2022 8:30 AM Calendar Call

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Angie Calvillo
 Connie Coll

REPORTER:

PARTIES

PRESENT: Lexis, Chad N. Attorney
 Park, Leslie A. Attorney
 State of Nevada Plaintiff
 Whatley, Gerald Lee, Jr. Defendant

JOURNAL ENTRIES

- Court noted this was the time for calendar call and inquired where the matter stood. Mr. Lexis announced ready for the State. Ms. Park stated she would be ready, however, she has a conflict next week as it was her contract week with North Las Vegas Municipal Court and she would need to handle morning calendar in municipal court before the trial start time Monday - Thursday. Colloquy regarding scheduling. Mr. Lexis stated the trial should be quick and he did not anticipate a problem if the trial started around 11:30 am or 12:00 pm Monday - Thursday. COURT SO NOTED and ORDERED, central calendar call SET.

OR

04/20/2022 2:00 PM CENTRAL CALENDAR CALL (LLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 20, 2022

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

April 20, 2022 2:00 PM Central Calendar Call

HEARD BY: Trujillo, Monica **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Deriontae Green

RECORDER: Grecia Snow

REPORTER:

PARTIES

PRESENT: Lexis, Chad N. Attorney
 Park, Leslie A. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted deft not present.

Upon Court's Inquiry, matter has not resolved. Both sides are ready for trial. COURT ORDERED, Matter SET for jury trial.

O.R.

4/26/22 10:00 A.M. JURY TRIAL (DEPT 1)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 25, 2022

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

April 25, 2022 9:00 AM Jury Trial

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Lexis, Chad N.	Attorney
	Park, Leslie A.	Attorney
	State of Nevada	Plaintiff
	Whatley, Gerald Lee, Jr.	Defendant

JOURNAL ENTRIES

- 2nd Amended Information FILED IN OPEN COURT

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL:

Mr. Lexis advised a 2nd amended information was being filed removing NRS statute numbers from the description of the charge. No opposition from Ms. Park. Colloquy regarding trial schedule.

PROSPECTIVE JURY PANEL PRESENT:

Vior dire.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL:

Colloquy regarding releasing jurors for hardship.

PROSPECTIVE JURY PANEL PRESENT:

PRINT DATE: 02/26/2024

Page 8 of 16

Minutes Date: August 03, 2021

Vior dire continued. Preemptory challenges exercised. Jury selected and sworn. Clerk the 2nd Amended Information. Opening statements by Mr. Lexis and Ms. Park. COURT ORDERED, matter CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY PANEL:

Jury instructions SETTLED on the record. Court advised Deft. of his right not to testify. Evening recess.

OR

CONTINUED TO: 04/26/2022 11:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 26, 2022

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

April 26, 2022 11:00 AM Jury Trial

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Meng, Yu	Attorney
	Park, Leslie A.	Attorney
	State of Nevada	Plaintiff
	Whatley, Gerald Lee, Jr.	Defendant

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:
Court ADMONISHED Deft. for being late.

JURY PRESENT:
Testimony and exhibits presented. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY:
Mr. Lexis wanted to note drinking after the fact was not a valid defense which could be raised. Upon Court's inquiry, Ms. Park stated they were not raising this defense. COURT ORDERED, drinking after the fact could not be used as a defense. Upon Court's inquiry as to Ms. Park and Defendant being on the same elevator as juror, Ms. Park stated her and the Defendant were on the elevator and the juror stepped in; there was no contact. While in the elevator the Defendant did state to her he was stressed. Based upon Ms. Park's representation of the events, Mr. Meng had no objections to

continuing.

JURY PRESENT:

Testimony and exhibits presented. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY:

Court advised the Defendant of his right not to testify.

JURY PRESENT:

State RESTS. Defense RESTS. Closing argument by Mr. Meng on behalf of the State. Closing argument by Ms. Park. Rebuttal closing argument by Mr. Lexis on behalf of the State. At the hour of 2:45pm, the jury RETIRED to deliberate.

