

6/18/2021

Case Summary



Second Judicial District Court
State of Nevada
Washoe County

Elmer J. ...

Case Summary for Case: CR03-1601

STATE VS. JOHN SCOTT BURKETT (CR)

Case Number CR03-1601
Case Type CRIMINAL
Opened 07-28-2003
Status EVNTCLOSED

Plaintiff STATE OF NEVADA et al
Defendant JOHN SCOTT BURKETT
Judge HONORABLE TAMMY RIGGS - Division D3

Show/Hide Participants

STATE OF NEVADA	Plaintiff[s]	MEGAN RACHOW, ESQ.	Counsel of Record
JOHN SCOTT BURKETT	Defendant[s]	ROBERT PAUL FAHRENDORF, ESQ.	Counsel of Record
DIV. OF PAROLE & PROBATION	Parole & Probation[s]		Counsel of Record

File Date

Case History

01-19-2004	Transcript Filed
01-27-2004	** Exhibit(s) ... Filed
01-27-2004	Judgment of Conviction Filed
01-26-2004	Supplemental ... Filed
01-23-2004	PSI - Confidential Filed
11-04-2003	Guilty Plea Memo/Agreement Filed
11-07-2003	Notice of Witnesses Filed
09-05-2003	Transcript Filed
08-07-2003	Proceedings Filed
08-02-2003	Stip & Ord to Continue Filed
07-31-2003	Waiver of Preliminary Exam Filed
07-31-2003	Information Filed
07-31-2003	Application for Setting Filed
07-28-2003	Cash Bail Posted/Receipt Filed
07-27-2003	**Entire File Imaged** Filed
07-27-2003	**Entire File Imaged** PUBLIC DOCUMENTS
07-27-2003	**Entire File Imaged** Filed
	Document withheld. Document Security Level Exceeded



Second Judicial District Court ^(/)
 State of Nevada
 Washoe County

Detailed Case Information - CR03-1601

Case Number: CR03-1601 - STATE VS. JOHN SCOTT BURKETT (D3)

Filing Date: 07/28/2003

Case Type: CR - CRIMINAL

Status: Event Closed

Printer Friendly Version (/Query/PrintCaseInformation/CR03-1601) 

↓ Case Parties - Click to expand

Case Parties

Seq No.	Type	Name
1	JUDG - Judge	RIGGS, TAMMY
2	PLTF - Plaintiff	STATE OF NEVADA,
3	DEFT - Defendant	BURKETT, JOHN SCOTT
4	DATY - Attorney - Deft/Adverse/Resp	Fahrendorf, Esq., Robert Paul
7	DA - District Attorney	Rachow, Esq., Megan
8	PNP - Parole & Probation	Parole & Probation, Div. of

↓ Cross Reference Number(s) - Click to expand

Case Reference Numbers

Reference Number

313618



3. RCR2003009553

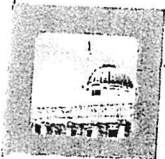
4. WCSO0305270

↓ Event Information - Click to expand

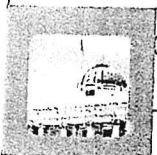
Event Information

Date/Time	Hearing Judge	Event Description	Outcome
1. 01/27/2004 at 8:30 AM	Honorable TAMMY RIGGS	H808 - SENTENCING	D765 - Sentenced filed on: 01/27/2004 Extra Text:
2. 12/15/2003 at 8:30 AM	Honorable TAMMY RIGGS	H536 - MOTION TO CONFIRM TRIAL	D802 - Set in Error filed on: 11/20/2003 Extra Text:
3. 12/15/2003 at 8:30 AM	Honorable TAMMY RIGGS	H852 - TRIAL - JURY	D845 - Vacated filed on: 12/04/2003 Extra Text:
4. 12/04/2003 at 8:30 AM	Honorable TAMMY RIGGS	H852 - TRIAL - JURY	D802 - Set in Error filed on: 11/20/2003 Extra Text:
5. 12/04/2003 at 8:30 AM	Honorable TAMMY RIGGS	H536 - MOTION TO CONFIRM TRIAL	D355 - Denied filed on: 12/04/2003 Extra Text:
6. 09/04/2003 at 8:30 AM	Honorable TAMMY RIGGS	H160 - ARRAIGNMENT	D725 - Pled Not Guilty filed on: 09/04/2003 Extra Text: INFORMATION
7. 08/07/2003 at 8:30 AM	Honorable TAMMY RIGGS	H160 - ARRAIGNMENT	D870 - Vacated - Stipulation & Ord filed on: 08/05/2003 Extra Text: Reset for September 4, 2003

↓ Docket Entry Information - Click to expand



1. PAYRC - **Payment Received	10/22/2004	Extra Text: A Payment of -\$2,150.00 was made on receipt DCDC131268.
2. 4185 - Transcript	02/10/2004	Extra Text: 1/27/04 SENTENCING
3. CHECK - **Trust Disbursement	01/28/2004	Extra Text: A Disbursement of \$8,000.00 on Check Number 10078
4. PAYRC - **Payment Received	01/27/2004	Extra Text: A Payment of -\$25.00 was made on receipt DCDC117131.
5. EXON - **Cash Bail/Bond Exonerated	01/27/2004	Extra Text:
6. 1850 - Judgment of Conviction	01/27/2004	Extra Text:
7. 1695 - ** Exhibit(s) ...	01/27/2004	Extra Text: 1 AND 2
8. 3800 - **Report Conviction DMV-Sent	01/27/2004	Extra Text:
9. 4105 - Supplemental ...	01/26/2004	Extra Text: MITIGATION INFORMATION
10. 4500 - PSI - Confidential	01/20/2004	Extra Text:
11. 1785 - Guilty Plea Memo/Agreement	12/04/2003	Extra Text:
12. 2592 - Notice of Witnesses	11/07/2003	Extra Text:
13. 4185 - Transcript	09/05/2003	Extra Text: 9/4/03 ARRAIGNMENT
14. 3700 - Proceedings	08/07/2003	Extra Text:
15. 4025 - Stip & Ord to Continue	08/05/2003	Extra Text: Arraignment. Arraignment cont'd to September 4, 2003
16. 4265 - Waiver of Preliminary Exam	07/31/2003	Extra Text:
17. 1800 - Information	07/31/2003	Extra Text:
18. 1250 - Application for Setting	07/31/2003	Extra Text: 8-7-03
19. CASH - Cash Bail Posted/Receipt	07/29/2003	Extra Text:
00 - **Entire File Imaged**	07/28/2003	Extra Text: PUBLIC DOCUMENTS
	07/28/2003	Extra Text:



22. 200 - **Entire File Imaged** 07/28/2003 Extra Text: CONFIDENTIAL DOCUMENTS

23. ECR - **Early Case Resolution** 07/28/2003 Extra Text:

The District Court is comprised of 15 Departments. Each Judge sits in a differently numbered Department. When a Judge leaves service, the new Judge's name replaces the former Judge's name on all matters pending and previously closed in that department. This change will not reflect that a previous sitting Judge presided over a matter.

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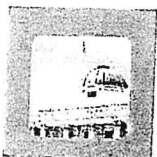
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75 Court Street, Reno, Nevada, 89501



CRIMINAL PROGRESS SHEET

-1601

INF. 7-31-03
AI. _____
2AI. _____
2INF. _____

FT: JOHN SCOTT BURKETT

@ 145983

LANGUAGE: _____

STUDY STATUS: CUSTODY [] NIC [] BAIL [] \$ _____ OR [] OR [] W/COURT SERVICES

R. DATE: 9-14-03 DEPT. NO. 3 REPORTER: J. Dotson CLERK: C. Patterson
P. Meacham

DEFENDANT NAME: _____ HANDED COPY

WAIVED 60 DAY RULE: YES NO [] DATE: _____ WAIVED READING

& P Ref: _____ [] REQUESTED TIME TO PLEA

NOT GUILTY By: Deft GUILTY [] ALFORD [] NC [] TO: Information

REMANDED TO JUSTICE COURT FOR FURTHER PROCEEDINGS: _____

OPTION FOR PSYCH. EVAL: DATE: _____ DEPT. NO. _____ APPTD. DRS.: _____ & _____

REPORT ON PSYCH. EVAL: DATE: _____ DEPT. NO. _____ REPORTER: _____ CLERK: _____

COURT FOUND DEFT: [] COMPETENT [] REMANDED J.C. [] INCOMPETENT; DEFT REMANDED LAKES

COUNTRY OF PLEA: DATE: _____ DEPT. NO.* _____ REPORTER: _____ CLERK: _____

NOT GUILTY [] By: _____ GUILTY [] ALFORD [] NC [] TO: _____

[] WAIVED PSI P & P Ref: _____ Waived 60-day Rule Yes [] No []

RANGE OF PLEA: DATE: 12-4-03 DEPT. NO. 3 REPORTER: J. Schindler CLERK: C. Patterson

ALFORD [] NC [] TO: Information

[] WAIVED PSI P & P Ref: P. Clemens TRIAL DATE OF: 12-15-03 VACATED

CONTINUED TO: 12-4-03 @ 8:30 FOR: MTC

CONTINUED TO: 12-15-03 @ 8:30 FOR: Jury Trial Vacated 12-4-03

CONTINUED TO: 1-27-04 @ 8:30 FOR: Sentencing

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CRIMINAL PROGRESS SHEET CONTINUED

SE NO. CR03-1601

ADJUDICATION DEFERRED: DATE: _____ DEPT. NO. ___ REPORTER: _____ CLERK: _____

S 453 [] NRS 458 [] PROBATION: _____ \$25 AAF [] \$60 CAF [] \$150 DNA []

RESTITUTION: \$ _____ ATTY. FEES: \$ _____

CASE TRANSFERRED TO DEPT. 7/DIVERSION COURT [] DEPT. ___ RETAINED JURISDICTION []

STATUS REVOKED DEFERRED STATUS: DATE: _____ DEPT. NO. ___ REPORTER: _____ CLERK: _____

SENTENCED [] DEFT FORMALLY SENTENCED

STATUS: _____ DEPT. NO. ___ REPORTER: _____ CLERK: _____

190 DAY REGIMENTAL DISCIPLINE - CONTINUED TO: _____ FOR: SENTENCING

SENTENCING: DATE: 1-27-04 DEPT. NO. 3 REPORTER: J. Dotson CLERK: P. Meacham

POSITION NDXC 18-50 MOS

AAF \$60 CAF \$150 DNA \$ _____ PSE FEE [] \$35 DBA [] ATTY FEES: \$ _____

RESTITUTION: \$ 2,000 RESTITUTION: \$ _____ BAIL EXONERATED: [] TIME SERVED: 2

PROBATION REVOKED: [] DATE: _____ DEPT. NO. ___ REPORTER: _____ CLERK: _____

TIME SERVED REVO: _____

REMARKS: _____

STATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

1/27/04
HONORABLE
EROME M.
OLAHA
COURT NO. 3
Meacham
(Clerk)
Dotson
(Reporter)

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

Deputy District Attorney Kristen Erickson represented the State. Defendant was present and represented by counsel, Robert Fahrendorf, Esq. Probation Officer Linda Shipley was also present. Defense counsel addressed the Court arguing for 12 - 30 mos and a \$2,000.00 fine. **State's exhibits 1 and 2 marked for identification, no objection, ADMITTED.** Counsel for the State addressed the Court arguing for 18 - 38 mos. Linda Shipley for the division addressed the Court in support of the PSI Defendant addressed the Court on his own behalf.

COURT ORDERED: Defendant adjudged guilty and sentenced to imprisonment in the Nevada Department of Corrections for a minimum term of eighteen (18) months to a maximum term of fifty (50) months, with credit for two (2) days time served and by payment of a fine in the amount of Two Thousand Dollars (\$2,000.00). It is further ordered that the Defendant submit to a DNA analysis test for the purpose of determining genetic markers and pay a testing fee of One Hundred Fifty Dollars (\$150.00); pay a Sixty Dollar (\$60.00) chemical analysis fee, and It is further ordered that the Defendant pay the statutory Twenty-five Dollar (\$25.00) administrative assessment.

Defendant remanded to the custody of the Sheriff.

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONTINUED TO
01/04/03 HONORABLE ROME M. BLAHA DEPT. NO. 3 Patterson (Clerk) Schonlau (Reporter)	<p><u>MOTION TO CONFIRM TRIAL/FOR CHANGE OF PLEA</u> Deputy District Attorneys Megan Rachow and Kristin Erickson represented the State. Defendant was present with counsel, Robert Fahrendorf, Esq. Probation Officer Pat Cerniglia was also present. Defendant moved to withdraw his former plea of Not Guilty; MOTION GRANTED. Defendant entered a plea of Guilty to Driving Under the Influence as contained in the Information. Plea negotiations stated. Court interrogated the Defendant, advised him of his rights, found that there was a factual basis for the plea and that the Defendant understood the elements of the offense and the possible punishment therefore; Court further found that the plea was knowing, voluntary and intelligent, that the Defendant was competent to enter the plea and accepted same. Court ordered Presentence Investigation and matter continued for entry of judgment and imposition of sentence. Trial date of December 15, 2003 ordered vacated. Defendant continued on bail status.</p>	01/27/04 8:30 a.m. Sentencing

CASE NO. CR03-1601

STATE OF NEVADA VS. JOHN SCOTT BURKETT

STATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/04/03

HONORABLE

ROMEO M.

OLAHA

SEPT. NO. 3

Patterson

Meacham

(clerk)

Dotson

(reporter)

ARRAIGNMENT

Deputy District Attorney Michael Mahaffey represented the State.

Defendant was present with counsel, Robert Fahrendorf. Probation

Officer Pat Cerniglia was also present.

TRUE NAME: JOHN SCOTT BURKETT. Defendant handed a copy
of the Information; waived reading.

Defendant entered a plea of Not Guilty; Defendant waived the 60-day
rule.

COURT ORDERED: Matter continued for trial by jury.

Defendant remained on bail status.

12/04/03

8:30 a.m.

Motion/Confirm

12/15/03

8:30 a.m.

Jury Trial

2 days

ORIGINAL FILED

1 4185

2 JOAN MARIE DOTSON

3 CCR #102

4 75 COURT STREET

5 RENO, NEVADA

FEB 10 2004
RONALD A. LONGTIN, JR., CLERK
By: [Signature]
DEPUTY CLERK

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE JEROME M. POLAHA, DISTRICT JUDGE

10 --oOo--

11 THE STATE OF NEVADA,
12 Plaintiff,

Case No. CR03-1601

13 vs.

Department No. 3

14 JOHN SCOTT BURKETT,
15 Defendant.

16 _____)
17 TRANSCRIPT OF PROCEEDINGS

18 SENTENCING

19 Tuesday, January 27th, 2004

20 8:30 A.M.

21 Reno, Nevada

22
23 Reported by: JOAN MARIE DOTSON
24 NV, CA AND UT CERTIFIED, REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

A P P E A R A N C E S

1
2
3
4 For the Plaintiff: OFFICE OF THE DISTRICT ATTORNEY
5 BY: KRISTIN ERICKSON
6 Deputy District Attorney
7 P.O. Box 11130
8 Reno, Nevada 89520
9

10
11 For the Defendant: ROBERT FAHRENDORF
12 Attorney at Law
13 Reno, Nevada
14

15
16 For the Department of
17 Parole & Probation: LINDA SHIPLEY
18
19
20
21
22
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24

1 TUESDAY, JANUARY 27TH, 2004; RENO, NEVADA

2 --oOo--

3 THE COURT: CR03-1601, State of Nevada verses John
4 Scott Burkett.

5 MS. ERICKSON: Kristin Erickson on behalf of the State.

6 MR. FAHRENDORF: Bob Fahrendorf on behalf of
7 Mr. Burkett.

8 PAROLE & PROBATION: Linda Shipley for the Division.

9 THE COURT: Good morning. This is the time set for the
10 entry of judgment and imposition of sentence in this matter.
11 I received the -- the presentence report dated January 15th.
12 Have you had an opportunity to review that?

13 MR. FAHRENDORF: We have, your Honor. We have no
14 corrections or additions to make to the report.

15 THE COURT: All right. And then I received the
16 January -- on January 26th, the supplemental mitigation
17 information. I read the letters that were included in that.

18 Mr. Burkett is aware that it is mandatory
19 prison.

20 MR. FAHRENDORF: He is aware of that.

21 THE COURT: Because the letters were asking for
22 probation.

23 MR. FAHRENDORF: I understand that, your Honor. And
24 Mr. Burkett is aware that this is a nonprobatable offense.

1 THE COURT: All right. Your position?

2 MR. FAHRENDORF: Your Honor, in fact you can see from
3 his attire today, Mr. Burkett is prepared today to turn
4 himself in. We have spoken with your deputies prior to this
5 proceeding beginning. And he is aware that he is going into
6 custody immediately after this proceeding ends.

7 From the letters that you have received on
8 his behalf, I am requesting that the court impose twelve to
9 thirty months in the Nevada State Prison as well as a two
10 thousand dollar fine. Other than that, I have nothing to add
11 unless the Court has questions.

12 THE COURT: All right. Miss Erickson?

13 MS. ERICKSON: Your Honor, at this time the State would
14 ask to have marked and admitted certified copies of the prior
15 convictions which have previously been presented to the
16 defense.

17 THE CLERK: Exhibits 1 and 2 marked for
18 identification.

19 THE COURT: All right. Any objection?

20 MR. FAHRENDORF: No, your Honor.

21 THE COURT: All right. I looked at one and two. And
22 they will be admitted. And they are found to be
23 constitutionally valid.

24 And the State's position?

1 MS. ERICKSON: Your Honor, the State would recommend
2 eighteen to forty-eight months in the Nevada State Prison and
3 a two thousand dollar fine.

4 THE COURT: All right. Miss Shipley?

5 PAROLE & PROBATION: Thank you, your Honor. The
6 Division notes the defendant's previous criminal history
7 where in 1988 he was convicted of vehicular manslaughter with
8 gross negligence and was sentenced to six years in prison.

9 And within four years of his release he was
10 again arrested for driving under the influence and convicted.

11 Within five years of that conviction he was
12 arrested and convicted of another -- of driving under the
13 influence a second offense. Within two years of that
14 conviction he was arrested and convicted of another driving
15 under the influence second offense.

16 This driving under the influence third
17 offense -- it appears that the defendant hasn't learned
18 anything by his stay in prison. He continues to drink and
19 drive. I don't know what -- his motivations are. The
20 Division believes that the maximum sentence is appropriate in
21 this case; that he hasn't -- learned his lesson previously.
22 And we would ask that you follow the recommendation.

23 THE COURT: All right. Any just or legal cause why
24 judgment should not now be entered?

1 MR. FAHRENDORF: No, your Honor.

2 THE COURT: There being none, the Court does adjudge
3 John Scott Burkett guilty of the felony offense driving under
4 the influence, a violation of NRS 484.379 and 484.3792, by
5 virtue of his plea of guilty taken December 4th, 2003.

6 Mr. Burkett, the law gives you an
7 opportunity to address the Court in mitigation of
8 punishment. You may take that opportunity at this time, if
9 you wish.

10 THE DEFENDANT: Your Honor, all I have to say is I am
11 ready to do whatever you impose. I can only apologize to you
12 and the court at this time.

13 THE COURT: What have you done as far as your
14 problem? Because -- I mean, obviously you have a serious
15 problem.

16 THE DEFENDANT: Yes, your Honor. I understand that. I
17 have gone through Sunrise Counseling, sunrise Counseling for
18 a year and made it through that counseling procedure. And
19 I -- I don't know what to say, your Honor.

20 THE COURT: All right.

21 THE DEFENDANT: It is a problem that I am willing to do
22 anything else I can at this time.

23 THE COURT: All right. In accordance with the laws of
24 the State of Nevada, I do hereby sentence you, John Scott

1 Burkett, to a maximum term of imprisonment of fifty months
2 with a minimum parole eligibility of twenty.

3 Excuse me, eighteen, eighteen.

4 You will be given credit for two days. In
5 addition I am assessing a fine against you in the amount of
6 two thousand dollars. I am ordering you to undergo genetic
7 marker testing and I am assessing a one hundred fifty dollar
8 fee for that. I am assessing a sixty-dollar chemical
9 analysis fee and a twenty-five dollar administrative
10 assessment fee. You will be given credit for two days time
11 served. Anything further?

12 MR. FAHRENDORF: Nothing further. Thank you.

13 MS. ERICKSON: Nothing further. Thank you.

14
15 (At this time the foregoing proceedings were concluded.)
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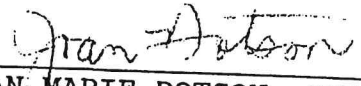
1 STATE OF NEVADA)
2)ss.
3 COUNTY OF WASHOE)

4 I, JOAN MARIE DOTSON, a Certified Shorthand
5 Reporter for the Second Judicial District Court of the State
6 of Nevada in and for the County of Washoe DO HEREBY CERTIFY;

7 That I was present in Department No. 3 of
8 the above-entitled court on Tuesday, January 27th, 2004 and
9 took verbatim stenotype notes of the proceedings and
10 thereafter transcribed them into typewriting as herein
11 appears;

12 That the foregoing transcript is a full,
13 true and correct transcription of my said stenotype notes and
14 is a full, true and correct record of the proceedings had and
15 the testimony given in the above-entitled action to the best
16 of my knowledge, skill and ability.

17
18
19 DATED: This 9th day of February, 2004.
20

21
22 
23 _____
24 JOAN MARIE DOTSON, CSR #102

FILED

JAN 27 2004

RONALD A. LONGTIN, JR., CLERK

By: _____
DEPUTY CLERK

1 CODE 1850

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

12 **JOHN SCOTT BURKETT,**

13 **Defendant.**

Case No. CR03-1601

Dept. No. 3


14 _____ /
15 **JUDGMENT**

16 The Defendant, having entered a plea of Guilty to the charge contained in the
17 Information; and, the Court having personally reviewed the prior convictions, made a
18 finding that the Defendant has suffered two (2) or more constitutionally valid prior DUI type
19 convictions within the last seven (7) years, and no sufficient cause being shown by
20 Defendant as to why judgment should not be pronounced against him, the Court rendered
21 judgment as follows:

22 That John Scott Burkett is guilty of the crime of Driving Under the Influence ,
23 a violation of NRS 484.379 and NRS 484.3792, a felony, as charged in Information, and
24 that he be punished by imprisonment in the Nevada Department of Corrections for a
25 minimum term of eighteen (18) months to a maximum term of fifty (50) months, with credit
26 for two (2) days time served and by payment of a fine in the amount of Two Thousand
27 Dollars (\$2,000.00). It is further ordered that the Defendant submit to a DNA analysis test
28 for the purpose of determining genetic markers and pay a testing fee of One Hundred Fifty

1 Dollars (\$150.00); pay a Sixty Dollar (\$60.00) chemical analysis fee, and It is further
2 ordered that the Defendant pay the statutory Twenty-five Dollar (\$25.00) administrative
3 assessment.

4 Dated this 27th day of January, 2004.

5
6
7 
8 JEROME M. POLAHA
9 DISTRICT JUDGE
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ORIGINAL

FILED

2004 JAN 26 AM 9:53

ROBERT P. FAHRENDORF, JR.

BY: [Signature]

1960

1 Robert P. Fahrendorf, Esq.
2 Nevada Bar No. 000209
3 LANE, FAHRENDORF,
4 VILORIA & OLPHANT, LLP
5 P.O. Box 3677
6 Reno, NV 89505
7 (775)348-9999
8 Attorney for Defendant

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
11 IN AND FOR THE COUNTY OF WAHSOE

12 * * *

13 THE STATE OF NEVADA,
14 Plaintiff,

Case No. CR03-1601

Dept. No. 3

15 vs.

16 JOHN SCOTT BURKETT,
17 Defendant.

18 SUPPLEMENTAL MITIGATION INFORMATION

19 Defendant, JOHN SCOTT BURKETT, by and through his attorney, Robert P.
20 Fahrendorf, Esq. of Lane, Fahrendorf, Viloria & Oliphant, LLP, submits the attached information
21 in mitigation of sentencing set for January 27, 2004.

22 DATED this 26 day of January, 2004.

23 LANE, FAHRENDORF,
24 VILORIA & OLIPHANT, LLP

25 By: [Signature]
26 Robert P. Fahrendorf, Esq.

COUNSELORS AT LAW
Office: (775) 348-9999 Fax: (775) 348-0540
P. O. BOX 3677 ~ RENO, NEVADA 89505
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

VILORIA &
OLIPHANT
L.L.P.

1/27

28

December 8, 2003

The Honorable Judge Jerome Polaha
District Court

Reference: Mr. John Burkett

Dear Judge Polaha,

I am writing this letter to you on behalf on my partner John Burkett. John has been one of my key partners for over the past 10 years. Pacific West Companies is one of the largest developers for Affordable Housing in California and Nevada.

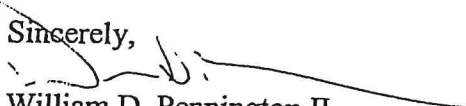
John's relationship within our company is instrumental in working with various City, State and Federal agencies. He is vital in the implementation of the necessary workload to help deliver these housing developments to individuals and families that need financial assistance by offering them with lower priced housing. His departure from our company will have a major impact on our companies' responsibilities to keep up on our obligations with these various governmental agencies.

I have known John since he was a teenager, and I have watched him grow and mature over the years. What he did is serious and is not to be taken lightly. I believe this event has been a major turning point in his life and that he realizes he has a drinking problem, I have already witnessed the change. Getting him into an aggressive substance abuse program, back to work program, and home arrest if need be would be a more productive solution than tying up needed space in prison. I am asking for your assistance in providing this.

John is a good person and adds much to many communities throughout the state. He will be better suited to continue to bring about a much-needed service to this and other states than sitting behind prison bars.

Thank you for taking the time to consider my appeal on behalf of our company. If my presence personally would help this situation please contact me at 775-852-8453, extension #17.

Sincerely,


William D. Pennington II

December 9, 2003

Honorable Judge Jerome Polaha

Re: John Burkett

Dear Judge Polaha,

My wife and I have known John for 15 years as a business partner and friend (and next door neighbor for the past 5 years). He has a giant heart and is a great business partner and a life long friend I absolutely trust.

John is very involved with my four children, (ages 3 – 16), as he has never had his own. He attends their school functions and sporting events – they all call him “Uncle” John. My teen age son, Shane, looks to him for advice that he cant ask me. They have a special bond as John spends a lot of time during the summer with Shane wake boarding on Johns boat. My youngest daughters Sydnee and Sophee, (3 & 6) totally love Uncle John. When he comes over he loves reading to them and playing games with them. He and his girlfriend Marcia often babysit for us or just come over for a meal – but I think more so to spend time with my kids. To that end, I have asked John to handle my financial affairs and raise my kids if my wife and I were unable to.

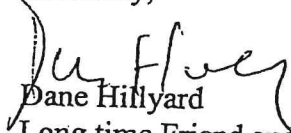
John is an integral part of our business. As a partner he oversees the design and construction aspects of the company. This year we are building over 1,600 apartment units and condos in Nevada and California, all designed by John. I took a tally and nearly 10,000 people live in homes, condos or apartments that exist because of John. Our business will obviously suffer a great deal in Johns absence but I realize you may not be able to look at that when you make your decision about the price John has to pay for his error of driving under the influence of alcohol.

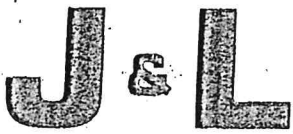
I would plead that whatever you decide, that you give John the opportunity to earn his way to a shorter sentence, and if possible provide a way for him to participate as much as possible with family and the business.

John has cried with me privately. Not because he has to pay a price for his error in judgment, but because of the worry and responsibility he feels for all of us, the kids, and the hundreds of employees that rely on him.

Thank you for your consideration.

Sincerely,


Dane Hillyard
Long time Friend and Co-owner
Pacific West Companies



WINDOWS INC.

350 GREG STREET • SPARKS, NEVADA 89431
OFFICE (775) 356-1523 • (775) 356-7543 FAX

January 16, 2004

Honorable Jerome m. Polaha
Washoe County District Court Judge
Department No. 3
Washoe County Court House
Reno, NV 89501

Re: John Burkett

Dear Judge Palaha:

I am writing this to you on behalf of John Burkett, who is scheduled to appear before you on January 27, 2004. I am Mary Davis, the owner of J & L Windows, Inc. I have been in business in Reno, Nevada for twenty years. I started this company at the age of twenty three as a single Mother. J & L Windows, has done business with John for at least fifteen years. He is vital to our working relationship. His company helps to employ the seventy people that I have working for me. I cannot tell you how much he is needed by all of the sub-contractors who help build many low income housing projects in the city of Reno.

I have also been a personal friend of John for fifteen years. I truly understand the seriousness of his offense and can hardly believe that this has happened. John has been a very responsible, honest and trustworthy business partner and friend. I do understand alcoholism is an illness and I truly wish the courts could find a way to be benevolent in the action you must take. There are many programs that would help John better than imprisonment, and I plead with you to contemplate placing John in one of these programs instead of jail which will do nothing to help him. If he could still be a vital part of the community, and get help, I see this as the better end. I truly wish the courts would have insisted on getting John the help he obviously needed before things got to this point, but I see that you now can be the one to help him. I know that John has changed his life and is working on his problem. He is a good man, and an asset, not only to my company and employees, but also to this community. I hope and pray that you will find it in your heart to help John.

Respectfully,



Mary Davis,
President
J & L Windows., Inc.



western nevada supply co.

*Wholesale Distributors: Plumbing, Heating, Air Conditioning, Water Works,
Irrigation, Valves, Pumps, Tools, Industrial*

950 south rock blvd. • sparks, nevada 89432
phone (775) 359-5800 • fax (775) 359-4649
www.wns1.com

January 21, 2004

The Honorable Judge Jerome Polaha

Re: Mr. John Burkett

Dear Judge Polaha;

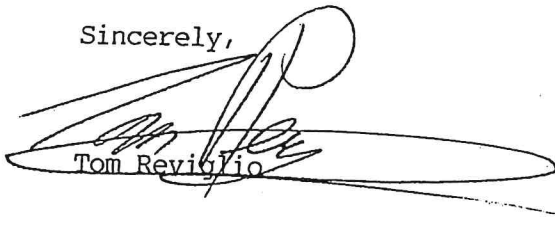
I am writing to you on behalf of John Burkett. I have known John for many years as a friend and business acquaintance.

John is an honest and hard working individual who supports many community services such as the Truckee Meadows Boys & Girls Club and Manogue High School.

John has taken the necessary steps to change his life by devoting his time to his family and business interests.

John is a man of great integrity and I feel he would be a good candidate for consideration of leniency so that he can remain a productive member of the community.

Sincerely,



Tom Reviglio

"SEVEN Locations To Serve You"

water street 3rd & James 2443 south curry street 1260 north main street 1445-d paul burvan 40155 john truckee

January 10, 2004

Hon. Jerome M. Polaha
Washoe County District Court Judge
Department No. 3
Washoe County Court House
Reno, Nevada 89501

Re: John Burkett

Dear Judge Polaha,

I write this letter on the behalf of a role model, a father figure, and a man who has given me unconditional love, his name is John Burkett. My name is Kristyn Lingenfelter and I am eighteen years of age and currently completing my second semester as a freshman at the University of Arizona on a full-ride academic scholarship. For you to understand my relationship with John Burkett and his character, you must first know a little about myself. As you read my letter, I ask you to read every word with your heart, not just your eyes. You and I are both people who love and have loved ones, so before you make a decision on, January 27th 2004, please realize that you are changing more than one man's life, but every life touched by John Burkett.

Before my first year of high school, I had an extremely close relationship with my father and with our relationship I held an extraordinary amount of trust in him. However, that same year I discovered my father's indiscretion with another woman and every ounce of trust we shared was lost. It was my father's affair that led to my parent's divorce and to this very day there remains a void in my relationship with him. I can still remember the many tears I cried and the vivid feelings of anguish and betrayal, but more importantly I remember the feeling that the "Dad" figure in my life had quickly vanished

and left a void in my life. However, over these past few years I have been able to restore my trust in a father figure from one man willing to fulfill, not replace my Dad. This man is John Burkett and I admire his many qualities as an adult and father figure.

Within his great qualities as a person there lays his passion for giving to others. It is his passion in personal relationships to give unconditional love and support, and it is his passion in work that gives hope and new beginnings to strangers. John is a soft-spoken soul that gives from his heart. I am a recipient of John's love and support and that is why I write this letter. As a perfectionist, I constantly strive to be a better person and look for qualities in others that I wish to encompass myself. In my life there are several people that I respect and several people I admire for their qualities and character, John Burkett falls into both of these categories.

I respect John, because of his work that helps strangers like my friend, Jonathan Batchelor, who was able to move to Reno and graduate with me from Galena High School. If it were not for John's intelligence and passion for perfection in work, Jonathan would not have had the chance to move from the Bronx in New York, where he would sleep in the midst of gunfire regularly, to a quieter and safer environment in Double Diamond. That is one reason I respect John, because he is a giver to all people. I admire John, because he is sincere, hard working, and altruistic. I can feel John's sincerity with my heart, see his hard work through his housing developments which helps strangers, and view him as altruistic because of his instinct to always put others before himself and continuously help others. No word can truly describe the magnitude of love I feel for

John. The only experience that comes close to describing my love is the first time John called me his "daughter" and my heart sunk with joy and I smiled from the inside out.

I have attempted to write the perfect letter for an amazing man, but I realize I can only write from my heart and hope for the best. I do understand the seriousness of John's situation and grave error in judgment; however, I want his sentence to help him, not hinder him. John is an asset to society; it is his character that proves this statement true. I realize that John has a drinking problem and that he needs help, so why not help him instead of stripping him of his spirit and possibly making his problem worse. So I ask of you, Judge Polaha, help this man with a beneficial sentence such as rehabilitation or house arrest, instead of a destructive sentence such as prison. I ask of you to simply help this amazing man change his life, for he has touched my life and several others and will continue to do so with the right help and sentence.

Thank you for your consideration.

With Utmost Respect,



Kristyn Leigh Lingenfelter

2045 N. Tesuque Rd.

Reno, NV 89511

January 16, 2004

Hon. Jerome M. Polaha
Washoe County District Court Judge
Department No. 3
Washoe County Court House
Reno, Nevada 89501

Re: John Burkett

Dear Judge Polaha:

I am writing to you on behalf of **JOHN BURKETT**, who is scheduled to appear before you on January 27, 2004.

I am a 5th generation Nevada resident, and have had the joy of raising all three of my children in Reno. I am involved in community service and I am currently a realtor with Dickson Realty and managing several commercial properties in Reno and Sparks.

For the past three years, John, an extraordinary man, who has remained my best friend, who has not only been a good friend to me, but to my children as well. **He is honest, kind hearted, intelligent, respectable, and hard working.** When my children have felt abandoned by their own father, John has been supportive and although not replacing their father has filled a void. My daughter, Kristyn, who is currently attending U of A, has looked to John many times and he was always there. Thanks to John's support and continued guidance, Kristyn graduated with Honors and a 4.0 average and received a 4-year scholastic scholarship. I will always remember **the positive impact he had on her at such a sensitive time of her life.**

John is extremely talented in his development of multi-family housing. He oversees the construction portion of his developments and is a vital necessity to a business that extends into California communities. Many **families and children are dependent upon him** for their livelihood, and others for affordable housing. I had the opportunity to meet one of these families, a single woman with two boys who moved here from the Bronx in New York to live close to her brother. In conversation she cried to me and told me how God had blessed her with this new home and new life for her and her boys. She unexpectedly died 4 months later, her boys have managed to remain in the apartment and her youngest son has graduated from High School and is attending College. This young man was given an opportunity because John was able to provide him a home here in Reno. John is a vital component in continuing to provide affordable housing and opportunity to families.

John has truly **acknowledged the seriousness of his offense** and after 3 years of being by his side I have recognized a **change in his lifestyle** that I find remarkable. He is focused on his business interests and family, and has become **more productive,**

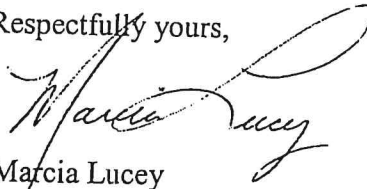
healthier and happier. John is remorseful and cried to me over the concern for his business and the many families dependent on him. He has apologized and cried to me for the pain that he has created for me.

John and I both understand the seriousness of this offense. **I have first hand experience to the graveness of alcohol** and the implications it can have. I have lost my brother and sole sibling at a young age at a high school party to an alcohol related incident. He was a wonderful young man and spent 1 year at Washoe Med and 3 years following fighting for his life. Many mothers, including my own cried in my arms during that period. For that reason I have never consumed alcohol myself.

I am pleased that John has changed his life, because he is a wonderful man deserves a chance and I love him. I suppose you could say my prayers have been answered these last 8 months in seeing such a positive change in John. **I am willing to stand by John and willing to work with the Court** and monitor John's probation.

Considering the above circumstances, the many lives John positively affects, and that I would stand by his side during and after probation, I feel **John is an excellent candidate for leniency and probation.** I plead to you to consider an aggressive substance abuse program, house arrest, and a back to work program as a more productive solution. Thank you for your consideration.

Respectfully yours,



Marcia Lucey
2045 N. Tesuque Road
Reno, NV 89511

December 13, 2003

Hon. Jerome M. Polaha
Washoe County District Court Judge
Department No. 3
Washoe County Court House
Reno, Nevada 89501

Re: John Burkett

No: _____

Dear Judge Polaha:

I am writing this letter to you on behalf of JOHN BURKETT, who is scheduled to appear before you on January 27, 2004.

I have been a lifetime Nevada resident, born and raised in Sparks, Nevada. After college, I became a legal secretary for many years, and had the privilege and honor to work for Sidney W. Robinson, Eugene and Richard Wait, Allan Shamberger, James Georgeson, and for a limited time for the Honorable Robert McQuaid, when he was associated with Gene Wait and Allan Shamberger.

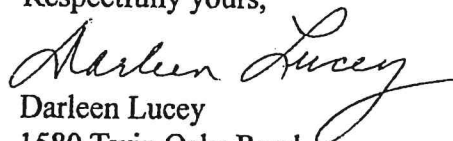
I have personally known JOHN BURKETT for several years, and would like to say that he is a very honest, kind, hard-working, sincere individual and businessman. John is also a very intelligent and productive person in his business, and he is a very important asset to his business partners, who greatly rely upon his expertise. He is truly a great man who has a lot of good to offer to the community.

I can honestly say that John has acknowledged the seriousness of his alleged offense, and has completely changed his lifestyle. He has been devoting all of his time and energy towards making his business interests more productive.

Our daughter, Marcia Lucey, who is a realtor with Dickson Realty, is also a good friend to John, and would be willing to work with the Court and monitor John's probation, if the Court should elect to pursue this course of action.

Under all of the above circumstances, I respectfully state that I believe John would make an excellent candidate for leniency and probation, if at all possible.

Respectfully yours,



Darleen Lucey
1580 Twin Oaks Road
Reno, Nevada 89511

December 13, 2003

Hon. Jerome M. Polaha
Washoe County District Court Judge
Department No. 3
Washoe County Court House
Reno, Nevada 89501

Re: John Burkett
Case No.: _____

Dear Judge Polaha:

This letter is written to you on behalf of my good friend, JOHN BURKETT, who is scheduled to appear before you on January 27, 2004.

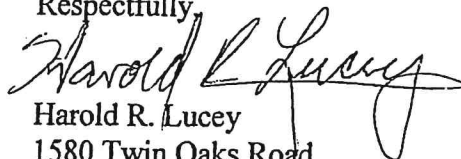
I am a third generation Nevadan, born in Palisade, Nevada, and reared in Sparks, Nevada. My parents and grandparents were born and raised in the Eureka, Nevada area. I held a non-restricted gaming license with the State of Nevada from 1965 to 2002, and for the past 25 years I have been a partner with the Hon. Procter R. Hug and his son, Procter J. Hug, Jr. in extensive real estate holdings here in Nevada.

I have personally known JOHN BURKETT for several years, and in my opinion, he is a man of great integrity and honor and capable of changing his lifestyle, which he has already accomplished. I know this from firsthand observation.

Therefore, I feel that if at all possible, he would be a great candidate for leniency and probation.

Thank you very much for taking the time to consider my request.

Respectfully,



Harold R. Lucey
1580 Twin Oaks Road
Reno, Nevada 89511

COUNSELORS AT LAW
Office: (775) 348-9999 Fax: (775) 348-0540
P. O. BOX 3677 ~ RENO, NEVADA 89505
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509
VILORIA &
OLIPHANT
L.L.P.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law firm of LANE, FAHRENDORF, VILORIA & OLIPHANT, LLP, and that on the date shown below, I caused service to be completed by:

- personally delivering
- delivery via Reno-Carson Messenger Service
- sending via Federal Express or other overnight delivery service
- depositing for mailing in the U.S. mail with sufficient postage affixed thereto
- delivery via facsimile machine to fax no. [328-3877]

a true and correct copy of the Supplemental Mitigation Information

addressed to:

Honorable Judge Polaha
Second Judicial District Court
P.O. Box 30083
Reno, NV 89520-3083

DATED this 26 day of January, 2004.

By: Bucky R. Hulls

ORIGINAL

FILED

DEC 04 2003

RONALD A. LONGTIN, JR., CLERK
By: *[Signature]*
DEPUTY

1 CODE 1785
Richard A. Gammick
2 #001510
P.O. 30083
3 Reno, NV. 89520-3083
(775)328-3200
4 Attorney for Plaintiff

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8

* * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR03-1601

12 JOHN SCOTT BURKETT,

Dept. No. 3

13 Defendant.

14 _____/

15 GUILTY PLEA MEMORANDUM

16 1. I, JOHN SCOTT BURKETT, understand that I am charged
17 with the offense(s) of: DRIVING UNDER THE INFLUENCE, a violation
18 of NRS 484.379 and NRS 484.3792, a felony.

19 2. I desire to enter a plea of guilty to the
20 offense(s) of DRIVING UNDER THE INFLUENCE, a violation of NRS
21 484.379 and NRS 484.3792, a felony, as more fully alleged in the
22 charge(s) filed against me.

23 3. By entering my plea of guilty I know and understand
24 that I am waiving the following constitutional rights:

25 ///

26 ///

1 A. I waive my privilege against self-incrimination.

2 B. I waive my right to trial by jury, at which trial
3 the State would have to prove my guilt of all elements of the
4 offense beyond a reasonable doubt.

5 C. I waive my right to confront my accusers, that is,
6 the right to confront and cross examine all witnesses who would
7 testify at trial.

8 D. I waive my right to subpoena witnesses for trial on
9 my behalf.

10 4. I understand the charge(s) against me and that the
11 elements of the offense(s) which the State would have to prove
12 beyond a reasonable doubt at trial are that on the 18th day of
13 May, 2003, or thereabout, in the County of Washoe, State of
14 Nevada, I did, willfully and unlawfully drive or be in actual
15 physical control of a GMC on or about Arrowcreek Parkway and/or
16 Thomas Creek Road in the County of Washoe, State of Nevada, while
17 under the influence of intoxicating liquor; AND/OR while having a
18 concentration of alcohol of 0.10 or more in my blood or breath;
19 AND/OR within two hours after driving or being in actual physical
20 control of said vehicle, did have a concentration of alcohol of
21 0.10 or more in my blood or breath after having been previously
22 convicted of driving under the influence on September 28, 2000,
23 for an offense which occurred on July 1, 2000, in Reno Justice
24 Court, and after having been previously convicted of driving
25 under the influence on April 26, 2002, for an offense which
26 occurred on January 30, 2002, in Reno Justice Court.

1 5. I understand that I admit the facts which support
2 all the elements of the offense by pleading guilty. I admit that
3 the State possesses sufficient evidence which would result in my
4 conviction. I have considered and discussed all possible
5 defenses and defense strategies with my counsel. I understand
6 that I have the right to appeal from adverse rulings on pretrial
7 motions only if the State and the Court consent to my right to
8 appeal. In the absence of such an agreement, I understand that
9 any substantive or procedural pretrial issue or issues which
10 could have been raised at trial are waived by my plea.

11 6. I understand that the consequences of my plea of
12 guilty are that I must be imprisoned for a period of one to six
13 years in the Nevada State Prison and that I am not eligible for
14 probation. I must also be fined between \$2,000.00 and \$5,000.00.

15 7. In exchange for my plea of guilty, the State, my
16 counsel and I have agreed to recommend the following: The State
17 will recommend no more than eighteen to forty-eight months in the
18 Nevada State Prison and a \$2,000.00 fine.

19 8. I understand that, even though the State and I have
20 reached this plea agreement, the State is reserving the right to
21 present arguments, facts, and/or witnesses at sentencing in
22 support of the plea agreement.

23 9. Where applicable, I additionally understand and
24 agree that I will be responsible for the repayment of any costs
25 incurred by the State or County in securing my return to this
26 jurisdiction.

1 10. I understand that the State, at their discretion,
2 is entitled to either withdraw from this agreement and proceed
3 with the prosecution of the original charges or be free to argue
4 for an appropriate sentence at the time of sentencing if I fail
5 to appear at any scheduled proceeding in this matter OR if prior
6 to the date of my sentencing I am arrested in any jurisdiction
7 for a violation of law OR if I have misrepresented my prior
8 criminal history. I understand and agree that the occurrence of
9 any of these acts constitutes a material breach of my plea
10 agreement with the State. I further understand and agree that by
11 the execution of this agreement, I am waiving any right I may
12 have to remand this matter to Justice Court should I later
13 withdraw my plea.

14 11. I understand and agree that pursuant to the terms
15 of the plea agreement stated herein, any counts which are to be
16 dismissed and any other cases charged or uncharged which are
17 either to be dismissed or not pursued by the State, may be
18 considered by the court at the time of my sentencing.

19 12. I understand that the Court is not bound by the
20 agreement of the parties and that the matter of sentencing is to
21 be determined solely by the Court. I have discussed the
22 charge(s), the facts and the possible defenses with my attorney.
23 All of the foregoing rights, waiver of rights, elements, possible
24 penalties, and consequences, have been carefully explained to me
25 by my attorney. I am satisfied with my counsel's advice and
26 representation leading to this resolution of my case. I am aware

1 that if I am not satisfied with my counsel I should advise the
2 Court at this time. I believe that entering my plea is in my
3 best interest and that going to trial is not in my best interest.

4 13. I understand that this plea and resulting
5 conviction may have adverse effects upon my residency in this
6 country if I am not a U. S. Citizen.

7 14. I offer my plea freely, voluntarily, knowingly and
8 with full understanding of all matters set forth in the
9 Information and in this Plea Memorandum. I understand everything
10 contained within this Memorandum.

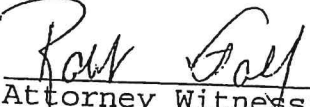
11 15. My plea of guilty is voluntary, is not the result
12 of any threats, coercion or promises of leniency.

13 16. I am signing this Plea Memorandum voluntarily with
14 advice of counsel, under no duress, coercion, or promises of
15 leniency.

16 DATED this 17 day of NOVEMBER, 2003.

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DEFENDANT

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TRANSLATOR/INTERPRETER

1 
2
3 Attorney Witnessing Defendant's Signature

4 
5
6 Prosecuting Attorney

ORIGINAL

FILED

2003 NOV -7 PM 4:48

RONALD A. LONGTIN, JR.

BY [Signature]
DEPUTY

1 CODE 2610
2 Richard A. Gammick
3 #001510
4 P.O. 30083
5 Reno, NV. 89520
6 (775)328-3200
7 Attorney for Plaintiff

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
9 IN AND FOR THE COUNTY OF WASHOE.

10 * * *

11 THE STATE OF NEVADA,

12 Plaintiff,

Case No. CR03-1601

13 v.

Dept. No. 3

14 JOHN SCOTT BURKETT,

15 Defendant.

16 NOTICE OF WITNESSES PURSUANT TO NRS 174.234

17 COMES NOW, the State of Nevada, by and through RICHARD A.
18 GAMMICK, District Attorney of Washoe County, and TAMMY M. RIGGS,
19 Deputy District Attorney, and hereby gives notice of the names of the
20 witnesses intended to be called during the State's case-in-chief.

21 WASHOE COUNTY SHERIFF'S OFFICE

22 DAVID BUTLER

23 ///
24 ///
25 ///
26 ///
27 ///

1 WASHOE COUNTY CRIME LAB

2 TOXICOLOGIST

3 PHLEBOTOMIST

4
5 Dated this 6th day of November, 2003.

6
7 RICHARD A. GAMMICK
8 District Attorney
9 Washoe County, Nevada

10
11 By [Signature]
12 TAMMY M. RIGGS
13 007498
14 Deputy District Attorney
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing at Reno, Washoe County, Nevada, a true copy of the foregoing document, addressed to:

MR. ROBERT FAHRENDORF
P.O. BOX 3677
RENO, NV 89505

DATED this 7th day of November, 2003.

Renny Rasmussen

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4185
JOAN MARIE DOTSON
CCR #102
75 COURT STREET
RENO, NEVADA

SER -- 5 2003
RONALD A. LONGTIN, JR., CLERK
By: _____
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
BEFORE THE HONORABLE JEROME M. POLAHA, DISTRICT JUDGE

--oOo--

THE STATE OF NEVADA,
Plaintiff,

Case No. CR03-1601

vs.

Department No. 3

JOHN SCOTT BURKETT,
Defendant.

_____)

TRANSCRIPT OF PROCEEDINGS

ARRAIGNMENT

Thursday, September 4th, 2003

8:30 A.M.

Reno, Nevada

Reported by: JOAN MARIE DOTSON
NV, CA AND UT CERTIFIED, REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

A P P E A R A N C E S

For the Plaintiff:

OFFICE OF THE DISTRICT ATTORNEY

BY: MICHAEL MAHAFFEY

Deputy District Attorney

P.O. Box 11130

Reno, Nevada 89520

For the Defendant:

ROBERT FAHRENDORF

Attorney at Law

Reno, Nevada

1 THURSDAY, SEPTEMBER 4TH, 2003; RENO, NEVADA

2 --oOo--

3 THE COURT: CR03-1601, State verses John Scott
4 Burkett.

5 MR. MAHAFFEY: Michael Mahaffey for the State.

6 MR. FAHRENDORF: Ready on behalf of Mr. Burkett. Bob
7 Fahrendorf on his behalf. He is present in Court.

8 THE COURT: All right. Good morning. This is the
9 time set for an arraignment on an Information filed July
10 31st, 2003. Let the record reflect we are providing counsel
11 a copy of that document, charging one count felony driving
12 under the influence.

13 MR. FAHRENDORF: Your Honor, let the record reflect
14 that Mr. Burkett's name is correctly stated and spelled. We
15 are familiar with the contents of the Information. He would
16 waive its formal reading. He is prepared to enter a plea of
17 not guilty to the charge. I have explained to Mr. Burkett
18 his right to trial within sixty days. He would waive that
19 right. We would request a trial date in December, if that's
20 available on the court's calendar.

21 MR. MAHAFFEY: Early December would be preferable.

22 THE COURT: How many days?

23 MR. FAHRENDORF: Two days, your Honor.

24 THE CLERK: Are you available on December 15th,

1 counsel?

2 MR. FAHRENDORF: That's fine, your Honor.

3 THE CLERK: Trial is set for December 15th at 8:30 a.m.
4 Motion to Confirm is set for December 4th at 8:30 a.m.

5 MR. FAHRENDORF: Thank you, your Honor.

6 THE COURT: All right.

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9 (At this time the foregoing proceedings were concluded.)
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STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

I, JOAN MARIE DOTSON, a Certified Shorthand Reporter for the Second Judicial District Court of the State of Nevada in and for the County of Washoe DO HEREBY CERTIFY;

That I was present in Department No. 3 of the above-entitled court on Thursday, September 4th, 2003 and took verbatim stenotype notes of the proceedings and thereafter transcribed them into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my said stenotype notes and is a full, true and correct record of the proceedings had and the testimony given in the above-entitled action to the best of my knowledge, skill and ability.

DATED: This 5th day of September, 2003.



JOAN MARIE DOTSON, CSR #102

12/4 MTC
CR03-1601

NO. RCR2003-009553
DEPARTMENT NO. 1

In the Justice Court of Reno Township, County of Washoe,
STATE OF NEVADA

BY: [Signature]
ROBERT M. LUSTIN, JR.

03
Also RCR 2003-009554

STATE OF NEVADA	PLAINTIFF	COMPLAINT OF Tammy Riggs DA'S NO. 313618 ECR ATTORNEY FOR PLAINTIFF DISTRICT ATTORNEY: Tammy Riggs ATTORNEY FOR DEFENDENT: ROBERT FAHRENDORF, Esq. AGENCY NO: WCSO WC03-05270
VS.	DEFENDANT	
JOHN SCOTT BURKETT 83294921		

CHARGING: CT. I. DRIVING UNDER THE INFLUENCE, a violation of NRS 484.379 and NRS 484.3792, a felony.

DATE 2003 PROCEEDINGS

J = Judge; P = Prosecutor; D = Defendant; CR = Court Reporter; I = Interpreter;
DC = Defense Counsel; DDA = Deputy District Attorney; DAG = Deputy Attorney General;
DPD = Deputy Public Defender; CA = Conflict Attorney; PT = Pro Term Judge

May 19	Probable Cause Affidavit reviewed by Judge. Probable Cause found.
May 19	\$3,000.00 cash bail deposited.
May 23	Complaint filed and Defendant bailed.
June 26	Waiver Of Initial Appearance On Felony Or Gross Misdemeanor filed. Defendant and Counsel WAIVED the statutory time for the hearing of the Preliminary Examination. Preliminary Examination set on July 23, 2003, at 2:30 P.M. Bail continued in full force and effect.
June 27	Notice of Appearance of Counsel filed.
July 23	COPY OF WAIVER OF PRELIMINARY EXAMINATION DELIVERED TO THE COURT.

BURKETT, JOHN SCOTT

Assigned SO: RL

Case#/Charges Information -

Case#	Case Type
WC03-5270	FELONY
Court	Courthouse
RENO JUSTICE COURT	

-- CHARGE --

DRIVING UNDER THE INFLUENCE OF ALCOHOL - 3RD OFF	Charge Type	Date	Count
	FELONY	05/18/03	

Bond Type	Bond Amount
Bondable	\$7,500.00

-- CHARGE --

DRIVE ON SUSPENDED/REVOKED DRIVERS LICENSE	Charge Type	Date	Count
	MISDEMEANOR	05/18/03	

Bond Type	Bond Amount
Bondable	\$1,115.00

-- CHARGE --

FAIL TO DRIVE WITHIN MARKED LANES	Charge Type	Date	Count
	MISDEMEANOR	05/18/03	

Bond Type	Bond Amount
Bondable	\$120.00

Release Recommendations/Conditions Of Bond -

Date	Recommendation	Staff
05/19/03	FURTHER INVESTIGATION NEEDED	BIDDINGER, LARA

Risk of Failure To Appear

THE DEF HAS LIVED IN THE AREA 13 YEARS, AT RES 2 1/2 YRS.

THE DEF STATES HE IS SELF EMPLOYED.

HE DEF STATES HE DRINKS A COUPLE OF TIMES A WEEK AND ALC IS A PROBLEM FOR HIM. THE DEF IS INTERESTED IN TREATMENT.

HE DEF WILL NEED TO APPEAR IN COURT BEFORE O/R IS CONSIDERED.

BURKETT, JOHN SCOTT

Assigned CSO: RL

Demographics -

SSN	FBI/NCIC	Assigned CSO	Booking #	HIT LIST?	Interpreter Needed?
		RL	039064		
Arresting Agency	Place of Birth	Citizen Of			
WCSC	ENCINO, CA	U.S.			
Language	Race	Gender	DOB	Age	
ENGLISH	WHITE	Male	01/17/61	42	
Height	Weight	Eyes	Hair	Marital	
510	165	GRN	BRN	SINGLE	

Residence -

Current Address -
 1520 TAOS CT RENO, NV 89511
 Phone (775) 853-4978 Since 11/2000 (2 Yr 8 Mo) Verified N

With
 - Name: ALONE

Prior Addresses -

35 OREGON BLVD RENO, NV 89506
 Phone (775) 972-9073 From/To 10/1992-01/2002 Verified N

With
 GIRLFRIEND - Name: SHARLEEN LAWRY W/RENO TOY

Employment/Support -

Current Employment Status -
 Employed: Full-Time Since 10/1985 (17 Yr 9 Mo) Occupation OWNER Verified N

Employment Details
 PACIFIC WEST BUILDERS Phone: (775) 852-8453
 Last Worked: 01/30/02

Employment Note --
 8

Education -

Education Completed: High School

Substance Abuse History -

Substance	Frequency	Method	Last Used	How Long	Verified
ALCOHOL	WEEKLY				N

Drug Usage Note --

1/31/02 DEF STATES HE DRINKS ONCE OR TWICE WEEKLY AND IT IS NOT A PROBLEM FOR HIM.

05/03 DEF STATES HE DRINKS TWICE A WEEK. STATES ALC IS A PROBLEM FOR HIM. HE IS INTERESTED IN TREATMENT.

BURKETT, JOHN SCOTT

Assigned CSO: RL

Substance Treatment History -

Treatment:

Substance	Provider / Status	When / Type	Verified
ALCOHOL	WASHOE MEDICAL CENTER SUCCESSFUL AND RELAPSED	01/1988 - 02/1988	N

Criminal History -

Date	Charges	Disposition
01/02	DRIVING UNDER THE INFLUENCE OF ALCOHOL - 2ND OFF ; PROOF OF INSURANCE REQUIRED ; EX-FELON FAIL TO CHANGE ADDRESS	
10/1995	DRIVING WITHOUT VALID DRIVERS LICENSE. ; NO PROOF OF INSURANCE ; BASIC SPEED	
07/2000	DRIVING UNDER THE INFLUENCE OF ALCOHOL-2ND OFFENS	
01/2002	TRIPLE I RECORD	

Criminal History Note --

- Notes - 95 DUI
- 84 DUI
- 88 DUI- VEH MANSLAUGHTER

Character References -

Name	Relationship	How Long Alt Contact	Phone
BOBBY BIERRA Address: , NV Note - VORK 852-8453	FRIEND	17 Yr	(775) 673-6549

Name	Relationship	How Long Alt Contact	Phone
MARCIA LUCY Address: ,	FRIEND		(775) 851-2889

Determination of Indigency Report

Client: BURKETT, JOHN SCOTT

SSN:

DOB: 01/17/61

Assigned CSO: RL

Case#: WC03-5270

Identification

County:	Court:	Jurisdiction:	Case Type:
	RENO JUSTICE COURT	WASHOE COUNTY, NV	FELONY

Charge(s):
DRIVING UNDER THE INFLUENCE OF ALCOHOL - 3RD OFF; DRIVE ON SUSPENDED/REVOKED DRIVERS LICENSE; FAIL TO DRIVE WITHIN

Address:
1520 TAOS CT RENO, NV 89511 - Since: 11/2000 Length: 83 Yrs 8 Months

Phone:
(775) 852-8453

Occupation and Employer:
OWNER
PACIFIC WEST BUILDERS - - SINCE: 10/1985 Length: 84 Yrs 9 Months - PHONE: (775) 852-8453

Support Obligations

Juvenile Client? No Lives w/parents? No

Dependants: Total# 0 Ages Live w/client No

Presumptive Eligibility

Monthly Income

Verified

Take-home pay (after deductions)

Spouses take-home pay

Contributions from any persons domiciled with client and helping to defray basic living costs

Interest, dividends, or other earnings

Non-poverty based assistance (Unemployment, Social Security, Workers Comp, pension, annuities)

Other income:

Notes:

Total Monthly Income:

Monthly Expenses

Verified

Basic Living Costs

Shelter (rent,mortgage,board)

Utilities

Food

Clothing

Health Care

Transportation

Loan payments:

Court Imposed Obligations

Bail/bond paid or anticipated

Other expenses

Notes:

Total Monthly Expenses:

Determination of Indigency Report

Client: BURKETT, JOHN SCOTT

SSN:

7

DOB: 01/17/61

Assigned CSO: RL

Case(s): WC03-5270

Disposal Net Monthly Income:

II. Liquid Assets

Verified

Cash, savings, bank accounts (including joint accounts)

Stocks, bonds, certificates of deposit:

Equity in real estate:

Equity in motor vehicle required for employment: Type: - Year: - Color

Equity in additional vehicles

Personal property:

Notes:

Total Liquid Assets:

III. Affidavit and Notification

I hereby apply for appointment of the Washoe County Public Defender and state under penalty of perjury: (1) I am indigent; and (2) I am without financial means to hire an attorney because: (a) I have no personal funds and no family or friends who can hire an attorney for me and/or (b) I have no assets of any kind in this state or elsewhere which can be used to hire an attorney.

Signed: JOHN SCOTT BURKETT Date: Place:

Determination of Indigency

a. Disposable Net Monthly Income (from Section VI)

b. Total Liquid Assets (from Section VII)

c. Total Available Funds (a plus b)

d. Anticipated Cost of Counsel for Offense Type(s)

+

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Determination: ** N/A **

Assessment Amount:

Recommendation

DEF WILL HIRE ATTN

The above constitutes my recommendation to the court. I have explained my recommendation to the party.

Screening Agent/Witness: Date: / /

Signature: Agency/Organization: Washoe County, Nevada

Indigency

Indigent Not Indigent Indigent and Able to Contribute

Assesment Amount: \$

Judge or Judge's Designee: Title:

12/4
MTC

FILED

2003 JUL 31 PM 3:11
RONALD L. LINTH, JR.
BY [Signature] DEPUTY

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

Case No. CR03-1601

vs.

Dept No. D3

JOHN SCOTT BURKETT

Defendant.

APPLICATION FOR SETTING

TYPE OF ACTION:

Criminal

MATTER TO BE HEARD:

Arraignment

DATE OF APPLICATION:

7/28/2003

COUNSEL FOR DEFENDANT(S):

Robert Paul Fahrendorf, Esq.

Setting at 08:30:00 on 8/7/2003

MESSAGE CONFIRMATION

07/31/03 16:18

ID=2ND JUD DIST COURT-CRIM DIVISION

DATE	S,R-TIME	DISTANT STATION ID	MODE	PAGES	RESULT
07/31	00'38"	7753480540	CALLING	02	OK 0000

13-1401

FILED

2003 JUL 29 AM 9:52

RONALD A. LONGTIN, JR.

BY M Elwood
DEPUTY

RENO JUSTICE COURT
1 South Sierra St.
P.O. Box 30083
Reno, NV 89501-1928

25296

90-78/1211

DATE July 28, 2003

PAY TO THE ORDER OF WASHOE COUNTY DISTRICT COURT

\$ **8,000.00**

EIGHT THOUSAND AND 00/100

DOLLARS



Reno Office
4950 KIETZKE LN.
RENO, NV 89509
1-800-488-2265

TWO SIGNATURES REQUIRED

Dr Lucey

Jackie White

CR03-1601

FOR Transfer of bail, RE: RCR2003-009553
JOHN SCOTT BURKETT

⑈025296⑈ ⑆121100782⑆ 247068224⑈

July 28, 2003

Received of Justice of the Peace of Reno Township Documents to be filed:

Bail in the amount of \$8,000.00 cash, for defendant JOHN SCOTT BURKETT,

RCR2003-009553 via Reno Justice Court check #25296. This bail was posted by

Marcia Lucey 2045 N. Tesuque Rd. Reno, NV. 89511
@151014

County Clerk

ORIGINAL FILED

DA #313618

WCSO WC03-05270

2003 JUL 31 AM 11:45

RONALD A. LONATIN, JR.

BY DEPUTY

1 CODE 1800
Richard A. Gammick
2 #001510
P.O. Box 30083
3 Reno, NV 89520-3083
(775) 328-3200
4 Attorney for Plaintiff

5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR03-1601

12 JOHN SCOTT BURKETT,

Dept. No. 3

13 Defendant.

14 _____/
15 INFORMATION

16 RICHARD A. GAMMICK, District Attorney within and for
17 the County of Washoe, State of Nevada, in the name and by the
18 authority of the State of Nevada, informs the above entitled
19 Court that JOHN SCOTT BURKETT, the defendant above named, has
20 committed the crime of:

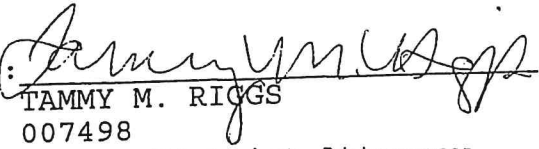
21 DRIVING UNDER THE INFLUENCE, a violation of NRS 484.379
22 and NRS 484.3792, a felony, (F360) in the manner following:

23 That the said defendant on the 18th day of May A.D.
24 2003, or thereabout, and before the filing of this Information,
25 at and within the County of Washoe, State of Nevada, did
26 willfully and unlawfully drive or be in actual physical control

1 of a GMC on or about Arrowcreek Parkway and/or Thomas Creek Road
2 in the County of Washoe, State of Nevada, while under the
3 influence of intoxicating liquor; AND/OR while having a
4 concentration of alcohol of 0.10 or more in his/her blood or
5 breath; AND/OR within two hours after driving or being in actual
6 physical control of said vehicle, did have a concentration of
7 alcohol of 0.10 or more in his/her blood or breath after having
8 been previously convicted of driving under the influence on
9 September 28, 2000, for an offense which occurred on July 1,
10 2000, in Reno Justice Court, and after having been previously
11 convicted of driving under the influence on April 26, 2002, for
12 an offense which occurred on January 30, 2002, in Reno Justice
13 Court.

14
15 All of which is contrary to the form of the Statute in
16 such case made and provided, and against the peace and dignity of
17 the State of Nevada.

18 RICHARD A. GAMMICK
19 District Attorney
20 Washoe County, Nevada

By: 
TAMMY M. RIGGS
007498
Deputy District Attorney


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25
26

1
2 The following are the names and addresses of such
3 witnesses as are known to me at the time of the filing of the
4 within Information:

5 WASHOE COUNTY SHERIFF'S OFFICE
6 DAVID BUTLER
7 PHLEBOTOMIST
8 TOXICOLOGIST
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RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By 
TAMMY M. RIGGS
007498
Deputy District Attorney

DATED this 4 day of August, 2003.

RICHARD A. GAMMICK,
Washoe County District Attorney
LANE, FAHRENDORF,
VILORIA & OLIPHANT, LLP

By: [Signature]
Deputy District Attorney

By: [Signature]
Robert P. Fahrendorf, Esq.

ORDER

Good cause appearing, and in the interests of justice,
IT IS HEREBY ORDERED that the arraignment of Defendant
currently scheduled for August 7, 2003 at 8:30 a.m. be vacated
and rescheduled to 8:30 a.m. on the 4th day of September
2003.

DATED this 4th day of August, 2003.

[Signature]
DISTRICT JUDGE

COUNSELORS AT LAW
Office: (775) 348-9999 Fax: (775) 348-0540
P. O. Box 3677 ~ RENO, NEVADA 89509
327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

VILORIA &
OLIPHANT
L.L.P.

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