JURY PRESENT: all parties present as before except Mr. Lexis.

At the hour of 4:15pm, the jury returned with a verdict in accordance with the written verdict, which was FILED IN OPEN COURT. Jury FOUND Defendant GUILTY of DRIVING AND/OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR ALCOHOL. Jury thanked and excused.

OUTSIDE THE PRESENCE OF THE JURY:

Mr. Meng orally requested the Defendant be remanded into custody. Arguments by Mr. Meng and Ms. Park. COURT stated its FINDINGS and ORDERED, Defendant REMANDED INTO CUSTODY. Following colloquy regarding the Presentence Investigation (PSI) Report completed 9/29/2021, COURT FURTHER ORDERED, matter referred to the Division of Parole and Probation (P&P) for a supplemental PSI and sentencing SET.

CUSTODY

05/26/2022 8:30 AM SENTENCING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

April 26, 2022

C-21-357412-1 State of Nevada
vs
Gerald Whatley, Jr.

April 26, 2022 **1:00 PM** **Minute Order**

HEARD BY: Jones, Tierra **COURTROOM:** Chambers

COURT CLERK: Teri Berkshire

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- As this case was originally assigned to Department 20, and then reassigned to Department 1 through Central Trial Calendar Call, after Central Calendar Call, Department 20 became available for trial in the instant case. Pursuant to EDCR 1.31(b)(4), this case is reassigned to Department 20.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 26, 2022**

C-21-357412-1 State of Nevada
vs
Gerald Whatley, Jr.

May 26, 2022 8:30 AM Sentencing

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell
Shuron Dockery

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Meng, Yu	Attorney
	Park, Leslie A.	Attorney
	State of Nevada	Plaintiff
	Whatley, Gerald Lee, Jr.	Defendant

JOURNAL ENTRIES

- Upon Court's inquiry, Ms.Park, and Defendant advised there are no issues with the Presentence Investigation (PSI) Report pursuant to the Stockmeier decision.

Exhibit Presented (See Worksheet).

DEFT WHATLEY ADJUDGED GUILTY of DRIVING AND OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR ALCOHOL (F). Arguments by counsel and statement by Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, and the \$150.00 DNA Analysis fee including testing to determine genetic markers WAIVED as previously taken, \$3.00 DNA Collection Fee and a \$2000.00 fine. Deft. SENTENCED to a MAXIMUM of FIFTEEN (15) YEARS and a MINIMUM of FOUR (4) YEARS in the Nevada Department of Corrections (NDC) with THIRTY-

ONE (31) DAYS credit for time served.

COURT FURTHER ORDERED, pursuant to NRS 484C.340 and NRS 484C.460, prior to reinstatement of the Defendant's driving privileges, an interlock device shall be installed and inspected on his vehicle at the Defendant's expense for a period of 36 months, said period to commence after any period of imprisonment, residential confinement, confinement in a treatment facility, or on parole or probation.

BOND, if any, EXONERATED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 06, 2022

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

**December 06, 2022 8:30 AM Motion Motion to Withdraw
Counsel and for
Transcripts**

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Louisa Garcia

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Trippiedi, Hagar L Attorney

JOURNAL ENTRIES

- COURT ORDERED, Defendant's Motion to Withdraw Counsel and for Transcripts, GRANTED. Ms. Park to provide Defendant a copy of his file.

NDC

CLERK'S NOTE: The above minute order was emailed to: Leslie Park at leslieparklaw@gmail.com.
/lg 12-6-22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 15, 2024

C-21-357412-1 State of Nevada
 vs
 Gerald Whatley, Jr.

February 15, 2024 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Rudolph Zepeda

REPORTER:

PARTIES

PRESENT: Griffith, Brittni Attorney
 Owens, Steven S. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- MOTION FOR COURT APPOINTED COUNSEL . . .MOTION

Court noted this was on for a Motion for Court Appointed Counsel and inquired if Mr. Owens could accept the appointment. Mr. Owens stated he could. COURT SO APPOINTED. Colloquy regarding the current case standing. Court stated it believed a late appeal needed to be filed. Mr. Owens advised he would review the case and move forward.

NDC

EXHIBIT(S) LIST

Case No.: C357412

Trial Date:

04/25/2022

Dept. No.: XX

Judge: E. JOHNSON

Court Clerk: KATHRYN HANSEN-MCDOWELL

Plaintiff: STATE OF NEVADA

Recorder: ANGIE CALVILLO

Counsel for Plaintiff: DDA: CHAD LEXIS and

vs.

YU MENG

Defendant: GERALD WHATLEY, JR.

Counsel for Defendant: LESLIE PARK, ESQ

TRIAL BEFORE THE COURT

STATE'S

EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	CD - 911 call - Jerry Skibred	4/26/22	Stip	4/26/22
2	CD - 911 call - oscar castillo	4/26/22	Stip	4/26/22
3	photo - body camera shot of blood draw	4/26/22	NO	4/26/22
4	photo - aerial photo theme	4/26/22	NO	4/26/22
5	photo - aerial photo - close up theme.	4/26/22	NO	4/26/22
6	photo - white van - right side			
7	photo - " " - front			
8	photo - " " - front corner			
9	photo - " " - right side			
10	photo - " " - back			
11	photo - " " - back			
12	photo - " " - back			
13	photo - " " - left side.			
14	Forensic Lab Report - Gerald Whatley.			
15	LUMPD Declaration for blood draw			
16	Blood draw box and contents.	4/26/22	NO	4/26/22

EXHIBIT(S) LIST

Case No.: C357412

Trial Date:

04/25/2022

Dept. No.: XX

Judge: E. JOHNSON

Court Clerk: KATHRYN HANSEN-MCDOWELL

Plaintiff: STATE OF NEVADA

Recorder: ANGIE CALVILLO

Counsel for Plaintiff: DDA: CHAD LEXIS and

vs.

YU MENG

Defendant: GERALD WHATLEY, JR.

Counsel for Defendant: LESLIE PARK, ESQ

TRIAL BEFORE THE COURT

COURT'S

EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Amended JOC - C279225 - Whatley, Gerald			4/25/22
2	State's proposed Jury Instructions			4/25/22
3	Question from Juror #3 - asked			4/26/22
4	" " #8 - asked - Defense		yes	4/26/22
5	" " #7 no obj. asked			4/26/22
6	" " #8 no obj. asked			4/26/22
7	" " #3 no obj. asked			4/26/22
8	" " #2 no obj. asked			4/26/22
9	" " #3 no obj. asked		yes	4/26/22
10	" " #8 no obj. asked		yes	4/26/22
11	" " #8 no obj. asked			4/26/22
12	" " #3 no obj. asked			4/26/22
13	" " #7 no obj. asked			4/26/22
14	" " #3 no obj. asked			4/26/22
15	State's closing powerpoint.			4/26/22

EXHIBIT(S) LIST

Case No.: C-21-357412-1

Hearing / Trial Date: 5/24/22

Dept. No.: Probate XX

Commissioner: Wesley Yamashita 6. Johnson

Court Clerk: Sharon Pockery

Recorder

Counsel for Plaintiff: Yu Meng

VS.

Defendant: Gerald Lee Whatley

Counsel for Defendant: Leslie Park, Esq

HEARING / TRIAL BEFORE THE COURT

State's

EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; JUDGMENT OF CONVICTION (JURY TRIAL); DISTRICT COURT
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

GERALD J. WHATLEY, JR.,
aka GERALD LEE WHATLEY, JR,

Defendant(s).

Case No: C-21-357412-1

Dept No: XX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 26 day of February 2024.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk