

Man held in Tahoe area fatal crash

Bee Metro Staff

One man was killed and two were injured Friday night when a car went out of control and slammed head-on into another vehicle on Highway 28 in Tahoe Vista near Kings Beach, the California Highway Patrol reported.

Killed was Kelly Kolozsi, 24, of Atherton, who was driving west when an eastbound auto took a curve too fast, sideswiped a boat being pulled by another auto and swerved into

his path at 7:15 p.m., said CHP Officer Tom Liles.

The driver of the eastbound car, John Burkett, 26, of Incline Village, was arrested on suspicion of felony drunken driving and manslaughter, Liles said.

Burkett and a passenger in his car, Louis Brame, 40, of Incline Village, were injured and were taken to Tahoe Forest Hospital, Liles said. Brame was in guarded condition while Burkett asked hospital officials not to release information about his condition.



Tahoe Twins May Face Placer Drug Charges

By Janielle Jobe

Sales and possession of cocaine charges may be filed in Placer County against two Tahoe City brothers arrested on federal warrants earlier this week during an international narcotics raid, Sheriff Donald J. Nunes said Thursday.

Nunes said Deputy District Attorney John Ward in Tahoe would review the case against Roger and Russell Bramy, 28. The twins were arrested Tuesday on charges of conspiring to sell and smuggle cocaine.

During an afternoon search of Roger Bramy's West Lake Boulevard home, Sheriff's deputies and federal agents found thousands of dollars worth of co-

caine, hashish, marijuana, quaaludes and "magic" mushrooms, it was reported.

The twin brothers, held on \$25,000 bail, were transported to federal detention facilities in Reno where they also were arraigned.

Two other persons living in Bramy's home, a male and female, were not arrested.

The Bramys listed their occupations as carpet layers.

Since Tuesday, 12 persons allegedly involved in the large-scale smuggling ring have been arrested, including a millionaire Peruvian and former Costa Rican diplomat identified as Rodolfo Araya-Porros. Araya-Porros reportedly was a main currier of drugs and money into the U.S.

Nunes said the cocaine was flown out of Lima, Peru, on commercial airlines in artifact crates to a town in Canada. From Canada they were flown to Mexico where persons carried it across the border to Texas.

In Corpus Cristi, Texas, the narcotics were put in mobile homes and transported in caravans to Tahoe City where they were distributed to major dealers on the West Coast.

The alleged head of the ring, Samuel Cutkomp, reportedly lived in a \$1.2 million Tahoe City home. He was arrested last July in Reno after a \$100,000 transaction with an federal undercover agent.

ROGER RELEASED BOP
1982

RUSSELL RELEASED
1994



Second Judicial District Court
State of Nevada
Washoe County

Electronic Filing

Case Summary for Case: CR03-1601

STATE VS. JOHN SCOTT BURKETT (07)

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

Plaintiff[s] Counsel of Record
STATE OF NEVADA MEGAN RACHOW, ESQ.

Defendant[s] Counsel of Record
JOHN SCOTT BURKETT ROBERT PAUL FAHRENDORF, ESQ.

Parole & Probation[s] Counsel of Record
DIV. OF PAROLE & PROBATION

File Date

Case History

File Date	Case History
02-10-2004	Transcript Filed
01-27-2004	** Exhibit(s) ... Filed
01-27-2004	Judgment of Conviction Filed
01-26-2004	Supplemental ... Filed
01-20-2004	PSI - Confidential Filed
12-04-2003	Guilty Plea Memo/Agreement Filed
10-07-2003	Notice of Witnesses Filed
09-05-2003	Transcript Filed
08-07-2003	Proceedings Filed
06-15-2003	Stip & Ord to Continue Filed
07-31-2003	Waiver of Preliminary Exam Filed
07-31-2003	Information Filed
07-11-2003	Application for Setting Filed
07-02-2003	Cash Bail Posted/Receipt Filed
07-28-2003	**Entire File Imaged** Filed **Entire File Imaged** PUBLIC DOCUMENTS
07-09-2003	**Entire File Imaged** Filed Document withheld. Document Security Level Exceeded



Second Judicial District Court ⁽¹⁾
 State of Nevada
 Washoe County

Detailed Case Information - CR03-1601

Case Description: 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

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



Event Information

ite Filed Extra Text

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:
20. 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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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: 9-4-03 DEPT. NO. 3 REPORTER: J. Dotson CLERK: C. Patterson
P. Meacham

DEFENDANT NAME: _____

- HANDED COPY
- WAIVED READING
- REQUESTED TIME TO PLEA
- REFERRED TO DRUG COURT
- ACCEPTED TO DRUG COURT
- WAIVED PSI

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

P & P Ref: _____

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

CHARGE 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 []

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

GUILTY ALFORD [] NC [] TO: Information

WAIVED PSI P & P Ref: P. Lewis TRIAL DATE OF: 12-15-03 VACATED

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

CONTINUED TO: 12-15-03 @ 8:30 FOR: Quarry 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: _____

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CONTINUED TO: _____ FOR: _____

CONTINUED TO: _____ FOR: _____

CRIMINAL PROGRESS SHEET CONTINUED

CASE NO. CR03-1601

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

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

STITUTION: \$ _____ ATTY. FEES: \$ _____

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

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

DEFERRED [] DEPT FORMALY SENTENCED

TYPE: _____ 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: \$ _____

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

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

TIME SERVED REVO: _____

NOTES: _____

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 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.

CLERK, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

01/04/03
HONORABLE
JUDITH M.
WILSON
COURT NO. 3
Patterson
(Clerk)
Schonlau
(Reporter)

MOTION TO CONFIRM TRIAL/FOR CHANGE OF PLEA

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.

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

ARRAIGNMENT

HONORABLE

Deputy District Attorney Michael Mahaffey represented the State.

ROMEO M.

Defendant was present with counsel, Robert Fahrendorf. Probation

OLAHA

Officer Pat Cerniglia was also present.

SEPT. NO. 3

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

Patterson

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

Meacham

COURT ORDERED: Matter continued for trial by jury.

Werk)

Defendant remained on bail status.

Dotson

(reporter)

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 --o0o--

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
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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. + 1984

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.

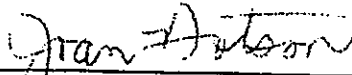
3 COUNTY OF WASHOE)

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
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22 _____
23 JOAN MARIE DOTSON, CSR #102
24

FILED

JAN 27 2004

RONALD A. LONGTIN, JR., CLERK

By: DEPUTY CLERK

1 CODE 1850

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5
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.**

Case No. CR03-1601

12 **JOHN SCOTT BURKETT,**

Dept. No. 3

13 **Defendant.**
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.

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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, Viloría & 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.
27
28

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.

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

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 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.

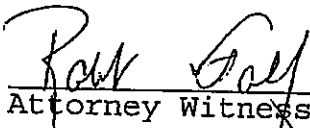
11 15. My plea of guilty is voluntary, is not the result
12 of any threats, coercion or promises of leniency.

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.

17
18 
19 _____
20 DEFENDANT

21 _____
22 TRANSLATOR/INTERPRETER

23 
24 _____
25 Attorney Witnessing Defendant's Signature

26 
27 _____
28 Prosecuting Attorney

07301270

ORIGINAL

FILED

2003 NOV -7 PM 4:48

RONALD A. LONGTIN, JR.

BY *[Signature]*
DEPUTY

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

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,

Case No. CR03-1601

11 v.

Dept. No. 3

12 JOHN SCOTT BURKETT,

13 Defendant.

14 _____/
15 NOTICE OF WITNESSES PURSUANT TO NRS 174.234

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

20 WASHOE COUNTY SHERIFF'S OFFICE

21 DAVID BUTLER

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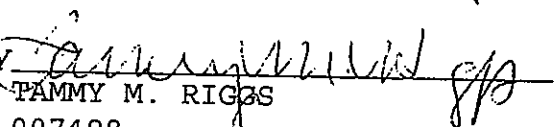
WASHOE COUNTY CRIME LAB

TOXICOLOGIST

PHLEBOTOMIST

Dated this 6th day of November, 2003.

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By 
PAMMY M. RIGGS
007498
Deputy District Attorney

ORIGINAL

FILED

1 4185

2 JOAN MARIE DOTSON

3 CCR #102

4 75 COURT STREET

5 RENO, NEVADA

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

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 ARRAIGNMENT

19 Thursday, September 4th, 2003

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

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3
4 For the Plaintiff: OFFICE OF THE DISTRICT ATTORNEY
5 BY: MICHAEL MAHAFFEY
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
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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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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 Thursday, September 4th, 2003 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 5th day of September, 2003.

20
21
22 
23 JOAN MARIE DOTSON, CSR #102
24

12/4 MAC
CR03-1601

NO. RCR2003-009553
DEPARTMENT NO. 1

FILED

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

2003 JUN 7 11:41 AM
BY [Signature]

03
Also RCR 2003-009554

STATE OF NEVADA	PLAINTIFF	COMPLAINT OF Tammy Riggs
VS.		
JOHN SCOTT BURKETT 8329421	DEFENDANT	DA'S NO. 313618 ECR
		ATTORNEY FOR PLAINTIFF DISTRICT ATTORNEY: Tammy Riggs
		ATTORNEY FOR DEFENDENT: ROBERT FAHRENDORF, Esq. AGENCY NO: WCSO WC03-05270

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	\$8,000.00 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 SSO: RL

Case#/Charges Information -

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

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

Bond Type	Bond Amount
Bondable	\$7,500.00

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

Bond Type	Bond Amount
Bondable	\$1,115.00

-- CHARGE --	Charge Type	Date	Count
FAIL TO DRIVE WITHIN MARKED LANES	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.

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

THE 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			
WCSO	ENCINO, CA	U.S.			
Language	Race	Gender	DOB	Age	
ENGLISH	WHITE	Male	[REDACTED]	42	
Height	Weight	Eyes	Hair	Marital	
510	165	GRN	BRN	SINGLE	

Residence -

Current Address -

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

With
- Name: ALONE

Prior Addresses -

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

With
GIRLFRIEND - Name: SHARLEEN LAWRY W/RENO TOY

Employment/Support -

Current Employment Status -

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

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

Employment Note --
18

Education -

Education
Completed: High School

Substance Abuse History -

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	FRIEND	17 Yr	[REDACTED]
Note - VORK 852-8453			

Name	Relationship	How Long Alt Contact	Phone
MARCIA LUCY Address: ,	FRIEND		[REDACTED]

Determination of Indigency Report

Client: BURKETT, JOHN SCOTT

SSN:

JOB:

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:

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DOB: 01/17/61

Assigned CSO: RL

Case(s): WC03-5270

I. Total Income Part IV, minus Total Expenses Part V

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)

Determination: ** N/A **

Assessment Amount:

Recommendation

DEF WILL HIRE ATTNY

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

Finding

Indigent Not Indigent Indigent and Able to Contribute Assessment Amount: \$

Judge or Judge's Designee: Title:

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FILED

2003 JUL 31 PM 3:11

ORIGINAL

ROYAL D. LUNNIN, JR.
BY: [Signature]
DEPUTY

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



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

TWO SIGNATURES REQUIRED

DK Luccy
Marcia Luccy
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 Luccy 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. LUNSTIN, JR.

BY [Signature] 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:

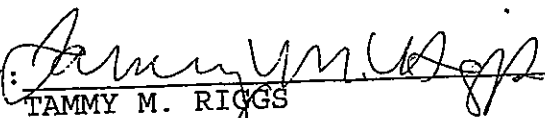
21 DRIVING UNDER THE INFLUENCE, a violation of NRS 484.379
22 and NRS 484.3792, a felony, (F360) in the manner following:

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

24

25

26

The following are the names and addresses of such witnesses as are known to me at the time of the filing of the 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*
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
LLP.

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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 of 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

J & L

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 alchoholism 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"

5 water street
nevada 89801

3rd & james
s. lake tahoe. ca 96158

2443 south curry street
carson city nevada 89701

1260 north main street
bishop ca 93514

1445-d paul bunyan
suzanneville ca 95120

40155 tahoe truckee rd
truckee ca 96161

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,

A handwritten signature in cursive script, appearing to read "Kristyn Leigh Lingenfelter".

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,**

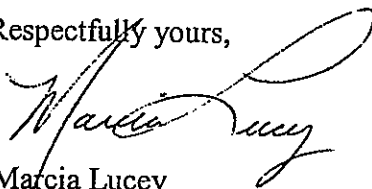
healthier and happier. John is remorseful and cried to me over the concern for his business and the many families dependent on him. He has apologized and cried to me for the pain that he has created for me.

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.

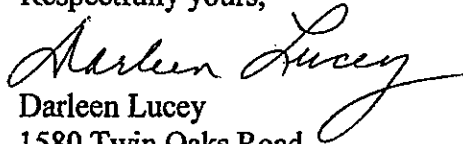
I have personally known JOHN BURKETT for several years, and would like to say that he is a very honest, kind, hard-working, sincere individual and businessman. John is also a very intelligent and productive person in his business, and he is a very important asset to his business partners, who greatly 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.

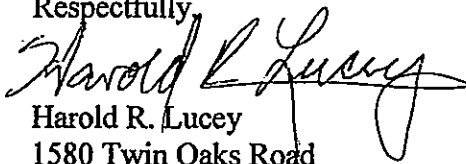
I am a third generation Nevadan, born in Palisade, Nevada, and reared in Sparks, Nevada. My parents and grandparents were born and raised in the Eureka, Nevada area. I held a non-restricted gaming license with the State of Nevada from 1965 to 2002, and for the past 25 years I have been a partner with 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
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327 CALIFORNIA AVENUE ~ RENO, NEVADA 89509

VILORIA &
OLIPHANT
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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:

- XX 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: Besky R. Hulke

43 Lowery Drive
Atherton, CA 94025
January 20, 1989

Ms. Jeri Reinhardt
Probation Department - Placer County
P.O. Box 1177
Tahoe City, CA 95730

Dear Ms. Reinhardt:

It was the most devastating blow that our family has ever received when the San Mateo County Deputy Coroner rang our doorbell at 10:15 p.m. Friday, July 29, 1988 and informed us our son Kelly was killed. He gave us no details only a Tahoe phone number. Officer Pavone, Deputy Sheriff, only confirmed that our son was killed and gave us the CHP phone number. CHP Officer Liles gave us the details that our son did nothing wrong, was in the slow lane and that a drunk driver traveling at a high rate of speed was the cause of his death and that the driver was arrested for drunk driving, driving without a license and gross vehicular manslaughter while intoxicated. He also informed us that the driver, John Scott Burkett, had a previous drunk driving conviction.

It is shocking to a family when one loses a loved one through no fault to an irresponsible, reckless, careless individual who has no regard for the law and is only out for himself and having a good time.

My wife and I lost our eldest son Kelly age 24, a fine young man who I had the privilege of raising. I watched him grow and was proud of his accomplishments. He loved the outdoors, sports and especially the Tahoe area -- his most favorite area. He was an Eagle Scout and graduated from the University of California with a BA in Business Economics. He was a thoughtful, considerate, cheerful young man who had a smile for most everyone. He was employed, working for only 20 months after he graduated before he was killed by a reckless, aggressive drunk driver.

The sleepless nights since Kelly died hopefully will pass after we put this event behind us with the sentencing of John Burkett. Hopefully I can think of the good times Kelly and I had and not dwell on the things that could have been.

I was curious to learn about John Scott Burkett. But the more information I got seemed to run in the same pattern -- a disregard for the laws that infringed on his endless effort to have a good time, to live off the fat of the land and not contribute to society.

The facts in the case as I see them which have a direct bearing on the sentence John Burkett should receive are as follows:

1. Killed Kelly J. Kolozsi while driving under the influence of alcohol and cocaine.
2. Blood alcohol was .17 one hour and 25 minutes after the accident and his blood revealed cocaine use within the previous six hours.
3. Traveling at 61.98 miles per hour according to CHP and 70.3 miles per hour by David Yoshida, PhD, in a 35 m.p.h. zone.
4. Previous drunk driving conviction while speeding on December 11, 1984 per certified copy of Justice Court records.
5. Reckless driving, crossed double yellow line through fast lane of on-coming traffic into the slow lane when he hit Kelly's car, killing our son.
6. Driving without a valid driver's license - Nevada license cancelled when Burkett failed to file proof of financial responsibility (per supplemental CHP report).
7. Driving without insurance - currently has a Ford Bronco registered in his name in Nevada to avoid California license fees while living in California.
8. Has fictitious non-existent address on Nevada driver's license (per CHP supplemental report).
9. Nevada driving record shows his driver's license has been suspended or revoked 4 times and no traffic schools. He disregarded the Judge's sentence from his December 1984 drunk driving conviction.
10. He was arrested in California for speeding and driving without a license on October 13, 1986 per California records.
11. He was seen driving after Kelly's accident in the Tahoe area -- again disregarding another Judge's order (per Ann Nichols, a 17 year resident and real estate sales person).

CHP Officer Liles did an excellent job of gathering evidence and more than sufficient for any Jury to convict John Burkett for all three crimes that he was charged with. He would have been convicted of gross vehicular manslaughter while intoxicated which carries a potential sentence of four, six, to ten years in prison. While I disagree with the court's allowing Burkett to plea no contest to a lesser charge of vehicular manslaughter with gross negligence I understand the reasons for the convenience of the courts. Mr. Burkett, as he usually does, takes the easy way out.

I believe that John Burkett needs to be taken away from his environment because his life hasn't changed since the accident. He has continued to drive and frequent the bars as he had before the accident. Kurtis Stutz, a young college student who witnessed Kelly's accident has seen him on occasions frequenting bars and has wondered what was going on in this case.

Burkett has displayed no remorse and we were told by a Peace Officer that his comment when informed that his actions resulted in taking of an innocent life was, "so what".

I strongly recommend that John Burkett be sentenced to six years, the actual sentence is only three years long since criminals may receive up to one-half time off. Three years is a small price to pay when compared to the productive life he took away from society. Burkett has no respect for the laws that infringe on his ability to have a good time. He was and is a danger to society and needs to be punished. Drunken killers on drugs should not be given probation but given the maximum sentence allowed by the law.

Sincerely,

John J. Kolozsi

John Scott

Thank you, your honor, for allowing us to speak. Mrs. Crane and the defendant's father, Mr. Burkett - we do not want revenge for the death of our son as you, Mr. Burkett wrote in your second letter to the court. Nor are we filled with hatred as you, Mr. Leupp, write in your letter to the court. We do not feel that you, as parents of the defendant, should feel responsible for the actions of your son. John Scott Burkett was 27 years of age at the time of this offense and he needs to take full responsibility for his irresponsible, reckless and unlawful conduct that resulted in the tragic death of our son, Kelly. Reliving the powerfully sad and irreversible consequences of John Burkett's offense the second time is just as difficult as it was the first time. We are here today to see that justice is served and hopefully prevent any of these circumstances from occurring again.

Upon examining new information that has been presented since the first hearing, there appears to be a ~~vast~~ number of inconsistencies which shed light on all issues.

Current Status of Defendant

The California Department of Corrections recommends no change be made in the current sentence and commitment of the defendant. He was classified and assigned to the facility at Susanville. The C.D.C. report states that, ^{Quote} "Mr. Burkett is in need of a structured environment where he can have time to understand the serious consequences of drinking while operating a motor vehicle." I was under the impression from what I have read in the newspaper that the

overcrowded conditions at our prison facilities require releasing prisoners as rapidly as possible. Yet in this case, the C.D.C. strongly recommends that the public would best be served by the continued incarceration of Mr. Burkett.

Psychological Evaluation on the question of Rehabilitation

Dr. Araza states that the defendant's vulnerability to alcohol abuse, " was mildly elevated" (Exhibit 1) and that Mr. Burkett should receive a one month inpatient treatment program. However, in Exhibit 32 Mr. Burkett's second letter to the court, he states, "I did not agree with the inpatient program" and he found the outpatient program more to his liking - less confining, I guess! The defendant further states in an earlier letter (Exhibit 31, first letter to the courts) "that he did not continue the inpatient program due to lack of adequate insurance coverage." Dr. Araza also states in his letter: "He completed a partial inpatient and outpatient alcohol program at Truckee Meadows Hospital after the accident. The medical and legal demands and his inability to drive interfered with successful completion of that program." Truckee Meadows Hospital's outpatient program is Monday, Tuesday, Wednesday, and Friday nights from 7-9:00 PM with Thursday night being optional. It appears that Mr. Burkett could have easily worked this program into his schedule of medical and legal appointments if he had felt the responsibility and obligation to do so. I believe the defendant is being less than forthright with the courts about the termination of these programs ~~and~~ I am still confuseed on how an eight hour a week outpatient program can be more beneficial than a 24 hour perr day inpatient program.

Influence of Cocaine

Use of cocaine, while it has an unknown effect on a driver, is a serious violation of the law. I continually read in the papers that the country and the Lake Tahoe area in particular have serious drug problems and that the President is about to unveil a new program against drug usage. Yet Mr. Leupp played down the close relationship in time that occurred between Mr. Burkett's last ingestion of cocaine and the time of the accident by stating "he used cocaine within the month of July, he apparently was not under the influence of cocaine at the time of the offense." On March 3, 1989, in this court Mr. Specchio stated, "...the fact that the metabolites were present would indicate that cocaine had been consumed somewhere between six hours or as many as one day prior to the time of this accident." The defendant states that he took cocaine the night before the accident in his March 13, 1989 deposition. The lab report states the cocaine was taken ~~eight~~^{four} (six) hours before the accident. I am deeply concerned about drug use of any kind in any amounts and the admission of cocaine use reflects the irresponsible and reckless character of the defendant and again shows the defendant willfully violated the law.

Influence of Alcohol

On the matter of the blood alcohol level at the time of the accident, there are many discrepancies.

I consider both Mr. Banford, owner of Captain Jon's (Exhibit 4) and Peter Hewitt, parking lot attendant at Captain Jon's (Exhibit 3) to be extremely self-serving. They would not admit responsibility

for overserving or knowingly allowing an intoxicated person to drive because that would imply culpability on their part. Also, there is a serious difference of opinion of the relationship of Peter Hewitt to John Burkett. In Peter Hewitt's letter to you, Judge Gilbert, he writes, "First of all I should inform you that I know John quite well. I've been with him on many occasions. In short I have known John for six years." Yet in his deposition taken under oath Mr. Burkett replies to the question, "Are you personally acquainted with Peter Hewitt?" His answer is, "Somewhat." Another question, "Is he still a parking attendant at Captain Jon's?" Answer, "I do not know." The defendant's replies indicate that he does not know Mr. Hewitt very well. Someone is being less than forthright with the court.

A letter (Exhibit 5) from Shirley Gorman who implies the defendant was not drunk. She states that when the defendant was buying roses from her, "the whole transaction he was standing on the side of me...his friend on the other, they were jovial"....."I could tell that these two boys were having a good time." Yet Mr. Hewitt states Louis Brame, who the defendant in Exhibit 32 calls "one of my dearest friends" was too drunk to drive and so Mr. Hewitt asked Mr. Burkett to drive Mr. Brame home. Yet Mrs. Gorman did not think either party was drunk but rather "just jovial and having a good time." Regardless of who is being forthright, the defendant's blood alcohol level was .17. Mr. Leupp states that it could be more consistent with a level of .12 - .14, but by the same token it could also have been

*The defendant in this case...
he had 3 drinks of Captain Grog - 3 1/2 cups -
which would lead to the .17 tan*

↑ nearer to .19 -.20 if the defendant was on the declining side of the curve. Either way, the defendant was legally drunk and the major concern here is his pattern of driving aggressively while drinking is very disturbing. In 1984 he received a DUI for driving 53 mph in a 25 mph zone (People's Exhibit III, Preliminary Hearing) and at the time of this offense the defendant was travelling at 61.98 mph in a 35 mph zone, again with no driver's license in his possession.....his usual pattern. In addition, he was driving in an extremely reckless, irresponsible and unlawful manner - passing on the right side of the road at a high rate of speed, cutting off a car, and then travelling through the fast lane into the slow lane of oncoming traffic to kill an innocent victim, our son Kelly. During all of this recklessness, never once did Mr. Burkett use his breaks as the accident report shows only centrifical skid marks. Once again, Mr. Burkett exhibits driving with gross negligence and blatant disrespect for the public safety of others.

*Judge Corcoran
argued defendant
evidence to present
Hypoxia Charge!*

Work Record is Very Confusing

Mr. Leupp writes that the defendant has a commendable work record. In Exhibit 31 (the defendant's first letter to the court) he gives his work history from 1979-1987 as being employed by Sierra Pacific Development Company. Exhibit 6 (his father's first letter) implies the defendant lived in the Lake Tahoe area since the age of 18. Yet in Exhibit 10 Mr. Pennington (defendant's father's brother-in-law) states that the defendant returned to Southern California for a time. In Dr. Araza's letter he confirms that the defendant returned to Orange County and worked for his step-father in the years 1980-82.

Exhibit 31 states that he worked for his father from 1979 to mid-1987 and is confirmed by Dr. Araza's letter and his father's report. Yet Mr. Leupp refers to Exhibit 7 where Dan Guerrett, owner of Pleasant Adventures, Inc. states, "John came to work for me in May 1986 after his temporary layoff from Sierra Development Company. He worked for me on a regular basis until the horrible accident which occurred in July 1988." Someone is not being forthright with the courts.

From the defendant's deposition: Q. "What's your income been for the last six months?" A. "Sporadic waiting for a next project, pick up remodel-type." Yet the defendant stated to the probation officer on January 23, 1989 that he was employed and receiving \$2,000 per month. In his deposition he stated, "Basically I was basing that \$2,000/month on the average from working for Sierra Pacific." In reality Mr. Burkett had not held that position for more than a year and a half. Again, the defendant is not being forthright with the court.

The defendant claims in his March 13, 1989, deposition that he was listed on the books of his father's company as an employee, but they were not paying him any money nor was he performing any physical labor since sometime in 1987. The company was carrying John Burkett on the books only for the purpose of medical insurance.

~~It appears to me that this may constitute insurance fraud. J. F. M.~~

This arrangement is illegal

It seems very clear that there were serious problems developing between John and his family beginning in 1987. From Dr. Araza's letter, "Mr. Burkett (the father) was not involved with him (son) much at all from the middle part of 1987 until after his accident. There was a period in 1987 when John appeared to change in his attitude." Exhibit 8 (Carsten Owens, owner of a Cantina) writes: "Following the Reno job, I saw John only infrequently, and it appeared to me he was beginning to spend too much time with what seemed to be a wrong crowd." Exhibit 10 (Father's brother-in-law) writes: "His (defendant's) problems started when we had no work and he got involved with the wrong group of friends. The so called friends were the beginning of his downfall. He got involved with liquor and drugs." Exhibit 13 (Father's second letter) "I believe John took a wrong turn in his life in the month preceding his accident."

Exhibit 4 from Mr. Banford's letter (owner of Captain Jon's): "Being a very good friend of John's father, I often was the unofficial 'intermediary' between John and his dad in situations when, due to lack of communications, there existed minor misunderstandings particularly in respect to John's choice of friends and career objectives."

From the defendant's mother's letter to the court dated March 15, 1989: She states, "His problems last year were very unusual and stem from trying to please his father too much and trying to be someone he could not be."

It would appear from mid 1987 that the defendant was not gainfully employed on a full time basis, nor was he close to his family, but was spending time with these so called wrong group of friends, got involved with drugs in addition to continuing to use alcohol and in fact for approximately one year was a bomb waiting to explode. Unfortunately, our son, Kelly, was the victim. Mr. Burkett was 27 years old at the time of the accident. He certainly was of age and needs to assume full responsibility for his choice of friends, life style and the resulting consequences for his actions. This tragic event could have been avoided if he had chosen to abide by the law.

Remorse

On March 12, 1989, a psychological evaluation of the defendant was conducted by Dr. Araza who concluded that the defendant "has the capacity for guilt and remorse..." The next day Mr. Burkett met with two of his attorneys, the same day our letter from Mr. Burkett was postmarked (March 13, 1989). My wife and I reluctantly accepted the defendant's letter of apology. However, it would have had greater meaning and sincerity if ^{the letter} it would have been written before ~~our plea~~ ~~for compassion during~~ the March 3rd sentencing hearing. The defendant writes in Exhibit 3 that he was "advised to wait..." After he pleaded guilty on December 28, 1988, more than two months passed before sentencing and a letter of remorse was only written after the defendant received a penalty that was totally unexpected and unprepared for. While we would like to feel that the letter is sincere, it appears

to us that his attorneys began the process of ~~resurrecting his character and started~~ gathering self-serving information to ask for recall for resentencing. I am sorry to say that the time factor alone negates any true sign of remorse. *In fact law*

Suspended License/Cancelled Insurance

I am deeply troubled by the discrepancies in the following exhibits concerning John Burkett's driver's license reinstatement and his car insurance:

Exhibit 28: "...This is to certify that John Burkett was insured with State Farm Insurance from December 1982 until July 19, 1988." However, Mr. Burkett in his depositions stated that, "Yeah, I've carried insurance with them approximately three years, I believe." Yet the Nevada Court document shows he had no ^{Proof of} insurance at the time of the 1984 DUI conviction and did not attempt to reinstate his license until 1987. *and Cancelled by State on 5-8-87*

Exhibit 29: Copy of a letter dated January 27, 1987 with no addressee referring to case #CR397-84 with a conviction date of 12/11/84. More than two years after the date of the conviction, the defendant was still attempting to get his license reinstated. The letter states that, "State Farm is in the process of Reviewing the SR-22 filing for John Burkett....The filing is expected to be made prior to February 6, 1987 directly from the State Farm Insurance regional office in Tempe, Arizona to the state of Nevada, Department of Motor Vehicles." Yet....

Exhibit 30: the letter from the Nevada DMV to John Burkett dated February 9, 1987, says: "Pursuant to our conversations, it was

agreed to allow you to reinstate your driving and/or registration privileges without filing a SR-22 form at this time. You agreed to provide this office with an SR-22 within 30 days." The next paragraph continues, "Please be advised if this office does not receive a SR-22 filing by March 4, 1987, the status of the license will be changed to suspended and you will be required to surrender your license." Mrs. Goolsby of the Nevada DMV informs me that a SR-22 was never filed and Mr. Burkett's license was cancelled and the defendant was informed in March of 1987.

It would appear that Mr. Burkett knew that the Nevada DMV had not received the SR-22 filing on February 9, 1987, which was supposed to have been filed by February 6, 1987, according to Exhibit 29. However, what troubles me even more is the fact that this action refers to the DUI offense nearly two years earlier yet Mr. Burkett states in his hand-printed letter (Exhibit 31) to the court that he received a 90 day driving suspension. He says, "When I returned to driving on a regular basis, I made contact with the DMV who informed me an SR-22 was needed to reinstate. I contacted my insurance carrier who informed both DMV and Myself that an SR-22 would be provided, thereafter my license was reinstated." We know from DMV records that Mr. Burkett was cited for speeding in California on 10-13-86 and convicted on 12-4-86 and again in Nevada cited on 12-17-86 and convicted on 2-5-87 for speeding. In each case he had no valid driver's license. In light of this information, it would appear that Mr. Burkett had been driving without a license for nearly two years before he contacted the Nevada

DMV, (refer to Exhibit 30) and continued to drive ~~yet in his March 3, 1989 deposition he stated that he had a valid driver's license.~~

I believe that at the time of the accident and for some years before, he was knowingly driving without any valid driver's license and no really reasonable basis for believing that he had any right to be operating a vehicle.

I am also puzzled by Mr. Leupp's sentence that states: "on the date of the collision he (John Burkett) was not driving his uninsured vehicle, but was driving his girlfriend's insured vehicle." I do not understand what Mr. Leupp is inferring, but according to Mr. Burkett's deposition, the question was posed, "Was there any reason you were driving that car (girl friend's) rather than the Bronco at the time of the accident." His answer was: "My car wasn't starting. My battery was dead."

Statement of Defendant

I do not want to quarrel with who wrote ~~these~~ letters, but what concerns me are the ~~many~~ discrepancies:

Exhibit 31: ~~Driving record and license suspension~~ - In Mr.

Burkett's deposition he responds to the following question:

"How many times altogether in your life have you had your driver's license suspended before the accident of July 28th - 29th, 1988?"

Mr. Burkett answers: "One time to my knowledge." Yet Mr. Burkett

EXHIBIT 31+32

was in court on two occasions when records showed that his license was revoked/suspended four different times. *lsh* He omitted, in his reply to the court in Exhibit 31, any reference to DUI school which he did not complete as ordered by a Nevada judge. Work history statement was incomplete as previously outlined.

Exhibit 32: Written May 1989 "As you know I had already begun these steps by entering Truckee Meadows Hospital. It is because of the program that I learned I had an alcohol abuse problem." This reference is to his August 1988 enrollment in the program, yet, ^{5 months d/c} on January 23, 1989 when interviewed by the probation officer Mr. Burkett stated he "was only a social drinker." Again, the defendant is less than forthright with the court.

John Burkett further states, "I could not afford to continue as an in-patient so I inquired what the out-patient program was and borrowed the money to enroll. Due to more and more days being missed because of ongoing medical treatment and legal matters, I was told I might have to be discharged. I decided to take care of my medical and legal matters and then pursue my treatment either with Truckee Meadows or closer to home as I could focus more on treatment without these interruptions." Yet Mr. Burkett never entered another program and furthermore Truckee Meadows Hospital's outpatient program is Monday, Tuesday, Wednesday, and Friday nights from 7-9:00 PM with Thursday night being optional. It appears that Mr. Burkett could have easily worked this evening program into his schedule of daily medical and legal appointments if he had felt the responsibility and obligation to do so.

In Exhibit 31 Mr. Burkett claims he never gave a fictitious address to the DMV. Yet he gave Officer Liles of the CHP the same fictitious address on the Nevada DMV record that he claims was a typo.

In the March 3rd, 1989, sentencing hearing the records state that, "He does wait for his girlfriend at work periodically and she works in a casino, but he does not consume alcohol when he does so." Yet Mr. Stutz saw Mr. Burkett and Mr. Bramy, who was in the accident with him, at a bar in January 1989, having a good time!!

In the Supplemental Accident Report dated August 1, 1988, Mr. Burkett states that he had been living with his girlfriend at 9927 Wave Avenue, Brockway, CA and currently resides at 267 Bend Avenue, Kings Beach, CA. In his March 13, 1989 deposition he states he owns a 85 Ford Bronco that is registered in Nevada with License #389BJA, a vehicle he has owned for more than two years. Living in the state of California and registering a car in Nevada to take advantage of lower taxes appears to be another violation of the law which John Burkett knowingly ignores.

In the CDC report titled Release Plans, Mr. Burkett states that he intends to live with his girlfriend at 587 Bend Avenue, Brockway, CA. However, his mother wrote in her letter to the court dated March 15, 1989, that the defendant expressed a desire to leave the Lake Tahoe area when he is released because of bad memories. Again, Mr. Burkett is being less than forthright with either the court or his mother.

These discrepancies reflect upon John Burkett's irresponsible character, his inability to be forthright with the court, and his concerted effort to knowingly and willfully disregard the rules of law that are made in order to insure the safety of the public. Since John Burkett killed an innocent victim through gross negligence, I do not see any reason to change the original sentencing ordered by you, Judge Gilbert, on March 3, 1989, and I agree with the California Correctional Center report that, "Mr. Burkett is in need of a structured environment where he can have time to understand the serious consequences of drinking while operating a motor vehicle. While in the Department of Corrections, he will be exposed to vocational training, academic programs and volunteer programs such as Alcoholics' Anonymous, all of which would be beneficial to Mr. Burkett and the public."

According to the law regarding prison sentences, Mr. Burkett will be entitled to one day off for each day served. Thus his six year sentence is actually only three years. By the time he is 31 years old, he will have paid his debt to society and hopefully restructured his life. When he is released from prison, he will have the opportunity to lead a long and productive life.

444

SUICIDE	ALL	DISCOVERED (Apparently Dead)	53A. BY-NAME Deputy Pavone	53B. ADDRESS Placer County Sheriff's Department	53C. TIME 1927 hrs	53D. DATE 7-29-88	
		LAST SEEN (Alive)	54A. BY-NAME Unknown	54B. ADDRESS Unknown	54C. TIME Unknown	54D. DATE Unknown	
	METHOD USED	55. N/A				54E. WHERE	
	APPARENT REASON	56. N/A					
	WEAPON	57A. WEAPON USED N/A <input type="checkbox"/> NO <input type="checkbox"/>	57B. WEAPON FOUND YES <input type="checkbox"/> NO <input type="checkbox"/>	57C. WHERE FOUND	57D. FOUND BY	57E. DISPOSITION	
NOTES	58A. NOTE LEFT N/A <input type="checkbox"/> NO <input type="checkbox"/>	58B. WHERE FOUND		58C. FOUND BY	58D. DISPOSITION		
	INSURANCE	59A. INSURANCE N/A <input type="checkbox"/> NO <input type="checkbox"/>	59B. AMOUNT	59C. BENEFICIARY-NAME AND ADDRESS			
PROPERTY ENVELOPE	60A. TOTAL CASH \$36.00	60B. CHECKS None	60C. BANKBOOKS-BANK, BRANCH AND ACCOUNT NO. None		60D. RECEIPT NO. 05803		
	61. OTHER PROPERTY (LIST ALL FROM RECEIPT) One black metal wristwatch; one black leather wallet with miscellaneous credit cards, miscellaneous papers; black water ski in black bag.						
VEHICLE	62A. YEAR 1974	62B. MAKE AND BODY TYPE BMW/2002/two-door	62C. LICENSE NO. [REDACTED]	62D. KEYS YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	62E. LOCATION OF VEHICLE Stored by California Highway Patrol		
RESIDENCE	63A. PROPERTY IN RESIDENCE REMOVED <input type="checkbox"/> LEFT <input type="checkbox"/> RELEASED <input type="checkbox"/>		63B. RELEASED BY OR SEALED BY	64C. TIME	64D. KEYS YES <input type="checkbox"/> NO <input type="checkbox"/>	64E. WHERE	
DISPOSITION OF PROPERTY	65A. RELEASED TO: (PRINT-Name & Relationship) John Kolozsi - Father			65B. ADDRESS 43 Lowery Drive, Atherton, CA			
	65C. Received from Sheriff-Coroner, DONALD J. NUNES the property as listed above: /s/John J. Kolozsi						
	65D. RELEASED BY (Signature and Address) Sergeant Hearn Placer County Sheriff's Department			65E. DATE AND TIME OF RELEASE 8-1-88 1250 hrs			

PROPERTY DATA

DEPT. OF CORONERS INVESTIGATION

THE FOLLOWING BY DEPUTY PAVONE:

7-29-88 I overheard a report of a traffic accident with unknown 1916 hrs injuries on State Route 28 at 7630, Thornley Lodge.

1917 hrs When I arrived at the scene I saw a Subaru Turbo, 4-wheel drive, two-door sedan facing south in the #1 westbound lane of State Route 28. I also saw an orange BMW 2002, two-door sedan (937MZO) facing east in the #2 westbound lane against the north curb of State Route 28.

1922 hrs Kings Beach Fire Department personnel arrived on the scene.

1927 hrs I was contacted by Kings Beach Fire Department Emergency Medical Technician II Carl Ricks, who told me that the subject in the BMW appeared to be deceased.

I walked to the BNMW and observed that it had sustained major damage to the driver's side. Inside I observed the decedent in the driver's seat. He was slumped over toward the right front

3 PAGE 1 OF _____ PAGES	SIGNATURES OF INVESTIGATING DEPUTIES DEPUTY PAVONE #70 2.	APPROVED BY: L.E. NEWMAN CAPTAIN
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COUNTY OF PLACER
CORONER'S RECORD
 SUPPLEMENTAL INVESTIGATION

1. FIRST NAME KELLY	1B. MIDDLE NAME JAMES	1C. LAST NAME KOLOZSI	2. CASE NO. ST8807290035
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(southeast) corner of the car. I observed that he was not breathing. His skin was ashen and his eyes were open. I checked for a radial pulse, but could not detect anything. I checked for a carotid pulse with the same results. Using my Mini Mag light, I shined the beam into the decedent's right eye. There was no reaction. I repeated this with the left eye and it did not react. Emergency Medical Technician II Ricks told me he listened to the decedent's heart with a stethoscope and did not detect a beat. At 1927 hours I pronounced death.

I located the decedent's wallet inside the car. I removed his California driver's license #C0318022. It identified the decedent as Kelly James Kolozsi. The decedent was wearing blue and grey shorts and a white T-shirt.

1937 hrs Removal service was notified of the death.

2024 hrs Because of the extent of damage to the BMW, it was not until this time that the decedent could be extricated. After he was removed from the car I observed that blood was in his left ear and on both legs and arms. His right forearm appeared to be broken just above the wrist. I saw blood on the steering wheel inside the car.

The decedent was placed in a body bag and transported to the Placer County Sheriff's Office to await the arrival of removal services. Deputy Langton transported the decedent in Unit #268.

2145 hrs Removal service arrived at the Sheriff's Office. Sergeant Church and I viewed the decedent. I noted blood in both ears. Pink foam was in and around the mouth. The distortion to the right forearm was still visible. A 3-inch diameter open puncture was noted on the anterior portion of the left lower leg. No postmortem lividity or rigor mortis was present.

The decedent's wristwatch was removed. He had no other property in his possession.

Mark Daffern transported the decedent to the Placer County Morgue in Auburn.

Detective Jones contacted the Atherton Police Department and requested they notify the decedent's family of the death. They advised they do not do death notification.

2 3 Page _____ of _____ Pages	SIGNATURES OF INVESTIGATING DEPUTIES: 1. DEPUTY PAVONE #70 2.	APPROVED BY: L.E. NEWMAN CAPTAIN
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COUNTY OF PLACER
CORONER'S RECORD
 SUPPLEMENTAL INVESTIGATION

I. FIRST NAME KELLY	II. MIDDLE NAME JAMES	III. LAST NAME KOLOZSI	IV. CASE NO. ST8807290035
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Detective Jones contacted the San Mateo County Coroner's Office. He spoke to Deputy Coroner Robert Bergstrom. Deputy Coroner Bergstrom notified the decedent's father, John Kolozsi, at his residence in Atherton at 2200 hours.

2300 hrs The property listed on the Property Record was placed in Pre-evidence Locker #2.

Photographs were taken at the scene and at the Sheriff's Office.

Officer Liles of the California Highway Patrol investigated the incident and took Report #88-07-97.

THE FOLLOWING BY CAPTAIN NEWMAN:

7-30-88 Autopsy, Placer County Morgue, performed by
 1350 hrs D.M.Henrikson, M.D.

Alcohol: None detected Drugs: None detected

The decedent was subsequently released to Truckee-Tahoe Mortuary, Truckee, CA.

Conclusion: Evidence and information reveal the decedent was the driver of a vehicle that collided with another vehicle.

3 3 Page of Pages	SIGNATURES OF INVESTIGATING DEPUTIES: 1. DEPUTY PAVONE #70 2.	APPROVED BY: L.E. NEWMAN CAPTAIN
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PLACER COUNTY SHERIFF-CORONER'S OFFICE
AUBURN, CALIFORNIA

CORONERS RECEIPT

ST-88-07
29-0035

DATE: 7-29-88 TIME: 2140 THIS IS TO CERTIFY THAT I HAVE,
ON THE ABOVE DATE AND TIME, MADE A CAREFUL SEARCH OF

THE PERSON CLOTHING / PREMISES / VEHICLE / (other) _____
OF KOLOZSI, KELLY JAMES DECEASED

AT PLACER Co SHERIFF SUBSTATION - TANDOE
AND HAVE TAKEN POSSESSION OF THE FOLLOWING DESCRIBED
PROPERTY:

CURRENCY, \$ #36.00 COIN, \$ 0

AND: BLK METAL WRIST WATCH, BLK LEATHER
WALLET, MISC CREDIT CARDS & PAPERS,
A BLK WATER SKI CONTAINED IN A BLK
NYLON SKI BAG.

ROOM/VEHICLE SEALED? N/O DATE & TIME _____

BY: DET. S. CHURCH 520 DEPUTY CORONER
DONALD J. NUNES, SHERIFF-CORONER

WITNESS: Henry Pavaone #702

ADDRESS: BUTTON CREEK DRIVE / TANDOE - SUBSTATION

**THIS SECTION FOR USE WHEN RELEASING PROPERTY TO PERSON
LEGALLY ENTITLED THERETO**

DATE: _____ TIME: _____ ALL PROPERTY LISTED ABOVE
RECEIVED FROM THE PLACER COUNTY CORONER BY THE UNDER
SIGNED, WHO AFFIRMS THAT HE OR SHE IS LEGALLY ENTITLED
TO SAME:

- See Photocopy Attached -

(Signature & Relationship)

(Print Full Name & Address)

RELEASED BY: _____ (Deputy Coroner)

CORONERS RECEIPT

05803

PLACER COUNTY SHERIFF-CORONER'S OFFICE
AUBURN, CALIFORNIA

CORONERS RECEIPT

ST-89-09
-0035

DATE: 7/29/88 TIME: 7:40 THIS IS TO CERTIFY THAT I HAVE,
ON THE ABOVE DATE AND TIME, MADE A CAREFUL SEARCH OF

THE PERSON (CLOTHING) / PREMISES / (VEHICLE) / (other) _____

OF KOLOPSI, KELLY - TAMAR DECEASED

AT WATER IN SILENT SUBSTITUTION - TAMAR
AND HAVE TAKEN POSSESSION OF THE FOLLOWING DESCRIBED
PROPERTY:

CURRENCY: \$ 26.00 COIN, \$ 0

AND: 2X METAL WRIST WATCH (2X LEATHER
WALLET, MISC. CREDIT CARDS & PAPERS,
11 BIK WATER SKI CONTAINED IN A BIK
W/LOW SKI BAG

ROOM/VEHICLE SEALED? 1/0 DATE & TIME _____

DONALD J. NUNES, SHERIFF-CORONER

BY: [Signature] DEPUTY CORONER

WITNESS: [Signature]

ADDRESS: WATER IN SILENT SUBSTITUTION

THIS SECTION FOR USE WHEN RELEASING PROPERTY TO PERSON
LEGALLY ENTITLED THERETO

DATE: 8/1/88 TIME: 12:50 ALL PROPERTY LISTED ABOVE,
RECEIVED FROM THE PLACER COUNTY CORONER BY THE UNDER-
SIGNED, WHO AFFIRMS THAT HE OR SHE IS LEGALLY ENTITLED
TO SAME:

[Signature] FARNER
John J. Kolopsi, 43 LOWERY DR, BARKSTON, CAL.
(Signature & Relationship)
(Print Full Name & Address)

RELEASED BY: [Signature] #17
(Deputy Coroner)

CORONERS RECEIPT
05803

COUNTY OF PLACER
Office of Sheriff-Coroner
Auburn, California
AUTOPSY RECORD

P88-169
ST88-0035

Name KOLOZSI, Kelly James Age 24 Sex M Race C Case No. ST88-0035

Date and time of death 7/29/88; 1927 Place of Death Tahoe Autopsy at Morgue yes Or: _____

External Exam. _____ Partial Autopsy _____ Autopsy X Date and time of examination 7/30/88; 1350 hours

Identifying Characteristics: Eyes _____ Hair _____ Height _____ Weight _____

Scars _____ Injuries _____

We, the undersigned, having made the following examination, find the cause of death to be:

(A) Immediate cause: MULTIPLE BLUNT-FORCE TRAUMA

(B) due to: _____

(C) due to: _____

1. Other significant conditions: _____

Clinical Information

Findings and Comments:

SPECIMENS TAKEN

- 1. BLOOD X Taken for: B/A X Type _____ Tox X
- 2. STOMACH CONTENT TOX
- 3. TISSUE REP SECTIONS FOR PATH
- 4. URINE TOXICOLOGY
- 5. OTHER BILE FOR TOX

Taken by: D.M. Henrikson
D.M. HENRIKSON, M.D. 7/30/88; 1415
(Signature - date and time)

D.M. Henrikson M.D.
(Autopsy Surgeon) D.M. HENRIKSON, M.D.

DONALD J. NUNES Sheriff-Coroner, Placer County

BY: _____

Witness: _____
(if autopsy)

1
2 The autopsy is performed at the DeWitt Center Morgue on Saturday,
3 July 30, 1988, at 1350 hours.

4 IDENTIFICATION

5 The body, which is unclothed and contained within a white, opaque,
6 zippered, plastic bag, is that of a well-developed, well-nourished,
7 Caucasian male measuring 75-1/4 inches in height, weighing approximately
8 170 pounds, and appearing about the staged age of 20 years. There are
9 extensive signs of blunt-force trauma to be described in greater detail
10 below. Rigor mortis is fully-developed in the feet, ankles, knees, right
11 hip, hands, left wrist, elbows, neck, and jaws; is partially-developed in
12 the shoulders; and is absent from the left hip and left wrist. A slight
13 amount of fixed, purple-pink lividity involves the posterior aspect of
14 the head and neck, the posterior aspect of the upper extremities to the
15 level of the elbows, the posterior aspect of the lower extremities to the
16 level of the knees, and the back. The body is cold to palpation. The
17 body is identified by a Coroner's tag.

18 EXTERNAL DESCRIPTION

19 The head is normocephalic with signs of trauma to be described in greater
20 detail below. The scalp is covered with a moderate growth of fine dark
21 brown-black hair averaging 1-1/2 inches in length. The sclerae are
22 nonicteric, the corneas slightly cloudy, and the conjunctivae show no
23 petechial hemorrhage. The pupils are round, regular, and equal
24 measuring 0.2 cm bilaterally. The irides are green. A slight amount of
25 red-tan drying artifact involves both scleras. There are red-purple-
26 green ecchymoses involving the right upper lid and the left lower
27 eyelid. The ears reveal no lesions but do contain a moderate amount of
28 dried blood. The nose contains a moderate amount of dried blood. The
mouth contains a moderate amount of foamy white froth ("foam cone").
There are no signs of trauma to the oral mucosa. The teeth are in
generally good repair. There is moderate smeared, dried blood
covering the anterior face, which has dripped down both sides into the
ears. The neck is stiff owing to the presence of rigor mortis.

21 The chest is intact to external compression. The abdomen is flat and
22 soft with no palpable organs or masses. There are signs of trauma
23 involving the chest and abdomen to be described in greater detail below
24 and a moderate amount of smeared, dried blood covers the anterior chest.
25 In addition, there are several tiny shards of glass averaging less than
26 1/16 inch in greatest dimension covering the anterior trunk, as well as
27 fragments of orange and gray paint flakes. The genitalia are those of a
28 well-developed, circumcised, adult male with bilaterally descended
testes.

26 The lower extremities demonstrate extensive signs of trauma to be
27 described in greater detail below. The anterior right thigh is covered
28 with a moderate amount of smeared, dried, clotted blood and several
fragments of glass; black, gray, and orange paint flakes; and some
foreign fiber-like debris. There is cyanosis but no clubbing, edema, or
deformity. The toenails are well-trimmed, being essentially even with
the tips of the toes.

1
2
3 The upper extremities demonstrate no scars or palpable cord-like veins in
4 the antecubital fossas bilaterally. There is a moderate amount of
5 smeared, clotted, dried blood covering predominantly the right forearm.
6 In addition, multiple irregular flakes of orange and gray paint cover
7 both arms. There is cyanosis but no clubbing, edema, or deformity. The
8 fingernails are fairly well-trimmed, being essentially even with the tips
9 of the fingers.

10 The back reveals no lesions of note. The anal sphincter is intact with
11 no signs of external trauma. There is a moderate amount of partly-fluid
12 blood covering most of the back.

13 TRAUMA

14 There is an irregular, oblique, brush-burn, type abrasion involving the
15 right temporal area which measures 3/4 x 1/4 inch. An irregular,
16 similar, horizontal abrasion involves the left temple area measuring
17 approximately 5/8 x 1/4 inch, surrounded by a 1 inch red-tan bruise.
18 There is a moderate amount of fluid blood present in the back of the
19 skull, but no lacerations are identified, and there are no palpable
20 fractures. There is an irregular, dice-type, red laceration involving
21 the upper left side of the neck, which measures 3/8 inches in greatest
22 dimension. An irregular, red-tan bruise involves the lower left neck,
23 measuring 1-1/4 x 1 inches. Multiple dice-type lacerations cover the mid
24 and left anterior chest, ranging from 1/4 to 1 inch in greatest dimension
25 and covering an area measuring overall 12 x 10 inches. An irregular,
26 dice-type, combined laceration and abrasion involves the right upper
27 quadrant of the abdomen, measuring 5/8 inches in greatest dimension. Two
28 semilunar-shaped, red-purple-tan abrasions involve the left upper hip
area laterally, one inch below the iliac crest, measuring 1-1/2 and 2
inches long and averaging 1/4 inch wide. An irregular laceration
involves the medial aspect of the right knee measuring 1-1/2 x 1 inches
and a similar laceration involves the anterior aspect of the right knee
measuring 1/2 x 1/2 inch. Multiple scratch-like, red-tan abrasions
involve the lateral aspect of the right knee, covering an area measuring
1 x 1/2 inch. A linear, oblique, red-tan abrasion involves the anterior
upper tibial area of the right leg, measuring 1-1/2 inches long and
averaging 1/8 inch wide. An irregular, red-tan abrasion and bruise
involves the medial aspect of the right ankle and Achilles' tendon
covering an area measuring 2 x 1-1/2 inches. There is a comminuted,
closed fracture of the left mid femur. There is a gaping laceration
involving the medial aspect of the left lower leg approximately four
inches above the ankle, which measures 4 inches long times 1-1/4 inches
wide. There is a closed, comminuted fracture of the underlying left
tibia at a point approximately 1-1/2 inches above the ankle. Multiple
red-tan bruises involve the posterior aspect of the left leg, stretching
from the mid thigh to the medial ankle. There is a closed, comminuted
fracture of the right wrist.

29 PRIMARY INCISION AND BODY CAVITIES

30 A standard Y-shaped thoracoabdominal incision is made through skin and
31 subcutaneous fat measuring approximately 1/2 inch thick in the mid

1
2 abdomen. There is a fracture of the left mid clavicle. Removal of the
3 chestplate demonstrates no evident fractured ribs. The pericardium is
4 smooth but is torn anteriorly. Approximately 30 ccs of blood are present
5 in the pericardial sac. The heartblood is partially clotted. The pleura
6 is smooth bilaterally. Approximately 500 ccs of bright red blood are
7 present in the right pleural space, and approximately 250 ccs of blood
8 are present in the left pleural space, associated with a laceration of
the aorta at the level of the carina. There is no evident pneumothorax
bilaterally. The peritoneal and serosal cavities are smooth, about
250 ccs of bright red blood are present in the abdominal cavity, the
internal organs maintain their usual relationship, and no organs are
absent. There is a comminuted fracture of the right superior pubic
ramus.

9 ORGAN DESCRIPTION

10 NECK

11 There is no evident hemorrhage into the soft tissues of the neck. The
12 hyoid bone is intact without evidence of hemorrhage or fracture. The
13 thyroid is bilobed and nonnodular. Serial sections demonstrate no gross
14 pathologic abnormalities. No obstructing materials or lesions are
present in the glottis or larynx, and there is no evident laryngeal
fracture. There is a moderate amount of pink, foamy froth within the
trachea.

15 CARDIOVASCULAR SYSTEM

16 The heart weighs approximately 250 grams. The epicardial surface is
17 smooth and covered with a regular amount of epicardial fat. The
18 coronary arteries have a balanced distribution and show no significant
19 atherosclerotic plaque formation. The valves are grossly unremarkable.
The four chambers are not dilated. The foramen ovale is closed. The
ventricular myocardium demonstrates no apparent acute or old myocardial
infarcts. The left ventricular myocardium measures up to 1.2 cm thick.
The coronary ostia have their usual position and are patent. The great
vessels have their usual relationship. The aorta demonstrates no
significant atherosclerotic plaque formation but does show an irregular
laceration at the level of the carina as previously described, measuring
about 1 inch long and gaping to 1/16 inch wide.

22 PULMONARY SYSTEM

23 The right lung weighs approximately 350 grams, and the left lung weighs
24 approximately 400 grams. The pleural surfaces are pink-tan and
25 generally smooth. Cut surfaces reveal a moderate amount of congestion
26 and edema and extensive intrapulmonary parenchymal hemorrhage. No areas
of pneumonic consolidation, masses, infarcts, or abscesses are
identified. The bronchial tree bilaterally contains a moderate amount of
frothy, pink fluid. The pulmonary vessels demonstrate no thromboemboli.

27 GASTROINTESTINAL TRACT

28 The gastrointestinal tract is intact throughout its length. The
esophagus is lined by smooth, gray-tan mucosa with no apparent erosions

1
2 or varices. The stomach is lined by smooth, yellow-tan mucosa with a
3 regular rugal pattern and demonstrates no hemorrhages or ulcers. The
4 stomach contains about 75 ccs of dark tan fluid. No residual medications
5 and no ethanol-like odor are detected. No blood is seen throughout the
small and large intestines. There is a moderate amount of well-formed,
yellow-brown fecal material within the colon.

6 HEPATOBIILIARY SYSTEM

7 The liver weighs appraoximately 1400 grams. The capsule is smooth and
8 glistening, but there are multiple lacerations involving the right and
9 middle lobes anteriorly and the left lobe posteriorly. These range from
10 1 to 3 inches in length and gape to a maximum of 1/8 inch. The edges are
sharp. The liver cuts with regular resistance to reveal a red-yellow-tan
parenchyma with no apparent masses, fibrosis, or fatty change. The
gallbladder contains about 5 ccs of dark, ropy, yellow-green bile. No
stones are present. The extrahepatic biliary tree is patent.

11 PANCREAS

12 The pancreas has its usual size, shape, and position. Cut surface
13 reveals lobulated tan tissue with no apparent hemorrhage, fat necrosis,
fibrosis, or calcification.

14 HEMATOPOIETIC SYSTEM

15 The spleen weighs approximately 250 grams. The capsule is blue-gray and
16 generally smooth except for multiple lacerations covering most of the
17 splenic surface, ranging from 1-1/2 to 4 inches in length and averaging
1/8 inch wide. Cut surface reveals soft purple parenchyma with a regular
18 pattern of malpighian corpuscles and trabeculae. No masses, infarcts, or
abscesses are identified. There is no localized or generalized
lymphadenopathy throughout the body.

19 GENITOURINARY SYSTEM

20 The kidneys weigh approximately 120 grams each. The true capsule strips
21 with ease bilaterally revealing a smooth cortical surface. There is an
22 irregular laceration involving the posterior aspect of the lower pole of
the right kidney measuring approximately 1-1/4 inches long and averaging
1/8 inch wide. Cut surface reveals regular corticomedulary architecture
23 with no apparent masses, infarcts, or abscesses. The renal collecting
system bilaterally is patent and not dilated. The renal vessels are not
24 stenotic. The urinary bladder contains about 3 ccs of slightly cloudy
yellow urine. The bladder mucosa is pink-tan and smooth with no focal
25 lesions noted. The prostate is grossly unremarkable.

26 ENDOCRINE SYSTEM

27 The pituitary has its usual size, shape, and position with no apparent
28 hemorrhage, despite an extensive fracture of the posterior portion of the
sella turcica, and no evident masses. The adrenal glands bilaterally
have their usual size, shape, and position. Cut surface reveals regular
corticomedulary architecture with no apparent hemorrhage or masses.

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SKELETAL SYSTEM

The skull, pelvis, and long bones demonstrate multiple fractures as previously-described. The ribs and vertebral column demonstrate no apparent fracture.

CENTRAL NERVOUS SYSTEM

The scalp is opened by a standard bimastroid incision and reflected, revealing moderate subgaleal and periosteal hemorrhage in the region of the right parietal bone, which is fractured and which shows separation of the occipital-mastoid suture. The calvarium is removed and shows no epidural hemorrhage but shows mild diffuse subdural and mild diffuse subarachnoid hemorrhage. The brain weighs approximately 1200 grams. The meninges are smooth and glistening with no apparent pus in the meningeal compartment. The gyri have their usual width and the sulci their usual depth. The external configuration of the brainstem and cerebellum is grossly unremarkable. There is no apparent edema and no evident cingulate gyral, uncal, or tonsillar herniation. The cranial nerves are grossly unremarkable. The cerebral vessels are thin-walled with no significant atherosclerotic change and no apparent malformation or aneurysms. Serial coronal sections reveal no enlargement of the ventricles and no focal masses, infarcts, or abscesses. The dura, which is opaque and not thickened, is stripped from the skull revealing, in addition to the fracture involving the right parietal bone, a fracture of the petrous ridge portion of the right temporal bone and a fracture of the anterior portion of the foramen magnum.

PROVISIONAL PATHOLOGIC DIAGNOSES

- I. Multiple blunt-force trauma.
 - A. Fractures: fractures of multiple long bones, right pelvis, left clavicle, skull, and right wrist.
 - B. Lacerations: multiple lacerations of skin of trunk and lower extremities; lacerations of aorta, liver, spleen, right kidney, and pericardium.
 - C. Hemorrhages: hemopericardium, hemothorax, hemoperitoneum, subgaleal and periosteal hemorrhage, subdural and subarachnoid hemorrhages.
 - D. Multiple abrasions of skin of head, trunk, and extremities.
- II. Bilateral pulmonary edema and congestion, mild, and intrapulmonary parenchymal hemorrhage.
 - A. Aspiration of blood with foam cone in trachea and bronchi.

1
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3 MATERIALS FOR TOXICOLOGY

4 Heartblood, urine, bile, and gastric contents.

5 MATERIALS FOR PATHOLOGY

6 Representative sections.

7 ASSISTING

8 Mark Daffern.

9 CAUSE OF DEATH

10 Multiple blunt-force trauma.

11
12 *D.M. Henrikson*

13 D.M. HENRIKSON, M.D.
14 PATHOLOGIST

DMH:dk
08/02/88

15 MICROSCOPIC EXAMINATION (08/03/88)

16 CARDIOVASCULAR SYSTEM

17 Cross sections of coronary arteries demonstrate no significant
18 atherosclerotic plaque formation. Multiple sections of ventricular
19 myocardium demonstrate no apparent acute or old myocardial infarcts and
20 no evident myocarditis. A section from the aorta in the vicinity of the
21 laceration noted grossly confirms the presence of disruption of the
22 elastic wall associated with abundant fresh hemorrhage into the
23 surrounding adventitia.

24 PULMONARY SYSTEM

25 Multiple sections from the lungs confirm the presence of mild congestion
26 and edema and demonstrate extensive fresh hemorrhage into alveolar
27 spaces. There is no apparent bronchopneumonia and no evident malignancy.

28 HEPATOBIILIARY SYSTEM

Sections from the liver confirm the presence of extensive lacerations
with disruption of hepatic parenchyma, accompanied by a mild fresh
hemorrhage. There is no apparent hepatitis, fatty change, fibrosis, or
malignancy.

HEMATOPOIETIC SYSTEM

A section from the spleen confirms disruption of the parenchyma just
below the capsule in association with one of the lacerations noted
grossly, accompanied by fresh hemorrhage into the pericapsular soft
tissues. There is no apparent splenitis or malignancy.

GENITOURINARY SYSTEM

A section from the right kidney confirms the presence of the laceration noted grossly, not accompanied by a significant hemorrhage. Sections from both kidneys demonstrate no apparent glomerulonephropathy, pyelonephritis, or malignancy.

CENTRAL NERVOUS SYSTEM

Multiple sections from the brain confirm the presence of fresh subarachnoid hemorrhage. There is no apparent meningoencephalitis, infarct, or malignancy.

FINAL PATHOLOGIC DIAGNOSES

I. Multiple blunt-force trauma.

- A. Fractures: fractures of multiple long bones, right pelvis, left clavicle, skull, and right wrist.
- B. Lacerations: multiple lacerations of skin of trunk and lower extremities; lacerations of aorta, liver, spleen, right kidney, and pericardium.
- C. Hemorrhages: hemopericardium, hemothorax, hemoperitoneum, subgaleal and periosteal hemorrhage, subdural and subarachnoid hemorrhages.
- D. Multiple abrasions of skin of head, trunk, and extremities.

II. Bilateral pulmonary edema and congestion, mild, and intrapulmonary parenchymal hemorrhage.

- A. Aspiration of blood with foam cone in trachea and bronchi.

CAUSE OF DEATH

Multiple blunt-force trauma.



D.M. HENRIKSON, M.D.
PATHOLOGIST

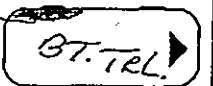
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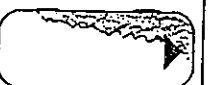
TRAFFIC COLLISION REPORT

SPECIAL COMPL. FATAL	NUMBER INJURED 2	HIT & RUN FELONY <input type="checkbox"/>	CITY TAHOE CITY	JUDICIAL DISTRICT TAHOE CITY	NUMBER 88-07-97
	NUMBER KILLED 1	HIT & RUN MISD. <input type="checkbox"/>	COUNTY PLACER	REPORTING DISTRICT 15	BEAT 15

LOCATION	COLLISION OCCURRED ON S.R. # 28	MO. DAY YEAR 7 29 88	TIME (2400) 1915	NCIC # 9222	OFFICER I.D. 4947
	MILEPOST INFORMATION 4.5 FT. WEST OF PLA. 9.09	DAY OF WEEK SMTWTFSS	TOW AWAY <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PHOTOGRAPHS BY: 12 PHOTOS BY S-4	
	<input type="checkbox"/> AT INTERSECTION WITH <input checked="" type="checkbox"/> OR: 485 FEET / MILES W OF BEACH AVE.	STATE HWY REL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> NONE	

PARTY 1	DRIVER'S LICENSE NUMBER NIP	STATE	CLASS	SAFETY EQUIP. B	VEH. YR. 86	MAKE / MODEL / COLOR SUBARU 2 DR. GRAY	LICENSE NUMBER 224 BPL NV.	STATE					
DRIVER	NAME (FIRST, MIDDLE, LAST) JOHN SCOTT BURKETT				OWNER'S NAME SUSAN D. DEVIK		<input type="checkbox"/> SAME AS DRIVER						
PEDESTRIAN	STREET ADDRESS P.O. Box 4763-1565 VIVIAN LN.				OWNER'S ADDRESS <input type="checkbox"/> SAME AS DRIVER								
PARKED VEHICLE	CITY / STATE / ZIP INCLINE VILLAGE, NV. 89450				DISPOSITION OF VEHICLE ON ORDERS OF: <input checked="" type="checkbox"/> OFFICER <input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER								
BICYCLIST	SEX M	HAIR BRN	EYES BRN	HEIGHT 5-10	WEIGHT 160	MO. 1	BIRTHDATE DAY 17	YEAR 61	RACE	HOME PHONE (916) 546-5833	BUSINESS PHONE	PRIOR MECHANICAL DEFECTS: <input type="checkbox"/> NONE APPARENT <input checked="" type="checkbox"/> REFER TO NARRATIVE <input type="checkbox"/>	
OTHER	INSURANCE CARRIER AAA				POLICY NUMBER W6-16-48-5				CHP USE ONLY VEHICLE TYPE 01		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK. <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MOD. <input type="checkbox"/> MAJOR <input checked="" type="checkbox"/> TOTAL		SHADE IN DAMAGED AREA
	DIR. OF TRAVEL E	ON STREET OR HIGHWAY S.R. # 28		SPEED LIMIT 35	PCF 23152 V.C.	ICC <input type="checkbox"/>	PUC <input type="checkbox"/>	CHP <input type="checkbox"/>					

PARTY 2	DRIVER'S LICENSE NUMBER NS751409	STATE CA	CLASS 3	SAFETY EQUIP. G	VEH. YR. 82	MAKE / MODEL / COLOR HONDA 2 DR. BLUE	LICENSE NUMBER 1FJC 064 CA.	STATE CA.					
DRIVER	NAME (FIRST, MIDDLE, LAST) JEFFREY JOHN FORD				OWNER'S NAME <input checked="" type="checkbox"/> SAME AS DRIVER		<input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER						
PEDESTRIAN	STREET ADDRESS 119 BARGAREE WAY				OWNER'S ADDRESS <input checked="" type="checkbox"/> SAME AS DRIVER								
PARKED VEHICLE	CITY / STATE / ZIP TIBURON CA 94920				DISPOSITION OF VEHICLE ON ORDERS OF: <input type="checkbox"/> OFFICER <input checked="" type="checkbox"/> DRIVER <input type="checkbox"/> OTHER								
BICYCLIST	SEX M	HAIR BLN	EYES BLU	HEIGHT 6-1	WEIGHT 180	MO. 7	BIRTHDATE DAY 28	YEAR 59	RACE	HOME PHONE ()	BUSINESS PHONE ()	PRIOR MECHANICAL DEFECTS: <input type="checkbox"/> NONE APPARENT <input checked="" type="checkbox"/> REFER TO NARRATIVE <input type="checkbox"/>	
OTHER	INSURANCE CARRIER FARMERS				POLICY NUMBER 95113784863				CHP USE ONLY VEHICLE TYPE 0134		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK. <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MOD. <input checked="" type="checkbox"/> MAJOR <input type="checkbox"/> TOTAL		SHADE IN DAMAGED AREA
	DIR. OF TRAVEL W	ON STREET OR HIGHWAY S.R. # 28		SPEED LIMIT 35	PCF -	ICC <input type="checkbox"/>	PUC <input type="checkbox"/>	CHP <input type="checkbox"/>					

PARTY 3	DRIVER'S LICENSE NUMBER C 0318022	STATE CA.	CLASS 3	SAFETY EQUIP. G	VEH. YR. 74	MAKE / MODEL / COLOR B.M.W. SED. ORG.	LICENSE NUMBER 937M20 CA.	STATE CA.					
DRIVER	NAME (FIRST, MIDDLE, LAST) KELLY JAMES KOLOZSI				OWNER'S NAME <input checked="" type="checkbox"/> SAME AS DRIVER		<input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER						
PEDESTRIAN	STREET ADDRESS 43 LOWERY DR.				OWNER'S ADDRESS <input checked="" type="checkbox"/> SAME AS DRIVER								
PARKED VEHICLE	CITY / STATE / ZIP ATHERTON CA. 94025				DISPOSITION OF VEHICLE ON ORDERS OF: <input checked="" type="checkbox"/> OFFICER <input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER								
BICYCLIST	SEX M	HAIR BRN	EYES GRN	HEIGHT 6-2	WEIGHT 170	MO. 4	BIRTHDATE DAY 4	YEAR 64	RACE	HOME PHONE ()	BUSINESS PHONE ()	PRIOR MECHANICAL DEFECTS: <input type="checkbox"/> NONE APPARENT <input checked="" type="checkbox"/> REFER TO NARRATIVE <input type="checkbox"/>	
OTHER	INSURANCE CARRIER U.S.A.A.				POLICY NUMBER 0360252071011				CHP USE ONLY VEHICLE TYPE 01		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK. <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MOD. <input type="checkbox"/> MAJOR <input checked="" type="checkbox"/> TOTAL		SHADE IN DAMAGED AREA
	DIR. OF TRAVEL W	ON STREET OR HIGHWAY S.R. # 28		SPEED LIMIT 35	PCF -	ICC <input type="checkbox"/>	PUC <input type="checkbox"/>	CHP <input type="checkbox"/>					

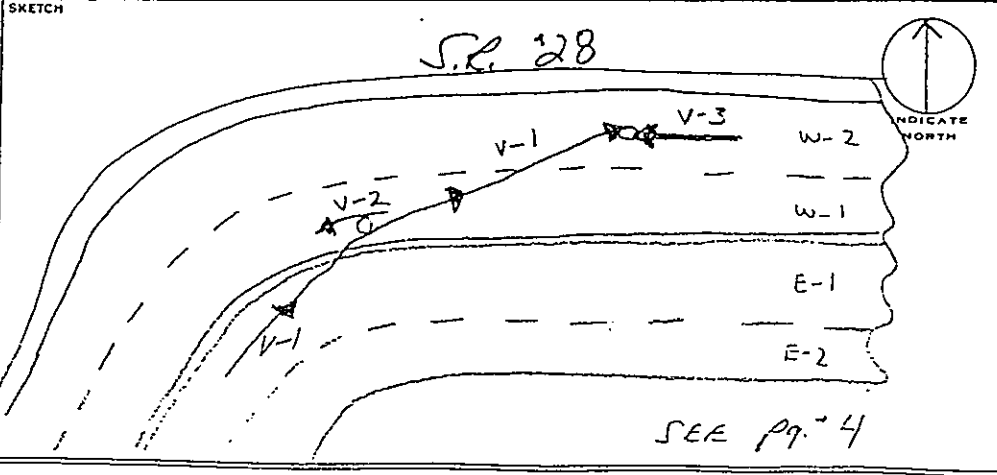
REPAIRER'S NAME T.D LILES #4947	REVIEWER'S NAME RILBY	DATE REVIEWED
---	---------------------------------	---------------

PROPERTY DAMAGE: NONE, NOTIFIED YES NO

SEATING POSITION 1 - DRIVER 2 TO 6 - PASSENGERS 7 - STA. WGN. REAR 8 - RR. OCC. TRK. OR VAN 9 - POSITION UNKNOWN 0 - OTHER	OCUPANTS A - NONE IN VEHICLE B - UNKNOWN C - LAP BELT USED D - LAP BELT NOT USED E - SHOULDER HARNESS USED F - SHOULDER HARNESS NOT USED G - LAP / SHOULDER HARNESS USED H - LAP / SHOULDER HARNESS NOT USED J - PASSIVE RESTRAINT USED K - PASSIVE RESTRAINT NOT USED	SAFETY EQUIPMENT L - AIR BAG DEPLOYED M - AIR BAG NOT DEPLOYED N - OTHER P - NOT REQUIRED CHILD RESTRAINT Q - IN VEHICLE USED R - IN VEHICLE NOT USED S - IN VEHICLE USE UNKNOWN T - IN VEHICLE IMPROPER USE U - NONE IN VEHICLE	M/C BICYCLE - HELMET DRIVER V - NO W - YES PASSENGER X - NO Y - YES	EJECTED FROM VEH. 0 - NOT EJECTED 1 - FULLY EJECTED 2 - PARTIALLY EJECTED 3 - UNKNOWN
	1 2 3 4 5 6 7			

ITEMS MARKED BELOW WHICH ARE FOLLOWED BY AN ASTERISK (*) SHOULD BE EXPLAINED IN THE NARRATIVE.

PRIMARY COLLISION FACTOR LIST NUMBER (1) OF PARTY AT FAULT	TRAFFIC CONTROL DEVICES	1 2 3			TYPE OF VEHICLE	1 2 3			MOVEMENT PROCEEDING COLLISION									
		A CONTROLS FUNCTIONING	B CONTROLS NOT FUNCTIONING*	C CONTROLS OBSCURED		D NO CONTROLS PRESENT / FACTOR*	A PASSENGER CAR / STA. WGN.	B PASSENGER CAR W / TRAILER		C MOTORCYCLE / SCOOTER	D PICKUP OR PANEL TRUCK	E PICKUP / PANEL TRK. W / TLR.	F TRUCK OR TRUCK TRACTOR	G TRK. / TRK. TRACTOR W / TLR.	H SCHOOL BUS	I OTHER BUS	J EMERGENCY VEHICLE	K HWY. CONST. EQUIPMENT
A VC SECTION VIOLATED: 23153 V.C. CITED YES NO	A CONTROLS FUNCTIONING		X	X	A PASSENGER CAR / STA. WGN.				A STOPPED									
B OTHER IMPROPER DRIVING*	B CONTROLS NOT FUNCTIONING*		X		B PASSENGER CAR W / TRAILER				B PROCEEDING STRAIGHT									
C OTHER THAN DRIVER*	C CONTROLS OBSCURED				C MOTORCYCLE / SCOOTER			X	C RAN OFF ROAD									
D UNKNOWN*	D NO CONTROLS PRESENT / FACTOR*				D PICKUP OR PANEL TRUCK			X	D MAKING RIGHT TURN									
E FELL ASLEEP*	TYPE OF COLLISION				E PICKUP / PANEL TRK. W / TLR.				E MAKING LEFT TURN									
	A HEAD-ON				F TRUCK OR TRUCK TRACTOR				F MAKING U TURN									
	B SIDESWIPE				G TRK. / TRK. TRACTOR W / TLR.				G BACKING									
	C REAR END				H SCHOOL BUS				H SLOWING / STOPPING									
	D BROADSIDE				I OTHER BUS				I PASSING OTHER VEHICLE									
WEATHER (MARK 1 TO 2 ITEMS)	E HT OBJECT				J EMERGENCY VEHICLE				J CHANGING LANES									
A CLEAR	F OVERTURNED				K HWY. CONST. EQUIPMENT				K PARKING MANUEVER									
B CLOUDY	G VEHICLE / PEDESTRIAN				L BICYCLE				L ENTERING TRAFFIC									
C RAINING	H OTHER*:				M OTHER VEHICLE				M OTHER UNSAFE TURNING									
D SNOWING	A NON-COLLISION				N PEDESTRIAN				N XING INTO OPPOSING LANE									
E FOG / VISIBILITY FT.	B PEDESTRIAN				O MOPED			X	O PARKED									
F OTHER*:	C OTHER MOTOR VEHICLE				OTHER ASSOCIATED FACTOR (MARK 1 TO 2 ITEMS)				P MERGING									
G WIND	D MOTOR VEH. ON OTHER ROADWAY				A VC SECTION VIOLATION: 22350 V.C. CITED YES NO				Q TRAVELING WRONG WAY									
LIGHTING	E PARKED MOTOR VEHICLE				B VC SECTION VIOLATION: CITED YES NO				R OTHER*:									
A DAYLIGHT	F TRAIN				C VC SECTION VIOLATION: CITED YES NO				SOBRIETY-DRUG PHYSICAL (MARK 1 TO 2 ITEMS)									
B DUSK - DAWN	G BICYCLE				D			X	A HAD NOT BEEN DRINKING									
C DARK - STREET LIGHTS	H ANIMAL:				E VISION OBSCUREMENT :			X	B HBD - UNDER INFLUENCE									
D DARK - NO STREET LIGHTS	I FIXED OBJECT:				F INATTENTION*				C HBD - NOT UNDER INFLU.*									
E DARK - STREET LIGHTS NOT FUNCTIONING*	J OTHER OBJECT:				G STOP & GO TRAFFIC				D HBD - IMPAIRMENT UNK.*									
ROADWAY SURFACE	PEDESTRIAN'S ACTION				H ENTERING / LEAVING RAMP				E UNDER DRUG INFLU.*									
A DRY	A NO PEDESTRIAN INVOLVED				I PREVIOUS COLLISION				F IMPAIRMENT - PHYSICAL*									
B WET	B CROSSING IN CROSSWALK AT INTERSECTION				J UNFAMILIAR WITH ROAD				G IMPAIRMENT NOT KNOWN									
C SNOWY - ICY	C CROSSING IN CROSSWALK - NOT AT INTERSECTION				K DEFECTIVE VEH. EQUIP.: CITED YES NO				H NOT APPLICABLE									
D SLIPPERY (MUDDY, OILY, ETC.)	D CROSSING - NOT IN CROSSWALK				L UNINVOLVED VEHICLE				I SLEEPY / FATIGUED									
ROADWAY CONDITIONS (MARK 1 TO 2 ITEMS)	E IN ROAD - INCLUDES SHOULDER				M OTHER*:				SPECIAL INFORMATION									
A HOLES, DEEP RUTS*	F NOT IN ROAD				N NONE APPARENT				A HAZARDOUS MATERIAL									
B LOOSE MATERIAL ON RDWAY.*	G APPROACH / LEAVING SCHOOL BUS				O RUNAWAY VEHICLE													
C OBSTRUCTION ON ROADWAY*																		
D CONSTRUCTION - REPAIR ZONE																		
E REDUCED ROADWAY WIDTH																		
F FLOODED*																		
G OTHER*:																		
H NO UNUSUAL CONDITIONS																		



MISCELLANEOUS

DATE OF COLLISION 7-29-88 TIME (2400) 1915 NCIC NUMBER 9222 OFFICER I.D. 4947 NUMBER

WITNESS ONLY	PASSENGER ONLY	AGE	SEX	EXTENT OF INJURY ("X" ONE)				INJURED WAS ("X" ONE)					PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED
				FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER				
<input type="checkbox"/>	<input type="checkbox"/>	24	M	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3	1	6	0

NAME / D.O.B. / ADDRESS KELY JAMES KOLOZSI / 4-4-64 / 43 LOWSEY DR, ATHLETON CA TELEPHONE

(INJURED ONLY) TRANSPORTED BY: KING BEACH FIRE DEPT TAKEN TO: TAHOE FOREST HOSP

DESCRIBE INJURIES HEAD INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/>	<input type="checkbox"/>	27	M	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7	1	B	0
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NAME / D.O.B. / ADDRESS JOHN SCOTT BURKETT / 1-17-61 / P.O. Box 4763, KINGS BEACH TELEPHONE

(INJURED ONLY) TRANSPORTED BY: KING BEACH FIRE DEPT TAKEN TO: TAHOE FOREST HOSP

DESCRIBE INJURIES BROKEN JAW, CARTIAC CONTUSION

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/>	<input type="checkbox"/>	40	M	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1	3	B	0
--------------------------	--------------------------	----	---	--------------------------	-------------------------------------	--------------------------	--------------------------	--------------------------	-------------------------------------	--------------------------	--------------------------	--------------------------	---	---	---	---

NAME / D.O.B. / ADDRESS LOUIS MICHAEL BRAMY, 7-18-48 P.O. Box 1027 KINGS BEACH, CA TELEPHONE

(INJURED ONLY) TRANSPORTED BY: KING BEACH FIRE DEPT TAKEN TO: TAHOE FOREST HOSP

DESCRIBE INJURIES BROKEN RIBS, FACIAL INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/>	<input type="checkbox"/>	32	M	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
--------------------------	--------------------------	----	---	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--	--	--	--

NAME / D.O.B. / ADDRESS RANDY WILLIAMS, NO. TAHOE FIRE DEPT TELEPHONE 546-3406

(INJURED ONLY) TRANSPORTED BY: TAKEN TO:

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
--------------------------	--------------------------	--	--	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--	--	--	--

NAME / D.O.B. / ADDRESS TELEPHONE

(INJURED ONLY) TRANSPORTED BY: TAKEN TO:

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
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NAME / D.O.B. / ADDRESS TELEPHONE

(INJURED ONLY) TRANSPORTED BY: TAKEN TO:

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

PREPARER'S NAME T.D LILES I.D. NUMBER 4947 MO. DAY YEAR 7-29-88 REVIEWER'S NAME MO. DAY YEAR

NARRATIVE/SUPPLEMENTAL

DATE OF COLLISION 7-29-88	TIME (2400) 1915	NCIC NUMBER 9222	OFFICER I.D. 4947	NUMBER
<input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> COLLISION REPORT <input type="checkbox"/> OTHER	TYPE SUPPLEMENTAL (X) APPLICABLE <input type="checkbox"/> BA UPDATE <input type="checkbox"/> HAZARDOUS MATERIALS <input type="checkbox"/> FATAL <input type="checkbox"/> SCHOOL BUS <input type="checkbox"/> HIT & RUN UPDATE <input type="checkbox"/> OTHER		

CITY / COUNTY / JUDICIAL DISTRICT UNINC / PLACER / TAHOE CITY	REPORTING DISTRICT / BEAT 222 / 15	CITATION NUMBER K098957
LOCATION / SUBJECT S.R. * 28 W. OF BEACH	STATE HIGHWAY RELATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

1. FACTS:

2. RECEIVED CALL OF 1179 AT APPROX. 1918 HRS. ARRIVED AT

3. SCENE AT APPROX 1938 HRS.

4. S.R. * 28 IS AN E/W, LEVEL, ASPHALT SURFACE, FOUR

5. LANE, TWO-WAY STATE HIGHWAY. THE E/B AND W/B LANES

6. ARE DIVIDED BY DOUBLE YELLOW LINES

7. VEHICLE * 1 WAS FOUND AT REST FACING IN A SOUTH-

8. (WESTERLY) DIRECTION ACROSS BOTH W/B LANES OF S.R. * 28.

9. THE L/R END WAS APPROX. 4 FT. SO. OF THE NO SIDE OF THE

10. W-2 LN. OF S.R. * 28 VEH. * 1 SUSTAINED TOTAL DAMAGE TO

11. THE FRONT END, TOP AND LEFT SIDE. NO APPARENT

12. DEFECTS

13. VEHICLE * 2 WAS MOVED FROM SCENE PRIOR TO

14. CHP ARRIVAL. VEN. * 2 SUSTAINED NO DAMAGE BUT THE

15. BOAT TRAILER THAT VEN. * 2 WAS TOWING SUSTAINED

16. MAJOR DAMAGE TO THE LEFT SIDE. NO APPARENT

17. DEFECTS.

18. VEHICLE * 3 WAS FOUND AT REST FACING IN AN

19. EASTERLY DIRECTION ON THE ASPHALT SHOULDER ON

20. THE NO. SIDE OF S.R. * 28 THE RT. SIDE WAS APPROX

21. 14 FT NO. OF THE CENTER LINE BETWEEN THE W-2

22. AND W-1 LANES AND APPROX. 6 FT. W. OF THE

23. R/R END OF VEN. * 1. VEN. * 3 SUSTAINED TOTAL

24. DAMAGE TO THE FRONT END AND LEFT SIDE. NO

25. APPARENT DEFECTS.

27. PHYSICAL EVIDENCE: ALL PHYSICAL EVIDENCE WAS LEFT

28. BY VEH * 1, EXCEPT * 2 - SEE LEGEND ON PG. * 4.

29. VEH * 3 LEFT 28 FT. LOCKED WHEEL SKIDS PRIOR TO IMPACT.

30. DRI. * 1 AND PASS * 1 WERE BOTH TAKEN TO TAHOE

31. FOREST HOSP BY KING'S BEACH FIRE DEPT. DRI. * 1 HAD NO

32. DRIVER'S LIC. IN HIS POSS. D.M.V. REVEALED DRI. * 1 TO BE UNLICENSED.

PREPARER'S NAME J. D. LILES	I.D. NUMBER 4947	MONTH / DAY / YEAR 7-29-88	REVIEWER'S NAME	MONTH / DAY / YEAR
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STATE OF CALIFORNIA
NARRATIVE/SUPPLEMENTAL

DATE OF COLLISION 7-29-88	TIME (2400) 1915	NCKC NUMBER 9222	OFFICER I.D. 4947	NUMBER
TYPE <input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> SUPPLEMENTAL	TYPE <input checked="" type="checkbox"/> COLLISION REPORT <input type="checkbox"/> OTHER:	TYPE SUPPLEMENTAL (X APPLICABLE) <input type="checkbox"/> BA UPDATE <input type="checkbox"/> HAZARDOUS MATERIALS <input type="checkbox"/> FATAL <input type="checkbox"/> SCHOOL BUS <input type="checkbox"/> HIT & RUN UPDATE <input type="checkbox"/> OTHER:		

CITY/COUNTY/JUDICIAL DISTRICT VILINC / PLACER / TAMHE CITY	REPORTING DISTRICT / BEAT 222 / 15	CITATION NUMBER KQ98957
LOCATION / SUBJECT SR * 28 W. OF BEACH AVE	STATE HIGHWAY RELATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

1. FACTS: (CONT'D)

2. DRIVER * 1 H.B.D. AND HAD A MOD ODOR OF AN

3. ALCOHOLIC BEV. ON HIS BREATH, NO FST'S OR QUESTION

4. WERE ASKED DUE TO HIS INJURIES. DEI * 1 WAS

5. ADVISED OF HIS RIGHTS, TO WHICH HE STATED HE

6. UNDERSTOOD AT APPROX. 2030 HRS. AT TAMHE FOREST

7. HOSA DEI * 1 WAS PLACED UNDER ARREST FOR 192. C (3) PC.

8. AND 23153 V.C. A SAMPLE OF HIS BLOOD WAS

9. TAKEN BY PAUL CUSHING, R.N. AT APPROX. 2040 HRS

10. SAMPLE TO BE SENT TO CRIME LAB FOR BA RESULTS

11. DEI * 1 WAS NOT BOOKED; DUE TO HIS INJURIES HE WAS

12. ADMITTED AT TAMHE FOREST HOSA.

13. DRIVER * 2 WAS NOT INJURED.

14. DRIVER * 3 WAS FOUND SEAT BELTED IN HIS

15. VEHICLE. DEI * 3 WAS PRO NOUNCED D.O.A. BY EMT * 2

16. CARL RICKS, KINGS BEACH FIRE DEPT AT APPROX

17. 1927 HRS. CORONER'S REPORT # ST 88-07290035.

19. STATEMENTS: DEI * 1 STATED HE DIDN'T REMEMBER

20. WHAT HAPPENED

22. DRIVER * 2 (MR. FORD)

23. " I WAS W/B ON SR * 28 IN THE LEFT LANE

24. GOING ABOUT 35 MPH AND SAW THE SILVER SUBARU,

25. (VEH * 1) IN THE ON-COMING LANE. HE (DEI * 1) WAS IN

26. THE LEFT LANE, HE APPEARED TO BE WAY OVER THE

27. SPEED LIMIT IT LOOKED LIKE THE L/F WHEEL WAS

28. STARTING TO SLIDE. I STARTED TO MOVE TO THE

29. RIGHT LANE; HE JUST CLEARED MY CAR AND HE

30. CLIPPED MY BOAT TRAILER."

PREPARER'S NAME T. D LILES	I.D. NUMBER 4947	MONTH / DAY / YEAR 7-29-88	REVIEWER'S NAME	MONTH / DAY / YEAR
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DATE OF COLLISION 7-29-88		TIME (2400) 1915		NCIC NUMBER 9222		OFFICER I.D. 4947		NUMBER									
WITNESS ONLY	PASSENGER ONLY	AGE	SEX	EXTENT OF INJURY ("X" ONE)				INJURED WAS ("X" ONE)					PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED	
				FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER					
<input checked="" type="checkbox"/> #2	<input type="checkbox"/>	22	M	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

NAME / D.O.B. / ADDRESS: **KURTIS STUTZ** PO BOX 3694, INCLINE VILLAGE NV TELEPHONE: (702) 832-7379

(INJURED ONLY) TRANSPORTED BY: _____ TAKEN TO: _____

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input checked="" type="checkbox"/> #3	<input type="checkbox"/>	15	F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NAME / D.O.B. / ADDRESS: **KRISTI CASEY** PO BOX 124, KINGS BEACH CA TELEPHONE: 546-3373

(INJURED ONLY) TRANSPORTED BY: _____ TAKEN TO: _____

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input checked="" type="checkbox"/> #4	<input type="checkbox"/>	44	M	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NAME / D.O.B. / ADDRESS: **DAVE PALMISANO** 1181 ELENA PRINADA, MTN. VIEW CA TELEPHONE: (415) 967-7061

(INJURED ONLY) TRANSPORTED BY: _____ TAKEN TO: _____

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/> #	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NAME / D.O.B. / ADDRESS: _____ TELEPHONE: _____

(INJURED ONLY) TRANSPORTED BY: _____ TAKEN TO: _____

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/> #	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NAME / D.O.B. / ADDRESS: _____ TELEPHONE: _____

(INJURED ONLY) TRANSPORTED BY: _____ TAKEN TO: _____

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

<input type="checkbox"/> #	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NAME / D.O.B. / ADDRESS: _____ TELEPHONE: _____

(INJURED ONLY) TRANSPORTED BY: _____ TAKEN TO: _____

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

PREPARED BY'S NAME: **J.R. PESCIATORE** I.D. NUMBER: **9289** MO. **7-29** DAY **-88** YEAR REVIEWER'S NAME MO. DAY YEAR

NARRATIVE/SUPPLEMENTAL

DATE OF COLLISION 7-29-88	TIME (2400) 1915	NCC NUMBER 9222	OFFICER I.D. 4947	NUMBER
<input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> SUPPLEMENTAL		TYPE SUPPLEMENTAL (X APPLICABLE) <input type="checkbox"/> BA UPDATE <input type="checkbox"/> HAZARDOUS MATERIALS <input type="checkbox"/> FATAL <input type="checkbox"/> SCHOOL BUS <input type="checkbox"/> HT & RUN UPDATE <input type="checkbox"/> OTHER		

CITY / COUNTY / JUDICIAL DISTRICT	REPORTING DISTRICT / BEAT	CITATION NUMBER
LOCATION / SUBJECT	STATE HIGHWAY RELATED <input type="checkbox"/> YES <input type="checkbox"/> NO	

1. W-2, STUTZ, STATED IN SUBSTANCE, THAT HE WAS
 2. TRAVELING E/B S.R. 28 IN THE E-1 LANE AT 30-35
 3. MPH. A GRAY CAR (V-1) PASSED HIM ON THE
 4. RIGHT AT 55-65 MPH. AS IT PASSED IT SWERVED
 5. LEFT ACROSS THE E-1 LANE AND INTO THE W/B
 6. LANES, NEARLY COLLIDING WITH HIM. V-1 SIDE-
 7. SWIAED A VEHICLE PULLING A BOAT TRAILER
 8. (V-2) IN THE W-1 LANE. V-1 CONTINUED LEFT
 9. AND COLLIDED WITH AN ORANGE CAR (V-3) HEAD-
 10. ON IN THE W/B LANES.

12. W-3, CASEY, STATED IN SUBSTANCE, THAT SHE WAS WALKING
 13. ALONG THE SOUTH SHOULDER OF S.R. 28. SHE SAW
 14. A GRAY CAR (V-1) E/B ON S.R. 28 ROUNDING THE
 15. CURVE AT A VERY HIGH SPEED, TIRES SQUEALING.
 16. V-1 CROSSED INTO THE W/B LANES AND COLLIDED
 17. HEAD-ON WITH AN ORANGE CAR (V-3).

19. W-4, PALMISANO, STATED IN SUBSTANCE, THAT HE WAS
 20. WALKING ALONG THE SOUTH SHOULDER OF S.R. 28.
 21. HE HEARD TIRES SQUEALING AND LOOKED TO THE
 22. WEST. HE SAW A GRAY CAR (V-1) E/B ON S.R. 28
 23. AT 60-70 MPH ROUNDING THE CURVE. THE CAR
 24. WAS "REALLY LEANING" THROUGH THE CURVE. V-1
 25. SWERVED INTO THE W/B LANES, SIDE-SWIPING A
 26. VEHICLE PULLING A BOAT TRAILER (V-2), AND
 27. THEN COLLIDING HEAD-ON WITH A W/B ORANGE
 28. CAR (V-3).

PREPARER'S NAME J.R. PESCIATORE	I.D. NUMBER 9285	MONTH/DAY/YEAR 7-29-88	REVIEWER'S NAME	MONTH/DAY/YEAR
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NARRATIVE/SUPPLEMENTAL

DATE OF COLLISION 7-29-88	TIME (2400) 1915	NCIC NUMBER 9222	OFFICER I.D. 4947	NUMBER
<input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> SUPPLEMENTAL		<input checked="" type="checkbox"/> COLLISION REPORT <input type="checkbox"/> OTHER:		
TYPE SUPPLEMENTAL (X APPLICABLE) <input type="checkbox"/> BA UPDATE <input type="checkbox"/> FATAL <input type="checkbox"/> HIT & RUN UPDATE <input type="checkbox"/> HAZARDOUS MATERIALS <input type="checkbox"/> SCHOOL BUS <input type="checkbox"/> OTHER:				
CITY/COUNTY/JUDICIAL DISTRICT WINNIPLACER/TAHOE CITY			REPORTING DISTRICT/BEAT 222/15	CITATION NUMBER KO 98957
LOCATION/SUBJECT I.R. 28 W OF BEACH AVE				STATE HIGHWAY RELATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

1.

2. STATEMENTS:

3. 7/30/88 APPROX 1930 HRS. I WAS STANDING BY

4. AT THE TAHOE FOREST HOSPITAL WAITING THE

5. ARRIVAL OF 2 VICTIMS OF A COLLISION. THE

6. 2 VICTIMS ARRIVED IN THE EMERGENCY ROOM

7. AND WERE BEING ATTENDED TO BY SEVERAL

8. FIREMEN. WITNESS RANDY WILLIAMS IDENTIFIED

9. ONE OF THE VICTIMS AS BEING THE

10. INDIVIDUAL THAT HE HAD REMOVED FROM

11. THE DRIVER'S SEAT OF THE SUBARU. THIS

12. INDIVIDUAL LATER IDENTIFIED HIMSELF TO

13. ME AS JOHN SCOTT BURKETT WITH A

14. D.O.B. 1/17/61.

15. Q. WERE YOU DRIVING THE SUBARU?

16. A. I DON'T KNOW WHAT HAPPENED, CAN

17. YOU TELL ME, IS IT WAS A SUBARU,

18. IT'S MY GIRLFRIEND'S I MUST HAVE

19. BEEN DRIVING.

20. Q. HAVE YOU BEEN DRINKING?

21. A. NOT A LOT.

22.

23. AT ONE POINT THE OXYGEN MASK WAS

24. REMOVED FROM MR. BURKETT'S FACE I

25. LEANED DOWN AND DETECTED A DISTINCT

26. ODOR OF AN ALCOHOLIC BEVERAGE

27. EMITTING FROM HIS BREATH.

28.

29.

30.

31.

32.

REPORTER'S NAME E. WALKERMAN	I.D. NUMBER 1121	MONTH/DAY/YEAR 7-24-88	REVIEWER'S NAME	MONTH/DAY/YEAR
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NAARRATIVE/SUPPLEMENTAL

DATE OF COLLISION 7-29-88	TIME (2400) 1915	NCIC NUMBER 9222	OFFICER I.D. 4947	NUMBER
<input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> SUPPLEMENTAL		<input checked="" type="checkbox"/> COLLISION REPORT <input type="checkbox"/> OTHER:		
TYPE SUPPLEMENTAL (X APPLICABLE) <input type="checkbox"/> BA UPDATE <input type="checkbox"/> FATAL <input type="checkbox"/> HIT & RUN UPDATE <input type="checkbox"/> HAZARDOUS MATERIALS <input type="checkbox"/> SCHOOL BUS <input type="checkbox"/> OTHER:				

CITY/COUNTY/JUDICIAL DISTRICT UNINC / PLACER / TAMHO CITY	REPORTING DISTRICT / BEAT 222/15	CITATION NUMBER KQ98957
LOCATION / SUBJECT S.R. 28 W. OF BEACH AVE	STATE HIGHWAY RELATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

1. OPINIONS AND CONCLUSIONS:

2. THAT DRI. 1 WAS E/R ON SR. 28 IN THE E-2 LN.

3. AT AN EXCESSIVE RATE OF SPEED DRI. 2 WAS W/B SR. 28

4. IN THE W-1 LN. DRI. 3 ALSO W/B ON SR. 28 WAS

5. IN THE W-1 LN. BEHIND VEH. 2 DRI. 1 ENTERED A CURVE

6. WAY TOO FAST AND SLID OVER THE DOUBLE YELLOW LINES

7. AND SIDESWIPE VEH. 2. DRI. 3 SAW VEH. 1 COMING

8. TOWARDS HIM AND VEERED TO THE RIGHT BUT COULD

9. NOT AVOID A COLLISION. VEH. 1 STRUCK THE L/R END OF

10. THE COAT TEL BEING TOWED BY VEH. 2, THEN STRUCK

11. VEH. 3 HEAD-ON.

12. P.O.I. 1 WAS APPROX. 74 FT. W. OF P.O.I. 2.

13. P.O.I. 2 WAS APPROX. 485 FT. W. OF BEACH AVE. P.O.I.

14. DETERMINED BY PHYSICAL EVIDENCE.

15. DRI. 1 CAUSED T.C. BY VIOLATING SEC 23152 V.C.

16. DRIVING A MOTOR VEH. UPON A HIGHWAY WHILE UNDER THE

17. INFLUENCE OF AN ALCOHOLIC BEV. DRI. 1 DETERMINED TO

18. BE THE DRIVER BY BEING PLACED BEHIND THE

19. WHEEL BY WIT. 1 AT THE SCENE. DRI. 1 DETERMINED

20. TO BE UNDER THE INFLUENCE BY HIS DRIVING AND ODOR

21. OF AN ALCOHOLIC BEV ON HIS BREATH. CITATION # KQ 98957

22. COMPLETED ON DRI. 1 FOR SEC. 192.C(3) P.C. MANSLAUGHTER -

23. SEC. 23153 V.C. FELONY DRUNK DRIVING; SEC. 12500(A) V.C.

24. UNLICENSED DRIVER. COMPLAINT TO BE FILED.

25.

26. RECOMMENDATIONS: PLACER CO D.A. FILE CHARGES

27. OF 192.C(3) P.C. ; 23153 V.C. AND 12500 (A) V.C. ON DRI. 1.

28.

29.

30.

31.

32.

PREPARER'S NAME T. D. LILES	I.D. NUMBER 4947	MONTH/DAY/YEAR 7-29-88	REVIEWER'S NAME	MONTH/DAY/YEAR
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DATE OF ORIGINAL INCIDENT MO. 7 DAY 29 YR. 88		TIME (2400) 1915	NCIC NUMBER 9222	OFFICER I.D. NUMBER 4947
<input type="checkbox"/> "X" ONE NARRATIVE	<input checked="" type="checkbox"/> "X" ONE COLLISION REPORT	TYPE SUPPLEMENTAL ("X" APPLICABLE)		
<input checked="" type="checkbox"/> SUPPLEMENTAL	<input type="checkbox"/> OTHER:	<input type="checkbox"/> BA UPDATE	<input type="checkbox"/> FATAL	<input type="checkbox"/> HIT & RUN UPDATE
		<input type="checkbox"/> HAZ. MATERIALS	<input type="checkbox"/> SCHOOL BUS	<input type="checkbox"/> OTHER:

CITY/COUNTY/JUDICIAL DISTRICT	RPT. DISTRICT/BEAT	CITATION NUMBER
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LOCATION/SUBJECT BURKETT, JOHN SCOTT	STATE HIGHWAY RELATED <input type="checkbox"/> YES <input type="checkbox"/> NO
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1.

2. A CHECK WITH NEVADA DMV REGARDING BURKETT'S CANCELLED

3. DRIVERS LICENSE WAS MADE 8-1-88 OPIO HAS

4. NEVADA DMV RECORDS DISCLOSE THAT BURKETT WAS

5. ARRESTED (11/10/84) AND CONVICTED (12/11/84) FOR DRIVING

6. WHILE INTOXICATED IN THE INCLINE JUSTICE COURT DISTRICT,

7. AS A RESULT HIS LICENSE WAS REVOKED BUT SUBSEQUENTLY

8. RE-INSTATED, BECAUSE BURKETT FAILED TO FILE A

9. NEVADA SR-22 (PROOF OF FINANCIAL RESPONSIBILITY) HIS

10. LICENSE WAS CANCELLED

11. CERTIFIED COPIES OF NEVADA DMV RECORDS ARE FORTH

12. COMING

13.

14.

15. IN ADDITION IT WAS DISCOVERED THAT BURKETT'S PHYSICAL

16. ADDRESS SHOWN ON HIS NEVADA DRIVERS LICENSE IS

17. FICTITIOUS (1565 VIVIAN LN. INCLINE IS NON-EXISTENT)

18. BURKETT HAS BEEN LIVING AT 9927 WANE AVE (BENICIA)

19. WITH A SUSAN DEUYAK. CURRENTLY, BURKETT RESIDES AT

20. 267 BENO AVE. KINGS BEACH, CA. PH 546-5833

21.

22.

23.

24.

25.

26.

27.

28.

29.

30.

31.

PREPARER'S NAME Ruppert	I.D. NUMBER 3521	MO. DAY YR. 8-1-88	REVIEWER'S NAME	MO. DAY YR.
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DATE OF ORIGINAL INCIDENT MOY '7 DAY 29 YR. 88	TIME (2400) 1915	NCIC NUMBER 9222	OFFICER I.D. NUMBER 3521	NUMBER 88-07-97
<input type="checkbox"/> NARRATIVE	<input checked="" type="checkbox"/> COLLISION REPORT	TYPE SUPPLEMENTAL ("X" APPLICABLE)		
<input checked="" type="checkbox"/> SUPPLEMENTAL	<input type="checkbox"/> OTHER:	<input type="checkbox"/> BA UPDATE	<input checked="" type="checkbox"/> FATAL	<input type="checkbox"/> HIT & RUN UPDATE
		<input type="checkbox"/> HAZ. MATERIALS	<input type="checkbox"/> SCHOOL BUS	<input type="checkbox"/> OTHER:

CITY/COUNTY/JUDICIAL DISTRICT LINCOLN - PLACER - TAHOE CITY	RPT. DISTRICT/BEAT 222/15	CITATION NUMBER
--	------------------------------	-----------------

LOCATION/SUBJECT BURKETT VS. KOLGZSI	STATE HIGHWAY RELATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
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1. 0730 HRS 8-2-88 A RE-INSPECTION OF ACCIDENT SCENE DISCLOSED

2. SKID MARK #4 (IN REPORT) WAS STILL INTACT AND CLEARLY

3. DISTINGUISHED AS A CENTRIFUGAL SKIDMARK BY ITS ARC AND

4. BY THE DIAGONAL STRIATION MARKS LEFT BY THE ROTATING

5. TIRE TREAD.

6. ALTHOUGH THE SKID MARK WAS APPROX 41' IN LENGTH A

7. CHORD OF 32' WAS OBTAINED WITH A 100' STEEL TAPE. A 4"

8. (.33 FOOT) MIDDLE ORDINATE WAS MEASURED AT 16'.

9. USING KNOWN FORMULAS, A SPEED OF VEHICLE ONE

10. IMMEDIATELY PRIOR TO IMPACT WAS DETERMINED TO BE 61.98 MPH.

11. SKID #6 (IN REPORT) WAS NOT VISIBLE AT THIS TIME.

12. ASSISTING WITH MEASUREMENTS WAS OFOR TIM FIX.

13.

14. A COEFFICIENT OF FRICTION OF .66% WAS ARRIVED AT

15. BY USING A 36 LB. DRAG SLID, A 0-50 LB. CHATILLON SCALE

16. WITH A PULL WEIGHT OF 24 LBS.

17.

18.

19.

20.

21.

22.

23.

24.

25.

26.

27.

28.

29.

30.

31.

PREPARER'S NAME E. J. Sunder	I.D. NUMBER 3521	MO. DAY YR. 8-2-88	REVIEWER'S NAME	MO. DAY YR.
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DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
SKID-SPEED INFORMATION

ACCIDENT NUMBER 88-07-97	ACCIDENT LOCATION Highway 28 N of BARKH	ACCIDENT DATE 7-29-88	TEST SKID DATE 8-2-88
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ROAD CONDITIONS		ACCIDENT SKID DATA			CENTRIFUGAL SKID	
TYPE OF ROAD ARBITRARY		IMPENDING	LOCKED WHEEL	TOTAL	LENGTH	41 FEET
CONDITION FAIR to GOOD but worn	L.F.				CHORD	32 FEET
GRADE/DIRECTION SLIGHT UP GRADE E/BOUND	R.F.				MID-ORDINATE	4" .33
	L.R.					
	R.R.					
	ACCIDENT VEHICLE (year, make, model)			LONGEST SKID		

TEST SKID INFORMATION										
NO.	MPH	RADAR	L.F.	R.F.	L.R.	R.R.	LONGEST SKID	OTHER DATA		
1.								DRIVER	I.D. NUMBER	
2.								VEHICLE LIC. OR EQUIP. NO.	MAKE	
3.								SPEEDOMETER INDICATED	ACTUAL SPEED	
METHOD SKIDMARKS MEASURED							WEATHER (temp.)	TIME		MINIMUM SPEED FROM CHART (over)
<input type="checkbox"/> TAPE <input type="checkbox"/> ROLATAPE <input type="checkbox"/> OTHER			<input checked="" type="checkbox"/> STEEL TAPE <input type="checkbox"/> ROLATAPE <input type="checkbox"/> OTHER			ACCIDENT	TEST	ACCIDENT	TEST	
INVESTIGATING OFFICER—ACCIDENT							I.D. NUMBER			
TOM LILES							4947			
SPEED SKID OFFICER							I.D. NUMBER	CORP. OF FRICTION		MPH
Bill RODGER							3521	.66		62

DRAG SLED DATA				
SLED WEIGHT 36 LBS	FULL WEIGHT 24	FORMULA $f = \frac{\text{FULL WT.}}{\text{SLED WT.}}$	CALCULATED COEF. .66	ADJUSTMENT TABLE 0
				ADJUSTED COEFFICIENT .66

CALCULATIONS/DIAGRAM

① $R = \frac{C^2}{8M} + \frac{M}{2}$

$R = \frac{32 \times 32}{8 \times .33} + \frac{.33}{2}$

$R = \frac{1024}{2.64} + .165$

$R = 387.88 + .165$

$R = 388.05$

② $V = \sqrt{15 R F}$

$V = \sqrt{15 (388.05) \cdot .66}$

$V = \sqrt{3841.695}$

$V = 61.98 \text{ (MPH)}$

MID. ORD. 4" (.33')

CHORD 32'

SYMBOLS		FORMULAS		EXAMPLE: CENTRIFUGAL SKIDMARK
f—COEFFICIENT OF FRICTION	C—CHORD (FT)	$f = \frac{V^2}{30S}$	$R = \frac{C^2}{8M} + \frac{M}{2}$	
V—SPEED (MPH)	M—MID-ORDINATE	$V = \sqrt{30fS}$	$V = \sqrt{15RF}$	
S—SKID LENGTH (FT)	R—RADIUS (FT)			

CRITERIA USED IN CHART DERIVATION

LAY OUT A 50 FT. CORD WITH A TIGHTLY DRAWN TAPE-MEASURE ACROSS THE ARC OF THE CENTRIFUGAL SKID MARK, THE DISTANCE FROM THE MIDDLE OF THE CORD, MEASURED ON A PERPENDICULAR TO THE TAPE AT 25 FT. TO THE OUTSIDE OF THE ARC, IS THE MIDDLE ORDINATE AND IS READ IN INCHES AND CONVERTED TO FEET.

TO FIND THE SPEED OF THE VEHICLE WHICH LEFT THE CENTRIFUGAL SKID MARKS, FIND FIGURE, ON THE CHART BELOW, CORRESPONDING TO THE MEASUREMENT OF THE MIDDLE ORDINATE; PROJECT A LINE HORIZONTALLY UNTIL IT INTERSECTS WITH THE DIAGONAL LINE FOR THE COEFFICIENT OF FRICTION FOR THE ROAD SURFACE; THEN PROJECT A LINE DOWN TO THE SCALE AT THE BOTTOM OF THE FORM AND READ THE SPEED IN MILES PER HOUR.

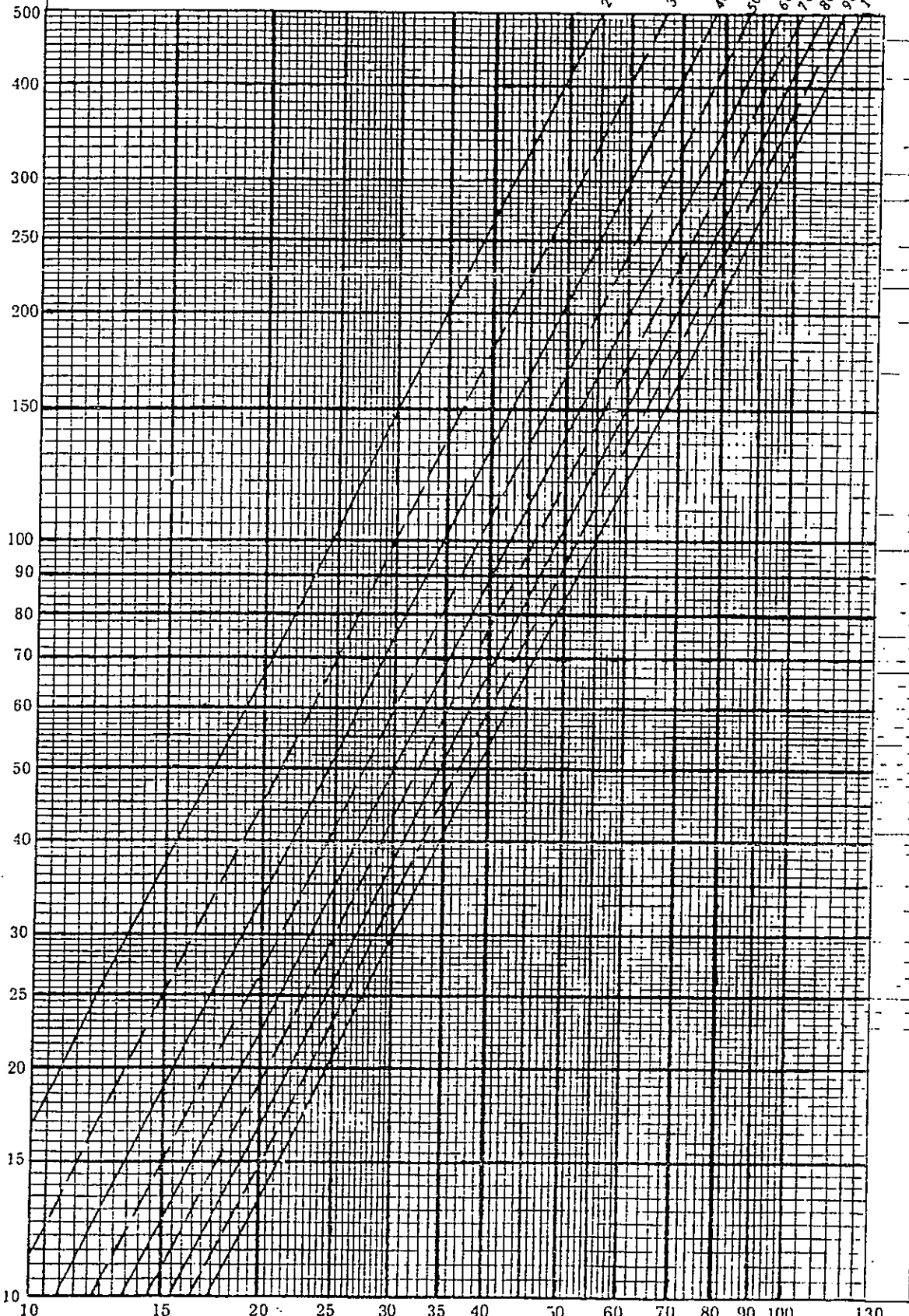
MID-ORDINATE FROM A 50 FT CORD:

SCALE

SKID - SPEED CHART

LOCKED WHEEL SKID DISTANCE IN FEET

COEFFICIENT OF FRICTION



INCHES	FEET
4	.33
4½	.38
5	.42
5½	.46
6	.50
6½	.54
7	.58
7½	.63
8	.67
8½	.71
9	.75
9½	.79
10	.83
11	.92
12	1.0
13	1.08
14	1.16
15	1.25
16	1.33
17	1.41
18	1.50
19	1.58
20	1.67
22	1.83
24	2.0
26	2.17
28	2.33
30	2.50
32	2.67
34	2.83
36	3.0
38	3.16
40	3.33
42	3.50
44	3.67
46	3.83
48	4.0
50	4.17
55	4.58
60	5.0
65	5.41
70	5.83
75	6.25
80	6.67
85	7.08
90	7.50

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL



JUSTICE'S COURT
 INCLINE VILLAGE - CRYSTAL BAY TOWNSHIP
 NORTH LAKE TAHOE

P.O. DRAWER CP
 INCLINE VILLAGE, NEVADA 89450
 (702) 832-4100

JAMES V. MANCUSO
 JUDGE

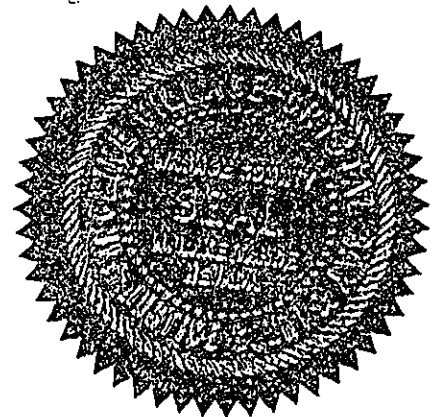


CERTIFICATION

The document(s) to which this certificate is attached, consisting of 4 pages,
 is/are certified to be full, true, and correct copies of the original(s) thereof
 on file and of record in said Court as of Aug 24, 1988.

INCLINE VILLAGE JUSTICE COURT

by [Signature]
 Custodian of the Records



Dec 11	<input checked="" type="checkbox"/> Def. Arraigned Per N.R.S. <input type="checkbox"/> With Attorney <input checked="" type="checkbox"/> Waived Attorney <input type="checkbox"/> Public Defender App't'd.
	Pled <input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Nolo Contendere <input checked="" type="checkbox"/> Record of Special Canvass on Reverse
	Pled <input type="checkbox"/> Not Guilty <input type="checkbox"/> Trial Date <input type="checkbox"/> Trial Record on Revers
	<input checked="" type="checkbox"/> Complaint Amended To: <u>II, III, IV, V - dismissed, proof of conviction.</u>
	<input type="checkbox"/> Change of Plea to <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo Contendere <input type="checkbox"/> Record of Special Canvass on Reverse
11	<input checked="" type="checkbox"/> Sentence <input checked="" type="checkbox"/> Fine \$ <u>340</u> plus \$ <u>10</u> assessment = \$ <u>350</u> <input checked="" type="checkbox"/> Paid or <input type="checkbox"/> Indicated Fine,
	<input type="checkbox"/> Defendant to Return <input type="checkbox"/> For Formal Sentencing
	<input checked="" type="checkbox"/> Jail - <u>2</u> Days <input checked="" type="checkbox"/> Time Served <input checked="" type="checkbox"/> Work Program <input type="checkbox"/> Days
	<input checked="" type="checkbox"/> <u>Did school U-1-88</u>

In the Justice's Court of Incline Village/Crystal Bay Township, County of Washoe
STATE OF NEVADA

The State of Nevada

PLAINTIFF

John Scott Burkett

DEFENDANT

COMPLAINT OF NHP

CHARGING COUNTS: I: DWI WCC 70.3865 II: Excessive speed with a motor vehicle WCC 70.270
III: operating a motor vehicle without having a driver's license in possession WCC 50.212 IV: failure to have registration in vehicle WCC 50.212 V: no proof of insurance WCC 70.3851 (1)(b)

GREGG

DISTRICT ATTORNEY

ATTORNEY FOR PLAINTIFF

WAIVED AFTER CANVAS ATTORNEY FOR DEFENDANT

DATE 84 19	PROCEEDINGS
Nov 14	<input checked="" type="checkbox"/> Cash Bail <input type="checkbox"/> Bail Bond Posted Amount \$ 535.00 <input type="checkbox"/> O.R.
Dec 03	<input checked="" type="checkbox"/> Complaint Filed <input type="checkbox"/> Warrant of Arrest Issued Arraignment Date: 12/11/84
Dec 11	<input checked="" type="checkbox"/> Def. Arraigned Per N.R.S. <input type="checkbox"/> With Attorney <input checked="" type="checkbox"/> Waived Attorney <input type="checkbox"/> Public Defender App't'd. Pled <input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Nolo Contendere <input checked="" type="checkbox"/> Record of Special Canvass on Reverse Pled <input type="checkbox"/> Not Guilty <input type="checkbox"/> Trial Date <input type="checkbox"/> Trial Record on Revers
	<input checked="" type="checkbox"/> Complaint Amended To: <i>II, IV, V - dismissed, proof of conviction.</i> <input type="checkbox"/> Change of Plea to <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo Contendere <input type="checkbox"/> Record of Special Canvass on Reverse
11	<input checked="" type="checkbox"/> Sentence <input checked="" type="checkbox"/> Fine \$ 340 plus \$ 10 assessment = \$ 350 <input checked="" type="checkbox"/> Paid or <input type="checkbox"/> Indicated Fine. <input type="checkbox"/> Defendant to Return For Formal Sentencing <input checked="" type="checkbox"/> Jail - 2 Days <input checked="" type="checkbox"/> Time Served <input checked="" type="checkbox"/> Work Program Days <input checked="" type="checkbox"/> Other <i>DUI school 4-1-85</i>
	Miscellaneous Proceedings:
11	<input checked="" type="checkbox"/> Judgment Entered, <i>Guilty, Ct. I.</i>

James W. [Signature]
Signature of Magistrate

IN THE JUSTICE'S COURT, OF INCLINE TOWNSHIP
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA.

84 DEC -3 AMO:29
INC
--000
[Signature]

THE STATE OF NEVADA, Plaintiff,

Against

JOHN SCOTT BURKETT,

Defendant.

CRIMINAL COMPLAINT

LYNNE HAMMILL, of the County of Washoe, State of Nevada, being first duly sworn, personally appeared before me, and complained and deposed that JOHN SCOTT BURKETT, the defendant above named, has committed the crimes of:

COUNT I: DRIVING WHILE INTOXICATED, a violation of Washoe County Code 70.3865, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about the 10th day of November, 1984, at Incline Township, in the County of Washoe, State of Nevada, did willfully and unlawfully, while under the influence of intoxicating liquor or having a 0.10 percent or more by weight of alcohol in his blood, drive a blue Datsun upon State Route 28 southbound from Crystal Bay to Southwood in the County of Washoe, State of Nevada.

COUNT II: EXCESSIVE SPEED WITH A MOTOR VEHICLE, a violation of Washoe County Code 70.270, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about the 10th day of November, 1984, at Incline Township, in the County of Washoe, State of Nevada, did willfully and unlawfully drive and operate a blue Datsun upon State Route 28 southbound from Crystal Bay to Southwood, a public highway in the County of Washoe, State of Nevada, at a rate of speed greater than that posted by a public authority for the particular portion of highway traversed, to wit, 53 miles per hour in a 25 miles per hour speed zone.

COUNT III: OPERATING A MOTOR VEHICLE WITHOUT HAVING A DRIVER'S LICENSE IN POSSESSION, a violation of Washoe County Code 50.212 and NRS 483.350, a misdemeanor, in the manner following, to wit:

That the said defendant, on or about the 10th day of November, 1984, at Incline Township, in the County of Washoe, State of Nevada, did willfully and unlawfully drive a blue Datsun upon State Route 28 southbound from Crystal Bay to

[Signature]

Justice of the Peace

12-11-84

Date

CR 397-84

Case No. CR397-84

IN THE JUSTICE'S COURT OF ^{Incline} ~~Washoe~~ TOWNSHIP

IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

John Scott Burkett

Defendant,

WAIVER OF RIGHTS

Defendant's Initials

JSB

I understand that I have been charged with driving or being in actual physical control of a motor vehicle on a highway or on premises to which the public has access in this County, (check the proper element(s):
 while under the influence of intoxicating liquor; or
 having a 0.10% or more by weight of alcohol in my blood; or
 having been under the combined influence of intoxicating liquor and/or a controlled substance, on the 10th day of Nov, 1984, in violation of WCC70.3865.

JSB

I understand that the State must prove the elements in the above paragraph beyond a reasonable doubt. I understand the following possible punishments:

1st OFFENSE in 7 years - a minimum of 2 days in jail or 48 hours community service in distinctive garb to a maximum of 6 months in jail; a fine of not less than \$200 and not more than \$1,000; successful completion of an approved educational course on the abuse of alcohol and controlled substances; and a 90 day revocation of my driver's license by the Department of Motor Vehicles.

2nd OFFENSE in 7 years - at least 10 days in jail but not more than 6 months, a fine of not less than \$500 and not more than \$1,000; and revocation of my driver's license for a period of one year by the Department of Motor Vehicles.

3rd OFFENSE in 7 years - not less than 1 year or more than 6 years in Nevada State Prison; not less than \$2,000 fine and not more than \$5,000; and revocation of my driver's license for a period of 3 years by the Department of Motor Vehicles.

JSB
JSB
JSB
JSB
JSB
JSB
JSB

I understand that I have the right to have an attorney represent me, and if I cannot afford an attorney the Court will appoint one, and I give up this right or I am represented by _____

I understand that I have the right to a speedy and public trial in front of a Judge or jury and I give up this right.

I understand that I have the right to confront and question all witnesses against me and I give up this right.

I understand that I have the right to subpoena witnesses on my behalf and compel their attendance and I give up this right.

I understand that I have the right to remain silent and not incriminate myself and I give up this right.

I understand that probation is not available for any of the above jail/prison terms and that the Judge is not bound by any agreement between the parties.

I am voluntarily pleading guilty nolo contendere to the offense as stated in the first paragraph without any promises of lenience or threats having been made because I am in fact guilty of this offense

[Signature]
Defendant's Signature

1/12/84
Date of Birth

12/11/84
Date

I certify that I am the attorney of record for the defendant; that I have fully discussed the matters herein with him/her and advised him/her thereon; that the representations above are his/her own; that the plea and waivers were intelligently, voluntarily and expressly made; that I join in the plea and waivers; and that I stipulate there is a factual basis for the plea.

Attorney At Law

Date

I have addressed the defendant personally, canvassed him/her on the above to include the elements of this offense as supported by the facts, the possible penalties; and his/her Constitutional rights and find that the plea of guilty/nolo contendere is made voluntarily and with an understanding of the nature of the charge and consequences of the plea and order that such plea be entered into the minutes of the Court.

[Signature]
Justice of the Peace

12-11-84
Date

1 Southwood, a public highway in the said County and State,
without having a driver's license in his possession.

2
3 COUNT IV: FAILURE TO HAVE REGISTRATION IN VEHICLE, a violation
of NRS 482.255, a misdemeanor, in the manner following, to
4 wit:

5 That the said defendant, on or about the 10th day of
November, 1984, at Incline Township, in the County of Washoe,
6 State of Nevada, did willfully and unlawfully operate a blue
Datsun vehicle upon State Route 28 southbound from Crystal Bay
7 to Southwood without having a certificate of registration or a
legible copy carried in the vehicle.

8
9 COUNT V: FAILURE TO MAINTAIN EVIDENCE OF CURRENT MOTOR VEHICLE
INSURANCE IN THE VEHICLE AS REQUIRED BY THE NEVADA MOTOR
10 VEHICLE INSURANCE ACT, a violation of Washoe County Code
70.3851(1)(b), a misdemeanor, in the manner following, to wit:

11 That the said defendant, on or about the 10th day of
12 November, 1984, at Incline Township, in the County of Washoe,
State of Nevada, did willfully and unlawfully operate a 1978
13 blue Datsun upon State Route 28 southbound from Crystal Bay to
Southwood, a public highway, without having evidence of current
14 motor vehicle insurance in the said vehicle.

15 All of which is contrary to the form of Statute in
16 such cases made and provided and against the peace and dignity
of the State of Nevada. Said complainant therefore prays that
17 a warrant be issued for the arrest of said defendant, if not
already arrested, and that he may be dealt with according to
18 law.

19
20 Subscribed and sworn to before me this 26th day of
November, 1984.

21
22 TARA VILLA
23 State of Nevada
24 Washoe County
25
26
27
28
29

[Signature]
MAGISTRATE OR DEPUTY CLERK
AND NOTARY PUBLIC
OFFICE OF THE JUSTICE OF THE
PEACE INCLINE TOWNSHIP

30 Custody:
Bailed: X
Warrant:

District Attorney: GREGG
Defense Attorney:
Bail _____

3/21 J

James V. Mancuso 12-11-84
Justice of the Peace Date

1000081

$$m_1 v_1 + m_2 v_2 = m_1 v_1' + m_2 v_2'$$

Assume $v_2'' = 35 \text{ y/h}$ $v_1 = 28' \text{ LWS}$

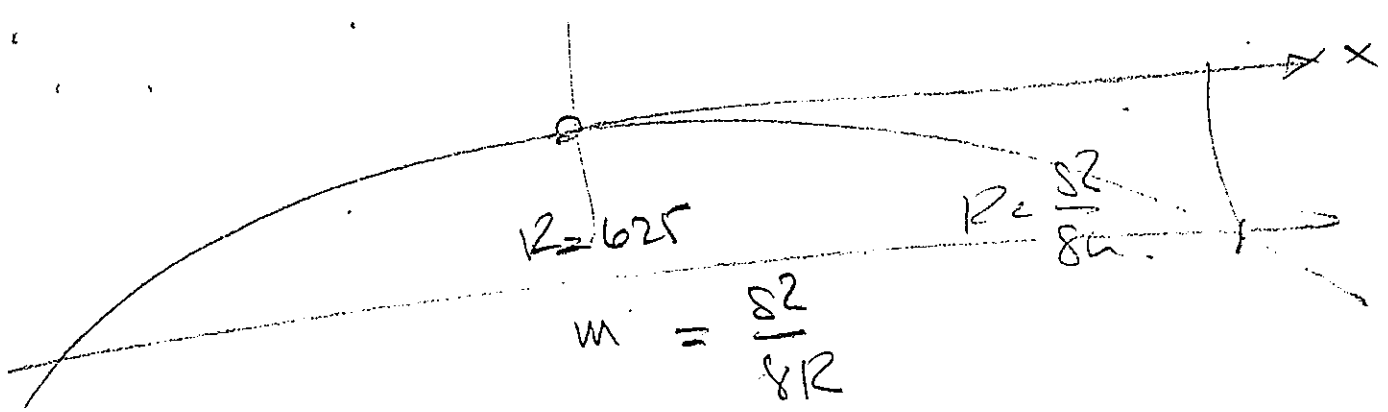
$$v_2' = \left(35^2 - 30 \times 0.7 \times 28 \right)^{1/2}$$
$$= 25.24 \text{ y/h}$$

$v_2: d = 23' \quad \mu = 0.15 \quad v_2 = 18.17 \text{ y/h}$

$v_1: d = 42' \quad \mu = 0.15 \quad v_1 = 25.10 \text{ y/h}$

$$v_1' = \frac{2450 \times 25.10 + 2550 \times 18.17 + 2550 \times 25.24}{2450}$$

$$v_1' = \underline{\underline{70.70 \text{ y/h}}}$$



x	S	M
50	150	2
100	200	8
150	300	18
200	450	32

Critical wave speed:

$$\begin{aligned}
 V_{0.7} &= (15 \times 0.7 \times 625)^{1/2} \\
 &= 81.01 \text{ m/s}
 \end{aligned}$$

5-4-88 -

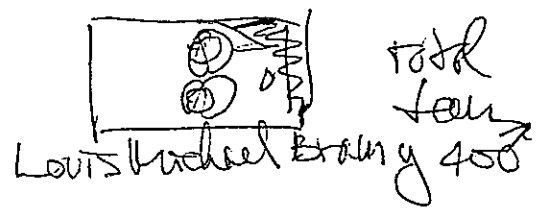
Re. Kelly J. Kolozsi

DOB: 7-29-88 1915 = 7:15 pm - clear, slightly dry

SR28 485' W/ PCA 9.09
485' W/ Beach Av.
Pacer County, Blue City, JA

88
61
24

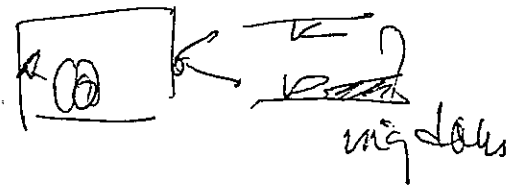
#1 John Scott Burbett 270 HBD
1986 Subaru 2.0 2 Cran



total
four
Louis Michael Brany 400

88
61
24

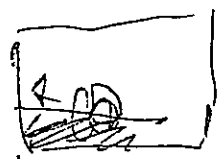
#2 Jeffery Johnson 290
1982 Honda 2012
1987 Oldsmobile Toronado
1985 Coast CA
WB SR28 35mph
~2x50 + 2x150 + 10 = 2450



ing down

88
64
24

#3 Kelly James Kolozsi 240 FATAL
1974 BMW Charger



total down

WB SR28 35mph
2350 + 100 + 10 = 2450
D2 - WB SR28 in W1 35mph saw VI in E1 queuing - striking
over of D2 - starts (R) - struck holed.

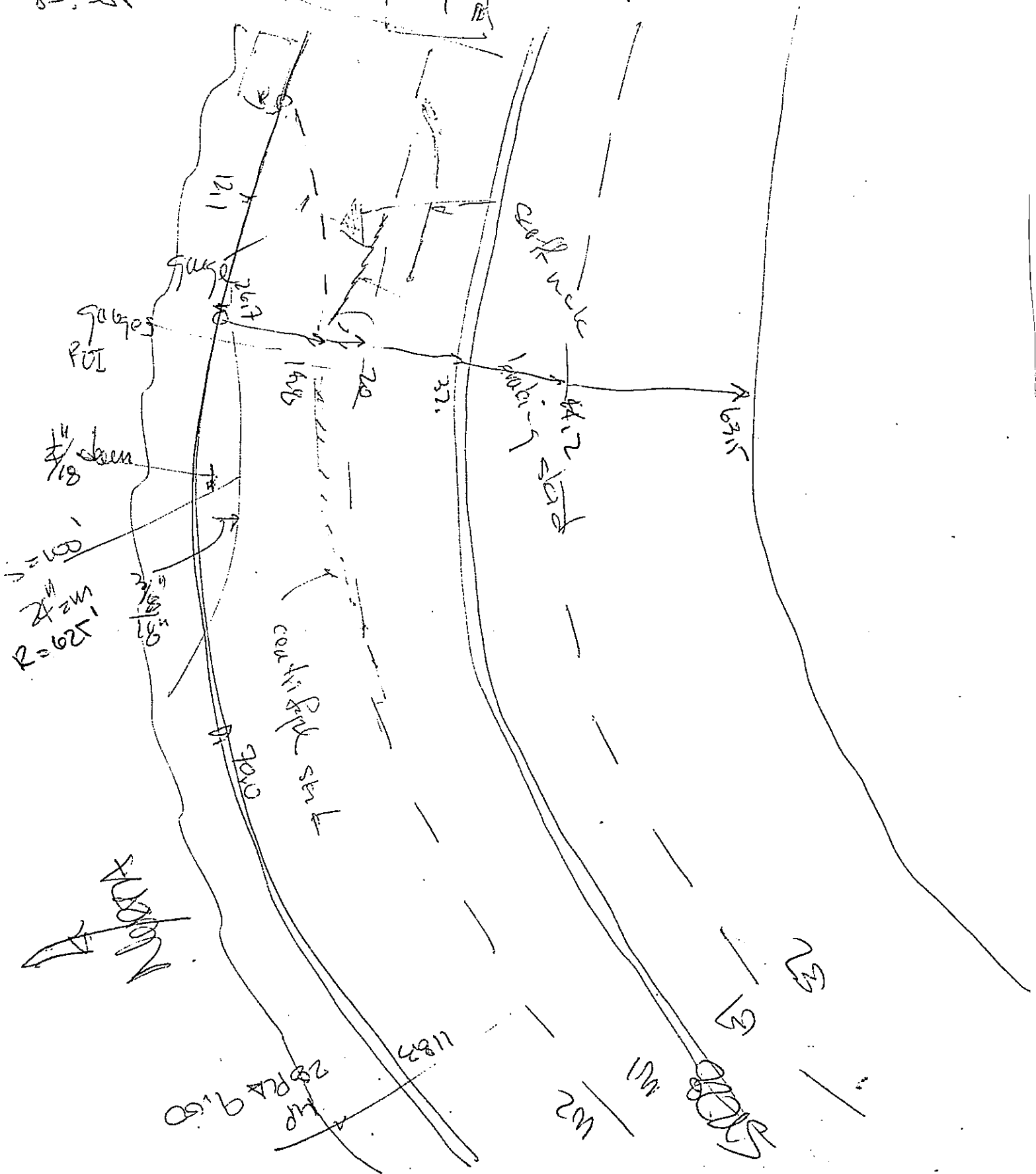
W - starts - SR28 in 30-35mph - VI passed in E2 55-65mph
into V2 & V3.

W - Casey walking beside 28 - saw VI - very high fade
of wheel - tires squeaking over of into V3.

W - Palmisano spoke w - Casey

PO#1 #1 74' W/ PO#2
PO#2: 485' W/ Beach

8-18 visit to geology of A.J. WY. Mt. Sams Area,



8588- belly bologna - ① Zoran Blue City

RMS 2002 Change 2 Books

937 WZOCAT

no un# in white line

n n n n dicker book

98440. wiper motor

180.0 n n diff.

Spools 0 Tech 0

Budget ask of integral by day belt.
dinner belt cut by force pencil

PK - including two jibber - fat

total den - wheel some

185/70 = 82132A

also ally for man with outer intech

cut moater. stock wall casing

Weatherman front strut - lower ball joint
separated - shock tower pushed
beams - Swaybar & tension
bar intact - body mount steel

FR - Same FC - still no vis da

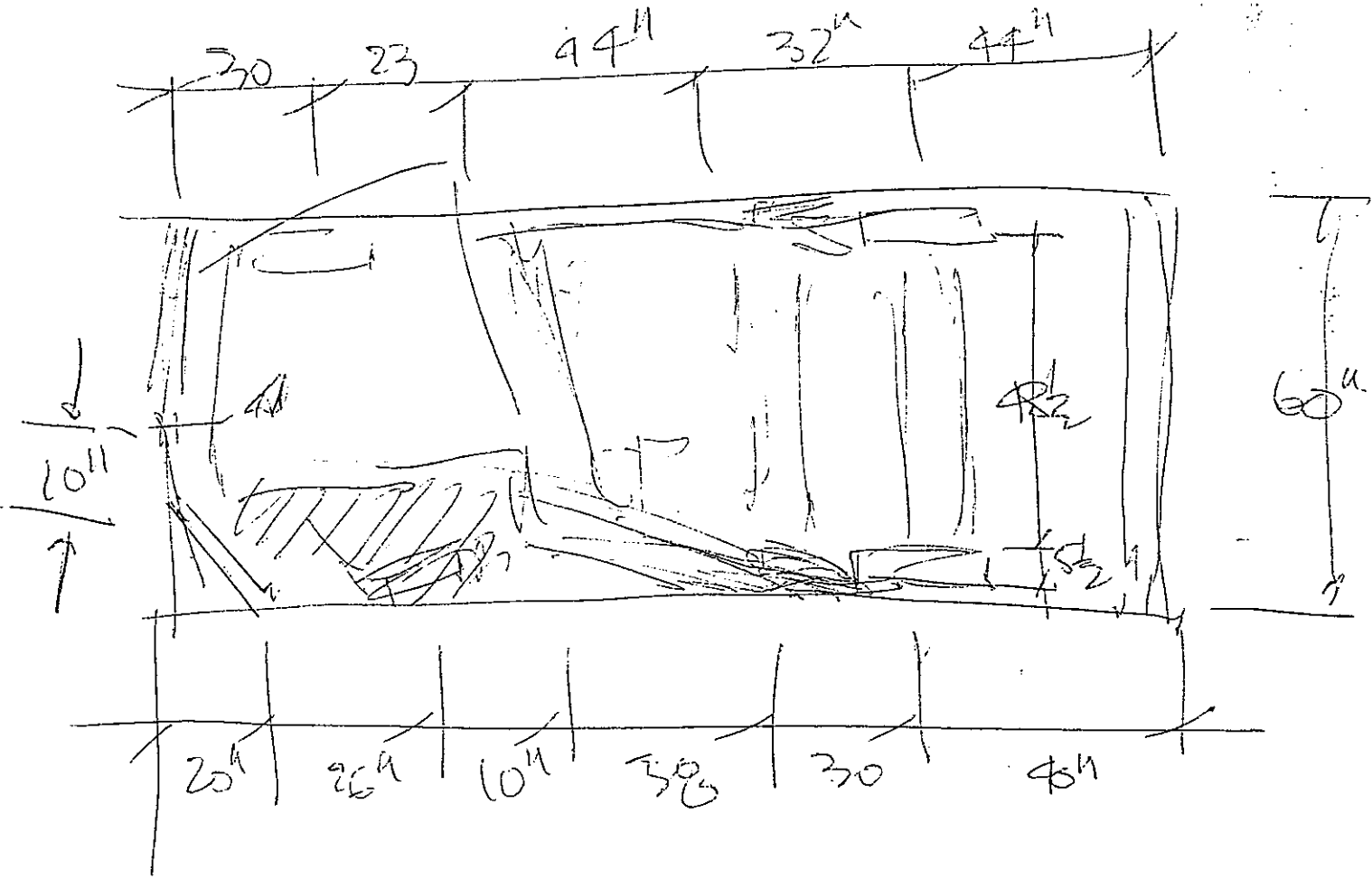
FR - suspension intact - no vis da

FR - head light intact

4 good tires

R & RR - Same FC - still - no vis da -
good T.

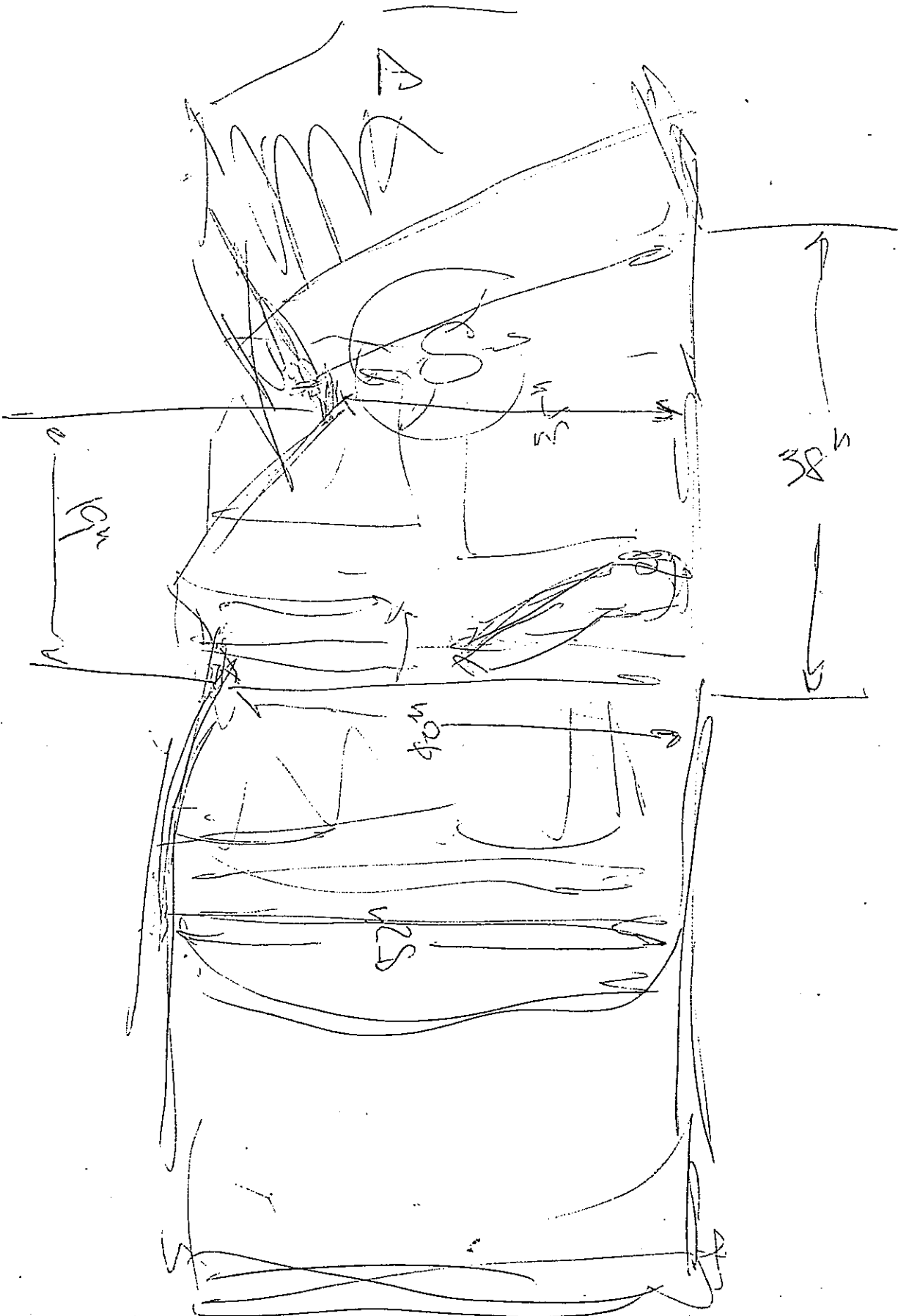
beam wheel - dno - swing arm - control arms
shocks - independent rear suspension
dno brakes



$$\begin{array}{r} 38 \\ 10 \\ \hline 48 \end{array}$$

$$\begin{array}{r} 2 \\ 44 \\ 23 \\ \hline 69 \\ 48 \\ \hline 21 \end{array}$$

FL wheel push board



Fill top
above back of

1/2" / 5/8"

Fill from post 1



8-5-88 - 10 yr

Subaru - 2012 Sport coupe

VIN JF24X7F89G1D301816

MSRP - 9185

GMV = 3390[#] F = 1820[#] R = 1570

36 MSRP miles on odometer

18.5 miles on highway miles

5 speed manual transmission 4x4

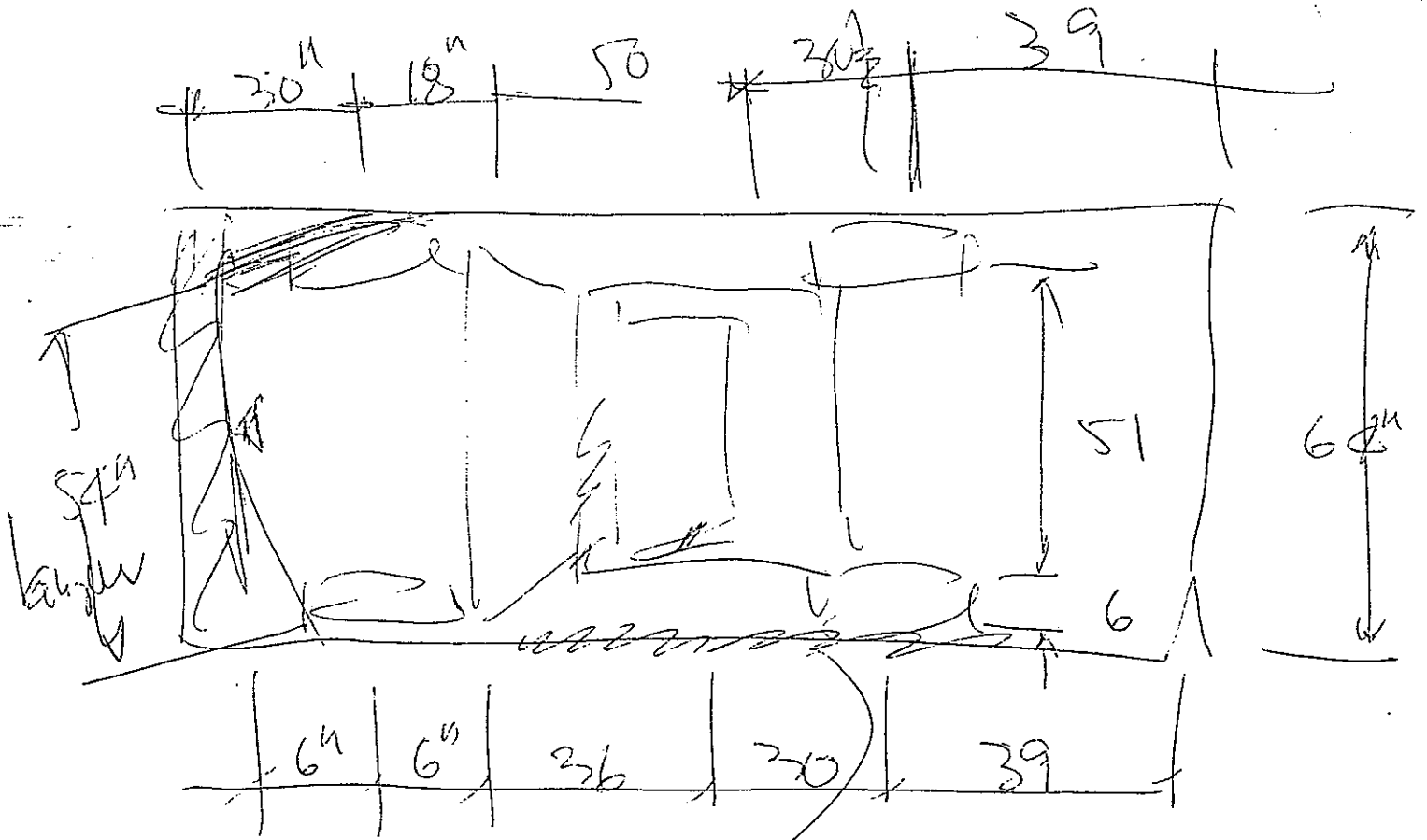
Steering wheel - mounted
low back seats

Roof rack

FIR Boy Z Postil 200 all season
P 185/70 R13 tobacco M+S
MFL Nevada 2x9,

FIL - Same - FIR Hat - New set
cut,

FIR - Same Hat outer head for
224 B PL Nevada



Sdesapada



back pedal -
firm - press
collar for
child pedal
back up
and in good way

1 BOLLING, WALTER & GAWTHROP

2 A Professional Corporation
3 8880 Cal Center Drive, Suite 400
4 Sacramento, CA 95826
5 Telephone No. (916) 369-0777
6 Telecopier No. (916) 369-2698

FEB 15 REC'D

7
8 Attorney for Defendant, SUSAN D. DEVYAK

9

10

11

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

12

IN AND FOR THE COUNTY OF PLACER

13

TITA KOLOZSI, et al.,

14

Plaintiffs,

Case No. 82726

15

v.

ANSWERS TO INTERROGATORIES

16

JOHN SCOTT BURKETT, et al.,

17

Defendants

18

19

PROPOUNDING PARTY: PLAINTIFFS

20

RESPONDING PARTY: DEFENDANT, SUSAN D. DEVYAK

21

SET NUMBER: ONE

22

The attached answers to interrogatories are forwarded pursuant to Section 2030 of the Code of Civil Procedure.

23

In answering these interrogatories, you have been furnished with such information as is presently available. This may include hearsay and other forms of evidence which are neither reliable nor admissible in evidence.

24

DATED: February 8, 1989

25

BOLLING, WALTER & GAWTHROP

26

27

By: Donald S. Walter
DONALD S. WALTER

28
DSW:mk

1 1.1 Susan Dawn Devyak, 9927 Wave Avenue, Brockway, CA 95719
2 and Donald S. Walter, her attorney.
3 2.1(a) Susan Dawn Devyak
4 2.1(b) Please see (a)
5 2.1(c) Since birth.
6 2.2 8/12/61, Gary, Indiana.
7 2.3 Yes
8 2.3(a) Nevada
9 2.3(b) S305-74-8228
10 2.3(c) 3/88 to 3/89
11 2.3(d) None
12 2.5(a) Please see 1.1
13 2.5(b) Please see 1.1 and 711 Tyner, Incline Village,
14 NV 89450.
15 2.5(c) I have lived at my present address for one year and
16 eight months and lived at 711 Tyner for the three years immediately
17 preceding that.
18 2.6(a) Cal-Neva Lodge and Casino, Crystal Bay, NV 89402,
19 telephone number (702) 832-4000.
20 2.6(b) Cal-Neva Lodge and Casino since August, 1986 as a
21 cocktail waitress. From 2/84 to 7/86, cocktail waitress, Crystal
22 Bay Club.
23 2.7(a) through (d) William A. Wirt High School, Gary, Indiana
24 from 8/75 to 2/77. Crown Point High School, Crown Point, Indiana
25 from 2/77 to 1/79, Ivy Tech Vocational School, Gary, Indiana from
26 3/8/79 to 12/79. I have a high school diploma, having graduated
27 from the 12th grade.
28 2.8 No

1 2.9 Yes
2 2.10 Yes
3 2.12 No
4 4.1 Please see attached.
5 12.1(a) through (d) I know nothing about the accident other
6 than what is stated in the police report.
7 12.2 Yes
8 12.2(a) Cynthia Ford, 119 Barbaree Way, Tiburon, CA 94920,
9 Telephone number (415) 388-0430.
10 12.2(b) 8/1/88
11 12.2(c) Kathy Hooper, CSAA.
12 12.3 Yes. Please see answer to 12.2. The original transcrip-
13 tion of the statement is in the possession of Donald S. Walter.
14 12.4 Yes
15 12.4(a) 54
16 12.4(b) The vehicles involved and the scene of the accident.
17 12.4(c) 8/2/88
18 12.4(d) D. Casellini, California State Automobile Association.
19 12.4(e) Donald S. Walter.
20 12.5 Yes
21 12.5(a) Diagram made by B. Bauman.
22 12.5(b) The scene and the vehicles.
23 12.5(c) Donald S. Walter
24 12.6 I know of no reports other than those made to the police
25 officer and the statement previously identified.
26 12.7 Yes, a diagram was made of the scene and has been identi-
27 fied previously.
28 13.0 No

1 13.2 No
2 14.1 I am making no such contention at this time.
3 14.2 The only citation or charges that I am aware of are set
4 forth in the police report.
5 15.1(a) through (c) I understand that my attorney has denied
6 the charging allegations of the complaint against me. The reason
7 for the denial is that I was not present at the time of the accident
8 and was not driving any of the vehicles involved.
9 16.1 Yes, it appears from the police report that John Scott
10 Burkett contributed to the occurrence of the incident. All of my
11 knowledge in that regard comes from the police report.
12 16.9 No
13 16.10 No
14 20.1 Please see police report.
15 20.2 Please see police report.
16 20.5 Please see police report.
17 20.6 Please see police report.
18 20.8 Please see police report.
19 20.9 No
20 20.10 No
21 20.11 Unknown except as to my vehicle which was totalled by
22 CSAA.

23 Dated: February 8, 1989

24 BOLLING, WALTER & GAWTHROP

25
26 By: _____
Donald S. Walter
27
28

Driver faces charges following fatal accic

By Brett Pauly
and Ken Heiman

An Atherton man died during a head-on collision on Highway 28 in the Vista Friday evening and a year-old Kings Beach man, who was injured in the wreck, faces manslaughter charges stemming from the fatal accident.

According to California Highway Patrol Officer Bob Riley, 24-year-old Kelly Kolozsi was pronounced dead by Kings Beach Fire Department personnel shortly after an emergency unit arrived at the scene of the 7:15 p.m. accident, 485 miles west of Beach Avenue on the 10 block of the highway. Kolozsi died behind the wheel of

his 1974 BMW after sustaining major head injuries, Riley said Monday. He was the only occupant in the vehicle.

Transported from the crash by ambulance and admitted into Tahoe Forest Hospital were John Burkett and the passenger in his 1986 two-door Subaru, Louis Bramy, 40, also of Kings Beach.

Burkett, a former Incline Village resident, and Bramy (who was under observation in the intensive care unit) were both listed in stable condition, a spokesperson for the hospital said Tuesday. However, both injury victims have asked hospital nursing supervisors not to release any further information concerning

their health conditions. According to CHP reports, Burkett suffered a broken jaw and internal chest injuries, while Bramy sustained broken ribs and facial contusions.

Investigating CHP Officer Tom Liles alleges Burkett "had alcohol on his breath," Riley said. As of yesterday morning, Riley said the blood alcohol test results obtained from Valley Toxicology in Sacramento indicated that Burkett's blood alcohol level measured .17. A blood alcohol level of .10 is considered legally intoxicated.

Riley said there is enough evidence stemming from the incident to file one charge of felony

drunken driving and a count of vehicular manslaughter against Burkett with Tahoe City Deputy District Attorney Ted Peterson.

"When Burkett is released from the hospital, we will arrest him, take him into custody and release him to Placer County Sheriff's officers and they'll book him" for the investigation of the criminal charges, Riley said.

According to Riley, the CHP report indicates Burkett was driving "at a high rate of speed" in an eastbound lane of traffic on North Lake Boulevard in Tahoe Vista when he encountered a right-hand curve in the highway. He apparently was unable to navigate the turn safely, crossed

into oncoming westbound traffic and sideswiped a boat and trailer being pulled by a 1982 Honda in the fast lane.

The Honda was driven by Jeffrey Ford, 29, of Tiburon. The Subaru then continued through the slow eastbound lane and smashed straight into the front end of Kolozsi's BMW.

"We have pedestrian witnesses saying Burkett was doing from 60 to 70 miles per hour," Riley said. Tahoe Vista resident Jeff Lay, who lives near the site of the accident, said he heard the two vehicles collide and ran outside to see what happened. "I just heard this loud bang,"

recalled Lay this week. "I didn't hear screeching tires or anything. It was one of the worst accidents I've seen and I hope I never see anything like it again."

No persons were injured in the Honda, but the boat and trailer both sustained major damage, the CHP officer said. Both the Subaru and the BMW were "totaled out," however.

Kolozsi was wearing a seat belt at the time of the accident, the report states, but it is unknown if either Burkett or Bramy were wearing their seat belts. The investigation into the incident will be ongoing indefinitely, Riley said.

According to Riley, the CHP report indicates Burkett was driving "at a high rate of speed" in an eastbound lane of traffic on North Lake Boulevard in Tahoe Vista when he encountered a right-hand curve in the highway.

He apparently was unable to safely navigate the turn due to the excessive speed, crossed into oncoming westbound traffic and sideswiped a boat and trailer being pulled by a 1982 Honda in the fast lane.

The Honda was driven by Jeffrey Ford, 29, of Tiburon, Calif. The Subaru continued through the slow eastbound lane and smashed straight into the front end of Kolozsi's BMW.

"We have pedestrian witnesses saying Burkett was doing from 60 to 70 miles per hour," Riley said. No persons were injured in the Honda, but the boat and trailer both sustained major damage, the CHP officer said. Both the Subaru

KOLOZSI, Kelly James — Aged 24 years; a resident of Atherton, CA, died in Tahoe Vista, July 29, 1986, as a result of an automobile accident, survived by parents John and Mary Ann Kolozsi, and his brother, Bryan. Memorial services will be held at Tahoe Christian Center, 2566 Lake Forest Road, Tahoe City, CA, 95966, at 1 p.m. Contributions may be made to the Kelly J. Kolozsi Memorial Scholarship Fund, c/o Betty Oliver, Menlo Atherton, CA, 94025.

Kelly Kolozsi

Memorial services will be held this Friday for Kelly James Kolozsi, 24, a resident of Atherton since 1970 and a 1982 graduate of Menlo-Atherton High School, who died in an automobile accident in Tahoe Vista on July 29.

The services will be held at Tahoe Christian Center, 2566 Lake Forest Road, Tahoe City, Calif. beginning at 1 p.m. A boating and skiing enthusiast, Kelly loved the outdoors, especially Lake Tahoe. He was an Eagle Scout.

He graduated from UC Santa Barbara in 1986, then worked for Montgomery Securities in San Francisco. He was born on April 4, 1964, in Encino. After the family moved to Atherton, he attended the Menlo Park city schools.

Kelly is survived by his parents, John and Tia Kolozsi of Atherton, and his younger brother Bryan.

A scholarship fund as been set up for Kelly's memory. Donations may be made

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF PLACER

3 DEPARTMENT NUMBER FOUR

HON. RICHARD L. GILBERT, JUDGE

4 --o0o--

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)

6 Plaintiff,)

No. 1183

7 vs.)

8 JOHN SCOTT BURKETT,)

9 Defendant.)

FILED

MAR 30 1989

10 --o0o--

11 FRIDAY, MARCH 3, 1989

MARY ANN HULSE
COUNTY CLERK, PLACER COUNTY

BY *[Signature]*
DEPUTY

12 --o0o--

13 (The above-entitled matter came on regularly this
14 day for probation hearing, judgment and sentence, before
15 the Honorable RICHARD L. GILBERT, Judge of the Superior
16 Court of the State of California, in and for the County of
17 Placer, Department Number Four thereof.

18 The said Defendant, JOHN SCOTT BURKETT, was
19 personally present and in attendance upon the Court, and he
20 was attended and represented by RICHARD SPECCHIO, Attorney
21 at Law, acting as his counsel.

22 The People were represented by DANIEL GONG, Deputy
23 District Attorney in and for the County of Placer, State
24 of California.

25 The Probation Department was represented by MICHAEL
26 SIPE, Deputy Probation Officer.

27 JON SASEK, CSR 1650, Official Shorthand Reporter
28 of the Superior Court, was in attendance upon the Court

1 and acting.

2 The following proceedings were then had after
3 presentations by both sides, to wit:)

4 THE COURT: And with respect to the motion for
5 continuance, as I indicated to you on the phone,
6 Mr. Specchio, in this case the District Attorney's position
7 with respect to disposition of the case has been clear.

8 In fact, it's been so clear that when they advanced
9 the offer to the Defendant to enter a plea to one of the
10 related charges and to drop the grave charge, they made
11 that plea conditioned upon the Court not giving its
12 ordinary indication of sentence.

13 That is quite significant, inasmuch as the Court
14 often at the request of counsel for both sides gives its
15 preliminary views, and in this case the District Attorney
16 said if there was any indication by the Court, that they
17 would not even advance the offer for reduced plea.

18 And I recall specifically the discussion, and it is
19 reflected in my notes of our discussion in November of ✕
20 Mr. Gong's position that this was a state prison case.

21 MR. SPECCHIO: Yes.

22 THE COURT: And that this was going to be their
23 position throughout.

24 I think that puts the Defendant and his counsel on
25 notice of the need to prepare to rebut that position and to
26 prepare in advance for the hearing.

27 This hearing was set over until, initially until
28 January, and was continued because of some difficulties in

1 the Probation Department receiving the appropriate
2 information.

3 So that the Defendant has received substantial
4 amount of time in order to be able to prepare for what
5 ought to be the anticipated issues in this case.

6 There are several issues which have fairly come up
7 only since the probation officer's report was received.

8 I disagree with your assessment that it is untimely.

9 The statute requires only that the probation
10 officer's report be available three days in advance, and
11 unless there is a request that it be done before that, then
12 it is only five days in advance and the old nine-day rule
13 has not been the rule for some time.

14 I recognize that that rule, three-day rule, is
15 really an unfair rule in many cases, because three days is
16 simply not enough time to prepare to meet critical issues
17 in a probation officer's report.

18 But the things in the probation officer's report
19 that need to be met, that is, which really are only the
20 statements or only what I would think are the new things in
21 this case that the defense may not have had an opportunity
22 to focus on earlier, I don't think are the critical things
23 in this case.

24 The additional information that you would seek to
25 present I, likewise, do not think are material in light of
26 what I believe are the critical factors in this case.

27 The critical factors -- I'm prepared to accept, and
28 I don't think the District Attorney is in a position to

1 argue other than there may be evidence that the blood
2 alcohol at the time of the Defendant's accident and at the
3 time he entered the car shortly before was lower than the
4 tested result of point one seven.

5 The authorities in my experience are not definitive
6 on the question of the influence of cocaine and the impact
7 based upon analyzed levels, and there is dispute, as I
8 understand it, in the authorities as to the reliability of
9 test results in determining the recency of the use of the
10 cocaine, because that all depends upon patterns of use in
11 the past, and there can be trace amounts in heavy users,
12 none for those who are occasional users.

13 So that information is really not going to
14 be definitive.

15 So I am willing to accept that the cocaine was not
16 an influence in the driving.

17 I, also, have no doubt, having reviewed the
18 probation officer's history in this case -- this really
19 gets to the nub of this case -- that Mr. Burkett has a
20 problem with alcohol and drugs, whether he's willing to
21 admit it or not.

22 The pattern or usage that's been established, the
23 influence that it has had on his life, clearly establishes
24 that he is an abuser of both alcohol and drugs.

25 That really gets us to the question that's presented
26 in this case and most every case like this, and that
27 question stems from the fact that, unfortunately, under our
28 laws, for good or for bad, the courts are left in a

1 position of not being able to combine appropriate
2 punishment with the kind of rehabilitation that will
3 benefit the community and the Defendant.

4 The Court's presented really with a choice of one or
5 the other.

6 I can either sentence somebody to state prison
7 where I know that he will receive nothing but dead time
8 and be released to a parole system which will not provide
9 any truly supportive support services for dealing with the
10 drug and alcohol treatment, or I have the option of not
11 more than a year of local incarceration, and then I can
12 impose some requirements for rehabilitation which can be
13 quite substantial.

14 I can, for example, condition probation on a
15 requirement that he enter into an inpatient program, and I
16 can require thereafter that he participate in outpatient
17 programs, and I can maintain those controls on him for a
18 period of five years from the date of my sentencing.

19 The problem becomes how do you make that choice?

20 In the personal view of this Court, the law does not
21 give good choices to the Court, because in many cases
22 punishment should be extracted, but also an opportunity for
23 rehabilitation because it is essential, to lock somebody up
24 only to have them come on the street, not only
25 unrehabilitated, but probably embittered from the
26 experience, and less likely to be rehabilitated as a result
27 of that.

28 However, those are the choices that I have.

1 What I think is critical in making those choices
2 in this case are some facts that simply have not
3 been disputed.

4 It is true that while there has been a past
5 violation of a driving under the influence section, that
6 was four years ago.

7 That does to a certain extent mitigate the impact of
8 that past record.

9 However, what has not been mitigated in my mind,
10 which I believe to be particularly significant in this
11 case, is that for what appears to have been at least a year
12 thereafter the Defendant was involved with the Nevada
13 courts on the question of the validity of his license, with
14 the final result that his license was revoked, and he
15 knew it.

16 He continued to drive without any lawful authority,
17 either from the State of California or the State of Nevada,
18 and that concerns me greatly.

19 What it does is it says that this is a gentleman who
20 is willing to disregard knowingly, willfully the rules
21 of law.

22 It is much different in my view, and I don't want to
23 make this a driving -- a suspended license case and not a
24 case involving death, but there is a significant difference
25 in the attitude of a Defendant who, with an alcohol
26 problem, a drug problem, who doesn't realize the impacts
27 that that will have, goes off without any intention to do
28 harm, and someone who continues knowing that their license

1 is revoked to put themselves in a vehicle day in and
2 day out.

3 In addition to that, Mr. Burkett's driving record
4 over and above the driving under the influence is not a
5 good one.

6 I concede, as you argue, that the last speeding
7 tickets were approximately just under two years prior to
8 this accident, but the fact that this accident involved
9 driving at close to if not at twice the posted speed limit,
10 in and of itself reflects a pattern of negligent driving
11 and disregard for safety that exists independent of the
12 driving under the influence, coupled with what is under any
13 circumstance a clear situation where he was driving under
14 the influence of alcohol in this case.

15 And even disregarding the potential that he was also
16 driving under the influence of cocaine, but also
17 acknowledging that that act in and of itself, whether it
18 influenced the driving or not, indicates an additional
19 degree of recklessness in this young man's life.

20 I am left with the unfortunate conclusion, and it is
21 unfortunate, indeed, for this Judge and for those who have
22 been in this court before, I think who will agree with me,
23 to conclude that I cannot say in good conscience that this
24 gentleman in light of the devastation that he has caused
25 deserves yet another opportunity for rehabilitation.

26 The disposition of this case, the offer that was
27 made to him, which I do not criticize, to have been made by
28 the District Attorney, which I understand the family

1 criticize fairly, I think was a reasonable offer to make in
2 light of the Defendant's age and the relative lack of
3 past record.

4 However, the punishment that this Court has
5 available to it I think is a reasonable punishment under
6 the circumstances.

7 With respect to the motion for continuance, this is
8 a long way of saying that while I respect that you have in
9 some ways been put in a jam, the things which could be
10 offered to me in this matter I don't think would in any
11 fashion defeat the issues which I believe are critical.

12 And accordingly, I don't see any reason or good to
13 be gained in light of those issues by that continuance, and
14 I will at this time further deny the request.

15 With respect to the application for probation, I
16 don't believe that a grant of probation is appropriate in
17 this case for the reasons that I have indicated.

18 This Court recognizes that there is no sentence that
19 I can impose, it is not my purpose in imposing sentence to
20 in any fashion make up for the loss of Kelly's life. It
21 simply is impossible.

22 Whether I sentence Mr. Burkett to a day in jail or
23 20 years in jail, I really will do nothing.

24 I just will bring a chapter in the lives of this
25 family to a close, but let me give that family a bit of
26 what I hope will be wisdom.

27 I hope your eggs are not all in this basket. The
28 closure that you need, this is part of it, but not all

1 of it.

2 Whether you agree or disagree with the decision of
3 this Court, don't look to the justice system to provide
4 the healing.

5 It has to come from other sources. This may or may
6 not help.

7 It is not the function of the courts to mete out
8 retribution in that.

9 This Court is not, however, insensitive to the loss
10 and the devastation that has been caused to you; and again,
11 whether you agree or disagree with what happens in this
12 case, in the finally analysis my hope is that you will not
13 think that the loss has not been appreciated by the courts
14 and by the system. It has.

15 With respect to the selection of the term, the Court
16 does believe in this case that the factors in aggravation
17 do outweigh the factors in mitigation.

18 The mitigation in this case comes from the
19 Defendant's acknowledgement of his responsibility in the
20 court at a relatively early stage of the proceedings.

21 It comes from the fact that it appears that the use
22 of alcohol and drugs has been long standing and to a degree
23 has been without as a result of what I believe is an
24 addiction to alcohol and drugs.

25 This is not a circumstance where the Defendant has
26 willfully set out to commit a violation.

27 The circumstances in aggravation include his past
28 conviction for driving under the influence.

1 They include what I believe to have been a more than
2 normal recklessness in his driving and a greater -- at
3 substantially greater than the legal maximum, legal limit
4 for driving under the influence in his blood alcohol.

5 In addition to the recklessness in this case, he has
6 been on three separate occasions in the past been convicted
7 of speed offenses, and I believe of substantial importance
8 is the fact that at the time of the accident and for some
9 years before he was knowingly driving without any valid
10 driver's license and no really reasonable basis to believe
11 that he had any right to be in a vehicle.

12 When considered in light of the devastating effect
13 of his conduct, it is my view that the aggravating
14 circumstances in this case outweigh the circumstances
15 in mitigation.

16 The application for probation, accordingly, will
17 be denied.

18 And it is the order and judgment of this Court that
19 as punishment for the Defendant's violation of Vehicle
20 Code -- Penal Code section -- pardon me -- 192,
21 subsection c, subdivision 1, that the Defendant be
22 imprisoned in the California State Prison for the upper
23 term of the base sentence of six years.

24 He is entitled to credit for time served for that
25 time which he has spent in custody prior to the sentencing
26 date, I believe is eleven days calculated by the
27 probation officer.

28 MR. SIPE: Page 17, your Honor.

1 THE COURT: Seventeen. He is entitled as a matter
2 of law to an additional five days good- and work-time
3 credits, for a total of credit for time served of
4 sixteen days.

5 I don't know that it is necessary to specify that
6 the sentence is being made in this fashion, but it is -- I
7 recognize the difficulties posed to the defense in this
8 case, and I recognize the ever present situation that I
9 mention where the Court is put in the position of making
10 a sentence like this which will do society probably no
11 good whatsoever.

12 As a result, I am prepared to make this sentence
13 pursuant to Penal Code section 1170(d), and while I don't
14 wish to give any false hope to the Defendant or his
15 counsel, or any substantial doubt in the minds of the
16 People as to this Court's intention, this Court does have
17 the authority in this and every other case to consider
18 recalling its sentence within 120 days should the Court be
19 apprised by the Department of Corrections or on its own
20 that the Court may have been in error in its judgment. X

21 Accordingly, I simply will make the following offer
22 to the Defendant not only for purposes of substantively
23 presenting to this Court additional information, but also
24 so that you may have a complete record in case you wish to
25 pursue the, perhaps, legal error you might claim with
26 respect to this Court's decision; and that is, I will,
27 invite that within 30 days you may file with the Court in
28 writing declarations or other materials which you think

1 would support a recall of this sentence.

2 I will not set a hearing on that. If after
3 reviewing those materials the Court believes that a hearing
4 is appropriate, then I will notify all counsel of the
5 opportunity for further hearing.

6 I wish to make it clear, however, that I am giving
7 you this opportunity, perhaps, more to allow you to have
8 the opportunity to make a reasonable record of what it is
9 you would have presented than to suggest that the Court has
10 any really substantial doubt about the appropriateness of
11 this decision.

12 I wish to make it clear that I really don't, but I
13 think in fairness under the circumstances that opportunity
14 should be presented to you.

15 It will, therefore, be the order and judgment of the
16 Court that the Defendant be remanded to the custody of the
17 sheriff for delivery to the Director of Corrections at the
18 facility designated by the Director in accordance with the
19 state prison sentence just imposed.

20 A stay of execution on that sentence by way of
21 delivery to the Department of Corrections will be granted
22 until preparation of the abstract and delivery of the
23 abstract to the sheriff.

24 Anything else this morning?

25 MR. SPECCHIO: I am sorry. With regards to that
26 stay, your Honor, --

27 THE COURT: It is only of the delivery to the
28 Department of Corrections. I am ordering his remand

1 forthwith to the sheriff.

2 MR. SPECCHIO: May we have -- he has an appointment
3 with the dentist with regards to that -- his wires in
4 his mouth.

5 Can we have a week for him to resolve that?

6 THE COURT: I understand that difficulty. I am not
7 inclined to do that.

8 As I believe I indicated to you in our telephone
9 conference, one of the options that I had in mind after
10 reading the initial materials was the possibility of a
11 further evaluation by the Department of Corrections, and I
12 made it clear to you at that point that I would likely want
13 to have him remanded forthwith for that.

14 MR. SPECCHIO: I understand that.

15 THE COURT: I decided after further consideration
16 and the points made that that is not appropriate.

17 So I assume the Defendant's at least been on notice
18 for these last days of my intention to remand him if that
19 were to be the Court's order.

20 MR. SPECCHIO: That is correct.

21 THE COURT: I think -- I understand the problems. I
22 understand the difficulties, and I have considered the
23 Defendant's physical condition in my decision.

24 My decision is a difficult one for that reason, as
25 well, but we simply are not going to be able to resolve his
26 health problems in any kind of a reasonable fashion before
27 it becomes necessary for him to begin this term.

28 Accordingly, I think we need to just face up to it

1 and deal with it, and I will assume, as I must, that he
2 will receive adequate and appropriate medical care within
3 the Department of Corrections.

4 If they feel otherwise, they have the opportunity to
5 advise me under section (d) of 1170 as a reason for
6 a recall.

7 So the request for a stay of execution is denied.

8 MR. GONG: Thank you, your Honor.

9 --o0o--

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STEVE GRUMER
NEVADA & CALIFORNIA

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FAX 831-7711

01123
82-210

May 1, 1989

RECEIVED MAY - 3 1989

The Honorable Richard L. Gilbert
11546 B Avenue
Auburn, California 95603

Re: John Scott Burkett

Dear Judge Gilbert:

This letter is being sent to assist with respect to your sentencing of John Scott Burkett. I am aware that Mr. Burkett has committed a very serious crime and understand from his family and friends that a great change has taken place with respect to his attitude and objectives.

It is my sincere feeling that all interests would be better served if additional consideration was given towards giving John a shorter sentence in prison with a lengthier time of civilian service. In this manner he could lecture, teach, counsel, or otherwise assist other individuals to keep the same from happening to them.

The complex issues associated with driving under the influence are known by all. Perhaps Mr. Burkett can better serve his debt to society by committing him to a plan which forces him to deal with the grievous consequences of his own actions as well as enabling him to help others avoid a similar life destroying dilemma.

On behalf of the family of John Scott Burkett, I thank you for your time and sincere attention with respect to the evaluation of this matter.

Very truly yours,


STEVE GRUMER

SEG:pac
cc: F. A. Burkett



Crane Industrial Chemicals

A Division of Larsal, Inc.

RECEIVED MAR 20 1989

March 15, 1989

Honorable Judge Richard Gilbert
Placer County Superior Court
11546 "B" Ave.
Auburn, CA 95603

RE: John Scott Burkett, Case #1183

Dear Judge Gilbert:

This is the most difficult letter I have ever written and I only wish I could see you in person to relate to you what I would like to say. My son was given a sentence of six years in your court on March 10, 1989. You have given him thirty days in which to appeal.

John has always been a good son and person, and has never been in any trouble before his drunk driving and tragic accident. He has always been a hard working, intelligent person who fit into society very well. Since the accident John has suffered greatly. I know my son and I know how he has cried, not been able to sleep, and feels horrible for taking someones life. Also, the accident has left him with many physical problems that need on-going treatment.

All of us know the great loss and sadness the Kolozsi family is feeling but no matter what John does, for the rest of his life, this will not bring this young man back. I know that John deserves punishment for his accident, but feel that the sentence of six years will serve no purpose to help him get on with his life and do what a young man of his age should be doing. He wants further schooling, to work, get married and have a family and normal life.

His problems last year were very unusual and stem from trying to please his father too much and trying to be someone he could not be.

My husband (John's step-father for thirteen years), and I have guaranteed John a job with our company and we would be very happy for this because he has worked for us in the past and is a very trustworthy and hard-working person. He has expressed a desire to leave the Lake Tahoe area, when he is released from prison, because of the bad memories.

In closing, Judge Gilbert, I respectfully request that the court reconsider the previously imposed sentence and after reviewing the materials we are submitting to you, that you have more information that will help you understand John and allow him to have some hope in his future.

Thank you for taking time to read this letter.

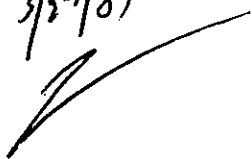
Sincerely,



Sally I. Crane

READ AND CONSIDERED
DATE:

3/27/87





Crane Industrial Chemicals

A Division of Larsal, Inc.

RECEIVED MAR 22 1989

March 16, 1989

Honorable Judge Richard Gilbert
Placer County Superior Court
11546 "B" Ave.
Auburn, CA 95603

Re: John Scott Burkett, Case #1183

Dear Judge Gilbert:

I sent you a letter dated March 15, 1989, and made an error in the first paragraph. The date you sentenced my son was March 3, 1989, not March 10, 1989. Please forgive me but I have not been myself and have been making a lot of mistakes.

Also, please find enclosed a copy of a document showing that John was on the Honor Roll in high school. Thank you once again.

Respectfully,

Sally Crane

READ AND CONSIDERED
DATE: 3/27/89

Costa Mesa High School

Costa Mesa, California 92626

This is to certify that

JOHN BURKEJT

has achieved an excellent

scholastic average of

3.0 to 4.0 during the

Fall Semester

This achievement places this

student's name on the

Semester Honor Roll

Robert M. Packer

Principal

February 1978

Date

DOCKET OR CITATION NO. 1183	COMPLETE NAME AND COMPLETE ADDRESS (LAST, FIRST, MIDDLE) Burkett, John Scott	DRIVER LIC. NO.
VIOLATION DATE 7/29/88	9927 Wave Avenue, Brockway	BIRTH DATE 1/17/61
CHP/PCSO Tahoe	SECTIONS VIOLATED 192(c)(1) PC	
VEHICLE LIC. NO.	JUDGMENT Restriction Term _____ Suspension Term _____ Probation Term _____ BAC _____	
CONVICTION DATE 3/3/89		J-6 yrs
CONDITIONS OF DNA PROBATION		

I certify that the foregoing is a correct abstract of a conviction and the date there rendered in the said action in my court.
Court Code **31100**

(IMPRESS SEAL HERE)
STATE OF CALIFORNIA
ABSTRACT OF COURT RECORD

(SIGNED) _____
COURT **Superior**
CITY **Auburn**
COUNTY **Placer**

**ABSTRACT OF JUDGMENT - COMMITMENT
SINGLE OR CONCURRENT COUNT FORM**
(Not to be used for Multiple Count Convictions nor Consecutive Sentences)

FORM DSL 290.1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Placer
BRANCH _____

COURT I.D.
31

FILED

MAR 10 1989

MARYANN HULSE
COUNTY CLERK OF PLACER COUNTY

BY [Signature]
DEPUTY

PEOPLE OF THE STATE OF CALIFORNIA versus
DEFENDANT: JOHN SCOTT BURKETT PRESENT NOT PRESENT
AKA: _____

COMMITMENT TO STATE PRISON
ABSTRACT OF JUDGMENT AMENDED ABSTRACT CASE NUMBER 1183

DATE OF HEARING (MO) (DAY) (YR) 03 03 89 DEPT. NO. 4 JUDGE Richard L. Gilbert CLERK D. Garner
REPORTER Jon Sasek COUNSEL FOR PEOPLE Daniel Gong COUNSEL FOR DEFENDANT Richard Specchio PROBATION NO. OR PROBATION OFFICER Michael Sipe

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONY:

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION			CONVICTION BY			TIME IMPOSED
					MO	DAY	YEAR	JURY TRIAL	COURT TRIAL	PLEA	
<u>1</u>	<u>PC</u>	<u>192(c)(1)</u>	<u>Veh. Manslaughter w/Gross Negligence</u>	<u>88</u>	<u>12</u>	<u>29</u>	<u>88</u>	<u>X</u>	<u>U</u>	<u></u>	<u>6</u>

2. ENHANCEMENTS (CHARGED AND FOUND, STRICKEN, TIME IMPOSED):

COUNT	12022(a)			12022(b)			12022.3(a)			12022.3(b)			12022.5			12022.6(a)			12022.6(b)			12022.7			12022.8			
	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	

3. OTHER ORDERS:

Sentence imposed under Sec. 1170(d) PC .

4. A. NUMBER OF PRIOR PRISON TERMS:

S	C/F	S	I
<u>667.5(a)</u>			
<u>667.5(b)</u>			
<u>667.6(b)</u>			

B. NUMBER OF PRIOR FELONY CONVICTIONS:

S	C/F	S	I
<u>667.6(a)</u>			

5. TIME STAYED § 1170.1(f) [DOUBLE BASE LIMIT]:

6. TOTAL TERM IMPOSED: _____ → 6

7. THIS SENTENCE IS TO RUN CONCURRENT WITH ANY PRIOR UNCOMPLETED SENTENCE(S).

8. EXECUTION OF SENTENCE IMPOSED:

A. AT INITIAL SENTENCING HEARING B. AT RESENTENCING PURSUANT TO DECISION ON APPEAL C. AFTER REVOCATION OF PROBATION D. AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d))

9. DATE SENTENCE PRONOUNCED: MO 03 DAY 03 YEAR 89 CREDIT FOR TIME SPENT IN CUSTODY: 16 INCLUDING: ACTUAL LOCAL TIME 11 LOCAL CONDUCT CREDITS 5 STATE INSTITUTIONS DMH CDC

10. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF TO BE DELIVERED:

FORTHWITH INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT: CALIF. INSTITUTION FOR WOMEN - FRONTERA CALIF. MEDICAL FACILITY - VACAVILLE CALIF. INSTITUTION FOR MEN - CHINO
 AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS OTHER (SPECIFY): as designated by CDC
after preparation of the abstract

CLERK OF SUPERIOR COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE [Signature] DATE MAR 10 1989

This form is prescribed pursuant to Penal Code § 1213.5 to satisfy the requirements of Penal Code § 1213 (Abstract of Judgment and Commitment) for determinate sentences under Penal Code § 1170. A copy of probation report shall accompany the Department of Corrections' copy of this form pursuant to Penal Code § 1203c. A copy of the sentencing proceedings and any supplementary probation report shall be transmitted to the Department of Corrections pursuant to Penal Code § 1203.01. Attachments may be used but must be incorporated by reference.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER**

DATE: March 3, 19 89 COURT MET AT 8:30 a.m. DEPARTMENT NO. 4

PRESENT: HON. Richard L. Gilbert, JUDGE D. Garner, DEPUTY CLERK
Jon Sasek, REPORTER Ed Leighton, BAILIFF

PEOPLE OF THE STATE OF CALIFORNIA
VS

JOHN SCOTT BURKETT

COUNSEL FOR PEOPLE:

Daniel Gong District Attorney

Probation Officer Michael Sipe

COUNSEL FOR DEFENDANT:

Retained

() Appointed

Richard Specchio

() Public Defender

ACTION NO. 1183

NATURE OF PROCEEDINGS: HEARING ON REPORT OF PROBATION OFFICER
AND PRONOUNCEMENT OF JUDGEMENT AND SENTENCE

COUNTS TO WIT: _____

- People represented as stated above, defendant present with counsel. A defense motion for
 Report of the Probation Officer is read, considered and ordered filed. continuance argued and denied.
 Court indicates it has read and considered _____ supplemental probation report and orders same filed;
 letters or statements in Mitigation/Aggravation; _____ 1203.03 Diagnostic Report;
 Other various material as described. Oral statements presented by parents of the victim
 Argument was had with respect to sentencing. Mr. and Mrs. John J. Kolozsi.
____ Defendant _____ arraigned for pronouncement of judgment _____ waived formal arraignment.
____ Defendant, through counsel, states there is no legal cause why judgment should not be pronounced.

IT IS ORDERED:

- PROBATION IS DENIED _____ REVOKED _____ MODIFIED as follows:
 Defendant sentenced to State Prison for a total term of 6 years
as set forth in the Abstract of Judgment with 16 days total credit time served.
 Defendant remanded to the custody of the Sheriff for delivery to the Director of Corrections
at the California Institution for _____ as designated by CDC
____ Men at Vacaville, California _____ Women at Frontera, California
____ Forthwith _____ 48 Hours Other after preparation of the abstract
____ EXECUTION _____ IMPOSITION of sentence suspended for the purpose of granting probation, and
____ PROBATION IS GRANTED TO DEFENDANT for a period of _____ years under the terms and
conditions as set forth in the Order Granting Probation filed herein this date.
____ Defendant to serve disciplinary term of _____ days in Placer County Jail with credit for time served
of _____ days.
____ Sentence to Commence:
____ Forthwith, and defendant is remanded to the custody of the Sheriff
____ On _____ at _____. Defendant ordered to report to the
Placer County Jail on that date and time.
____ Consecutive weekends, commencing _____
____ Defendant certified to the California Youth Authority for possible acceptance, and the Sheriff to deliver
said defendant to such reception facility as CYA may designate, if so accepted.
____ Defendant referred to Diagnostic Facility at Vacaville, California for evaluation pursuant to Penal Code
Section 1203.03.
____ Proceedings suspended, D. A. ordered to file petition pursuant to Welfare and Institutions Code
Section 3051.
____ Further proceedings continued to: _____
____ Court advises defendant of appeal rights.
____ Bail bond ordered exonerated.
____ Defendant failed to appear. _____ Bail forfeited _____ O.R. revoked _____ Bench warrant issued.
Bail set at \$ _____
 Other: Sentence imposed under Sec. 1170(d) PC. Within 30 days defense counsel may file
material which would support a recall of this sentence. If Court feels hearing is appropriate,
Court will notify counsel. A defense request for stay of execution is denied.

SENTENCE

12850468

DISPOSITION OF ARREST AND COURT ACTION

A. LAW ENFORCEMENT INFORMATION

ARRESTING/BOOKING AGENCY: CHP / PCSO Tahoe
BOOKING NO.: 43648
LOCAL NO. (OCA):
POB:
NAME (LAST, FIRST, MIDDLE): Burkett, John Scott
SEX: M, DESCENT: W, HGT: 70, WGT: 160, EYES: GRN, HAIR: BRN, DATE OF BIRTH: 01-17-61

REASON FOR RELEASE: 849B (3) PC, 849B (1) PC
RELEASE DATE:
I.D. NUMBERS: CII NO., FBI NO., S.S. NO., D.L. NO.
If 849B (1) PC, please check one of the following:
[] COMPL. REFUSES TO PROS. [] ADMISS. EVID. INSUFF.
[] ARRESTEE EXON. [] ASCERT. EVID. INSUFF.
[] FURTHER INVEST.
[] RELEASED TO OTHER AGENCY
[] OTHER

ARREST DATE: 07-29-88
WARRANT NO.:
CHARGE 1 (SEC., CODE): 192C(13), PC
TYPE: F, M
CHARGE 2 (SEC., CODE): 23153
TYPE: F, M
CHARGE 3 (SEC., CODE): 12500a
TYPE: F, M
CHARGE 4 (SEC., CODE):
REMARKS:

B. PROSECUTION

REASON FOR REJECTION:
CHARGE 1: 849.5 PC
CHARGE 2:
CHARGE 3:
CHARGE 4:

C. COURT INFORMATION

DATE FILED: 9-2-88
FILE NO.: 1183
CONSOLIDATED FILE NO.:
L.C. JUD. DIST. NO.: 31680
S.C. JUD. DIST. NO.: 31700
TYPE OF FILING: [X] INFORMATION [] CERTIFICATION [] INDICTMENT

Table with columns: TYPE FILING, FIRST PLEA, FINAL PLEA, DISPOSITION, DATE, TYPE DISPO, CHARGES AT DISPOSITION, DEG, PRIOR. Includes handwritten entries for charges 192C(13) PC, 23153(a) PC, and 23153(b) PC.

DATE OF SENTENCE: 3-3-89
TRUE NAME:
TYPE OF TRIAL: [] JURY [] COURT [] TRANSCRIPT
[] FINDING/VERDICT OF NOT GUILTY-INSANE

Table with columns: SENTENCE, CHARGE 1, SUS, CHARGE 2, SUS, CHARGE 3, SUS, CHARGE 4, SUS. Includes handwritten entries for CYA, JAIL, FINE, RESTITUTION, OTHER, PROBATION, and PRISON.

NOTES: TFT. 6 yrs

REMARKS:

D. PROCEEDINGS SUSPENDED
E. REOPEN OR RETRIAL AFTER
F. SUBSEQUENT ACTION
Includes various checkboxes for legal actions like APPEAL, MISTRIAL, PROBATION, etc.

COURT COPY

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER
ORDER FOR REMAND, RELEASE FROM CUSTODY OR BAIL**

People vs. JOHN SCOTT BRUNET ACTION NO. 1183

ORDERS FOR REMAND

Defendant is hereby ordered remanded to the custody of the Sheriff until his next Court appearance: _____ at _____ .m. Dept. _____

Defendant is remanded to the custody of the Sheriff to serve _____ days in the county jail with _____ days total credit for time served.

Defendant ordered remanded to the custody of the Sheriff to be delivered into the custody of the Director of Corrections or Department of Health as follows:

Time: Forthwith After 48 hours, excluding Saturdays and holidays
 On preperation of abstract and delivery of same to Sheriff.
 Other _____

Place: California Medical Facility - Vacaville
 California Institute for Women - Frontera
 Atascadero State Hospital
 California Rehabilitation Center
 Other: AS DIRECTOR BY CDC

Purpose: Pursuant to sentence to State Prison
 Commitment under W&I 3050 (Adult)
 For diagnostic evaluation to P.C. 1203.03
 Present incompetence (P.C. 1368)
 Insanity (P.C. 1026)
 Other: _____

Defendant is hereby ordered remanded to the custody of the Sheriff to be delivered into the custody of _____

ORDERS FOR RELEASE

Defendant is ordered released from the custody of the Sheriff
 On Own Recognizance Release assigned in Court
 On Bail posted
 On Probation granted/modified/reinstated
 Without restriction

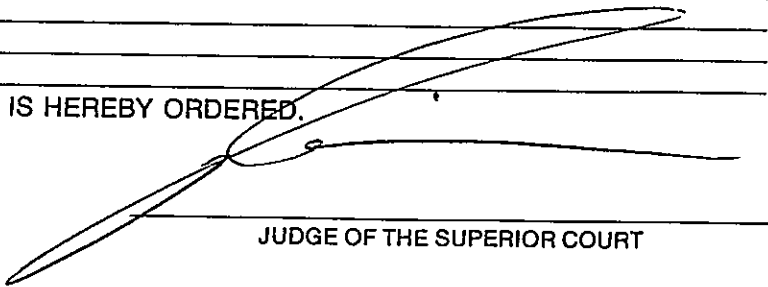
BAIL SETTING

Bail set/reset at \$ _____

OTHER ORDERS TO SHERIFF

GOOD CAUSE APPEARING THEREFORE, THE ABOVE IS HEREBY ORDERED.

Dated: 3-3-09



JUDGE OF THE SUPERIOR COURT

Distribution: Original - Court - White
 - Jail - Yellow
 - Defendant - Pink

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2 Attorneys at Law
3 3351 Lake Tahoe Boulevard, Suite 8
4 Post Office Box 14329
5 South Lake Tahoe, California 95702
6 Telephone: 916-541-8740

7 Attorneys for Defendant

FILED

MAR 3- 1989

MARY ANN HULSE
COUNTY CLERK PLACER COUNTY

BY *Mary Ann Hulse*
DEPUTY

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

9
10 THE PEOPLE OF THE STATE
11 OF CALIFORNIA,

NO. 1183

12 Plaintiff,

STATEMENT IN
MITIGATION

13 vs.

14 JOHN SCOTT BURKETT,

15 Defendant. /

16 TO: DISTRICT ATTORNEY, COUNTY OF PLACER

17 PLEASE TAKE NOTICE that on the 3rd day of March, 1989, in
18 the Superior Court, at the Sentencing Hearing, the Defendant will
19 urge the Court to impose the lower prison term, in the event State
20 Prison is imposed, in accordance with mitigating factors as
21 follows:

22 A. Facts relating to the offense:

- 23 1. The offense was committed because of the
24 following and unusual circumstance,
addiction problem, which is unlikely to
reoccur.
- 25 2. The defendant participated in the crime,
26 however, his conduct is partially excusable
27 (for the reason that he was acting under
the influence of alcohol) though not
amounting to a defense.

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3. There was a lack of planning, sophistication, or professionalism with which the offense was carried out.

4. The defendant was not on probation or parole when he committed the offense.

B. Facts relating to the Defendant:

5. The defendant has an insignificant record of criminal conduct considering the recency and frequency of prior crimes.

6. He was not engaged in any pattern of violent conduct to indicate a danger to society.

7. The defendant has not served prior prison terms.

8. The defendant was suffering from a mental/physical condition not amounting to a legal defense which significantly reduced his culpability for the crime, i.e., alcohol abuse.

9. The defendant did not attempt to illegally interfere with the judicial process.

10. The defendant is very close to his family and will have their support upon release.

11. The defendant is remorseful over the offense he has been convicted of.

12. The defendant has been employed regularly in the past and will be employable upon his release.

13. The defendant's prior performance on probation was good.

Given the aforementioned factors in mitigation, the Defendant hereby requests that, in the event Probation is denied, the Court impose a lower prison term of two (2) years.

Dated: March 2, 1989

LAW OFFICE OF RICHARD K. SPECCHIO

By: 

RICHARD K. SPECCHIO
Attorney for Defendant

RICHARD K. SPECCHIO, ESQ.

A Professional Corporation

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6 Telephone: 916-541-8740

7
8 Attorney for Defendant

FILED

MAR 3- 1989

MARYANN HULSE
COUNTY CLERK OF PLACER COUNTY

BY

Maryann Hulse
DEPUTY

9
10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER

11 THE PEOPLE OF THE STATE
12 OF CALIFORNIA,

13 Plaintiff,

14 vs.

15 JOHN SCOTT BURKETT,

16 Defendant

NO. 1183

POINTS & AUTHORITIES
IN SUPPORT OF EX-PARTE
MOTION TO CONTINUE

17 In support of Defendant's Ex-Parte Motion to Continue, the
18 following Points and Authorities are submitted in support hereof:

19 Penal Code § 1050 states a defendant is only entitled to a
20 continuance which is necessary after showing specific facts that
21 constitute good cause for the continuance.

22 Dated: February 28, 1989

23 Respectfully submitted,

24 LAW OFFICE OF RICHARD K. SPECCHIO

25 By: *Richard K. Specchio*

26 RICHARD K. SPECCHIO

27 Attorney for Defendant
28

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Telephone: 916-541-8740
4 Attorney for Defendant

FILED

MAR 3- 1989

MARY ANN HULSE
COUNTY CLERK OF PLACER COUNTY
BY *Mary Ann Hulse*
DEPUTY

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER

10 THE PEOPLE OF THE STATE
OF CALIFORNIA,

11 Plaintiff,

NO. 1183

12 vs.

EX-PARTE MOTION
TO CONTINUE

13 JOHN SCOTT BURKETT,

14 Defendant /

15
16 TO: Placer County District Attorney

17 PLEASE TAKE NOTICE that on the 1st day of March, 1989, at
18 the hour of 4:00 P.M., or as soon thereafter as the matter may be
19 heard in the courtroom of Department 1 of the above-entitled
20 Court, RICHARD K. SPECCHIO, Attorney for Defendant herein, applies
21 for an Ex-Parte Motion to Continue Defendant's Sentencing Hearing
22 presently set for Friday, March 3, 1989, at 8:30 A.M.

23 The motion will be made on the grounds that a continuance
24 is necessary to serve the ends of justice.

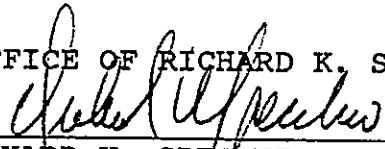
25 The motion will be based on this notice of motion, on the
26 attached declaration, on the memorandum of points and authorities
27 served and filed herewith, on the records on file in this action
28 and on such oral and documentary evidence as may be presented at

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the hearing on the motion.

Dated: February 28, 1989

LAW OFFICE OF RICHARD K. SPECCHIO
By: 
RICHARD K. SPECCHIO
Attorney for Defendant

RICHARD K. SPECCHIO, ESQ.
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4 Attorney for Defendant
5
6
7

FILED

MAR 3- 1989

MARY ANN HULSE
COUNTY CLERK - PLACER COUNTY
BY *M. Ann Hulse*
DEPUTY

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER
9

10 THE PEOPLE OF THE STATE
OF CALIFORNIA,

11 Plaintiff,

NO. 1183

12 vs.

DECLARATION IN SUPPORT
OF EX-PARTE MOTION
TO CONTINUE

13 JOHN SCOTT BURKETT,

14 Defendant /
15

16 I, RICHARD K. SPECCHIO, declare:

17 I am the attorney representing the defendant in the above-
18 entitled action.

19 The following facts exist that make a continuance necessary
20 in this case:

21 1. To acquire alcohol counseling information from Truckee
22 Meadows on the Defendant which is not readily available despite
23 repeated oral and written requests;

24 2. To assist defense counsel in preparing an Alternative
25 Sentencing Report in light of the Probation Report and
26 Recommendation;

27 3. Additionally, defense counsel received the Report and
28 Recommendation from the Placer County Probation Department in the
late afternoon of Monday, February 27, 1989. Defense counsel's


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1 office contacted Judge Gilbert's clerk on said date to ascertain
2 if sufficient court time would be available on March 3, 1989, to
3 present testimony. Judge Gilbert's clerk advised that at the
4 present time, minimum time would be allowed, as the Court had a
5 prior 1204 Hearing set to commence on March 3, 1989, at 8:30 A.M.,
6 as well, and that the Court must reconvene a pending criminal
7 trial at 10:00 A.M. on said date. Therefore, she recommended that
8 defense counsel appear on March 3, 1989, at 8:30 A.M. and make an
9 oral Motion to Continue the sentencing hearing. In that
10 additional time is necessary to prepare the Alternative Sentence
11 Report, said continuance is in the furtherance of justice.

12 Defense counsel has discussed this request for continuance
13 with Dan Gong of the Placer County District Attorney's office, and
14 he advised me that he will object to the request for continuance
15 herein, and that an advance ruling by the Court would allow him to
16 call his interested parties and avoid this inconvenience.

17 Defense counsel further requests time to present testimony
18 at the time of the sentencing hearing.

19 I declare under penalty of perjury that the foregoing is
20 true and correct. Executed this 28th day of February, 1989, at
21 South Lake Tahoe, California.

22
23 
24 RICHARD K. SPECCHIO, ESQ.
25
26
27
28

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF PLACER

3 --oOo--

**CERTIFIED
COPY**

5 TITA KOLOZSI, et al.,)
6 Plaintiffs,)
7 vs)
8 JOHN SCOTT BURKETT,)
9 et al.,)
10 Defendants.)

No. 82726

11
12
13
14 Deposition of

15 JOHN SCOTT BURKETT

16 Monday, March 13, 1989

17 --oOo--

18
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26
27
28 Reported by: Heather J. Wolgamott, CSR No. 6902

APPEARANCES

For the Plaintiffs
John & Tita Kolozsi:

JACQUES M. ADLER
Attorney at Law
300 Montgomery Street
Suite 825
San Francisco, CA 94104

For the Defendant
John S. Burkett & Susan
Devyak:

BOLLING, WALTER &
GAWTHROP
By: J. BRIAN POWERS
8880 Cal Center Drive
Sacramento, CA 95826

Personal Counsel for
Defendant John S. Burkett:

RICHARD R. SPECCHIO
Attorney at Law
3351 Lake Tahoe
Boulevard
Suite 8
South Lake Tahoe, CA
95702

--oOo--

I N D E X

Examination by:

Page

Mr. Adler

3

--oOo--

1 BE IT REMEMBERED that on Monday, the 13th day
2 of March, 1989, at the hour of 10:40 a.m. of said day,
3 at the Placer County Jail, DeWitt Center, Auburn,
4 California, before me, Heather J. Wolgamott, a Notary
5 Public, there personally appeared JOHN SCOTT BURKETT,
6 who was examined as a witness in said cause.

7
8 --oOo--

9
10 JOHN SCOTT BURKETT,

11 called as a witness, having been first duly
12 sworn, was examined and testified as follows:

13
14 EXAMINATION BY MR. ADLER

2
15 Q Mr. Burkett, would you state your full name for
16 the record, please.

17 A John Scott Burkett.

18 Q And your birth date?

19 A 1-17-61.

20 Q And do you have a permanent mailing address
21 that you use?

22 A P.O. Box 4763, Incline Village, Nevada.

23 Q And that's still your P.O. Box?

24 A Yeah.

25 Q On July 29th, 1988, were you employed?

26 A Yes.

27 Q By whom?

28 A Self.

1 Q What was your occupation?

2 A Carpenter.

3 Q When the accident of that date happened, were
4 you in any way engaged in any employment? At the time
5 that it was going -- the accident itself happened?

6 A No.

7 (Interruption in proceedings.)

8 (Off the record.)

9 Q BY MR. ADLER: The vehicle you were driving was
10 owned by Susan Devyak?

11 A Yes.

12 Q Did you have any interest in the automobile
13 itself?

14 A No.

15 Q Did you own an automobile on the day of the
16 accident?

17 A Yes.

18 Q What car did you own?

19 A '85 Ford Bronco.

20 Q And who was the registered owner of that car?

21 A Myself.

22 Q Where was it registered?

23 A Nevada.

24 Q Did you have an insurance policy on that
25 vehicle?

26 A I believe it ran out two days before the
27 accident.

28 Q What do you mean "ran out"?

1 A It was -- Oh, what do I say, the policy ran
2 out. It wasn't paid up-to-date.

3 Q Had you received a written notice of
4 cancellation on that policy?

5 A I received a written notice of make payment
6 or -- I don't know if it says cancellation or not. It
7 says I had to a certain date to make payment.

8 Q Was that from State Farm?

9 A Yes.

10 Q And was your agent at that time Mike Mennath?

11 A Yes.

12 Q Have you done any checking to find out whether
13 that policy covers this accident?

14 A No.

15 Q Have you reported the accident to Mr. Mennath?

16 A No.

17 Q Or anybody at State Farm?

18 A No.

19 Q Do you have somewhere a copy of that policy?

20 A I'm sure I do.

21 Q Where would it be?

22 MR. POWERS: Well, do you know?

23 THE WITNESS: It's -- everything I have is
24 boxed up now, so --

25 Q BY MR. ADLER: Well, where are the boxes?

26 A They're spread out all over the place.

27 Q Well, where would the box with the State Farm
28 policy on the Ford Bronco be?

1 A Either in storage or possibly with Miss Devyak.
2 I cannot answer that for sure.

3 Q And when you say "in storage," where is it in
4 storage?

5 A In a storage unit that I own.

6 Q And who has the right to go into that storage
7 unit?

8 A Miss Devyak.

9 Q Does she have the key to it?

10 A No.

11 Q Who has the key to it?

12 A It's a combination.

13 Q She had the combination?

14 A I believe so.

15 Q What's the name of the storage place?

16 A Truckee, Tahoe Truckee Storage.

17 Q And where is it located?

18 A By the Truckee Airport. It's a little
19 five-by-ten storage area.

20 Q What were the -- Let me go back a second.

21 The letter that you got telling you you had up
22 until a certain date to pay, where is that?

23 A Like I said, it could be in either of those
24 places. All my stuff is being packed away and put
25 away, so I cannot answer that completely. It's either
26 in storage or with Miss Devyak.

27 Q What were the policy limits on that policy?

28 A I can't answer that without look at the policy.

1 Q Do you have any memory of how much insurance
2 that you have?

3 A Well, like 15/30 or something like that.

4 Q Was it an assigned risk?

5 A No.

6 Q How many years did you have the policy?

7 A On the Bronco?

8 Q Yes.

9 A Yeah, I've carried insurance with them
10 approximately three years, I believe.

11 Q Before the accident, you had that policy for
12 three years?

13 A Yes.

14 Q And did you own any other vehicles at the time
15 the accident happened?

16 A No.

17 Q Did you own any interest in any other vehicles?

18 A No.

19 Q Did you have any other automobile insurance
20 policies on the day of the accident?

21 A No.

22 Q Did you have any umbrella or liability policies
23 of any kind?

24 A No, not that I know of.

25 Q Did your father carry you as an employee on
26 Sierra -- is it Sierra Pacific?

27 A Yeah, I am an employee with them.

28 Q On the date of the accident, were you being

3

1 carried as an employee on Sierra Pacific's --

2 A Yes.

3 Q -- books?

4 A Uh-huh.

5 Q Did they provide you with any benefits by being
6 on the books as an employee?

7 A As far as how do you mean?

8 Q Like health insurance or insurance benefits.

9 A I have medical insurance.

10 Q Through Sierra Pacific?

11 A Uh-huh.

12 Q On the day of the accident?

13 A Uh-huh.

14 Q Is that correct?

15 A Yes.

16 Q Was the vehicle owned -- the Bronco, did you
17 buy it or did your father buy it?

18 A I bought it.

19 Q Was the money that you bought it with your own,
20 or did you get that somehow from Sierra Pacific?

21 A My own money.

22 Q Did Sierra Pacific have any interest at all in
23 the Ford Bronco?

24 A No.

25 Q Were you -- was Sierra Pacific a corporation?

26 A Yes.

27 Q Were you an officer in the corporation?

28 A No.

1 Q Now, where were you living at the time of the
2 accident?

3 A 267 Bend, B-e-n-d, Avenue, Brockway,
4 California.

5 Q You were renting that?

6 A Renting.

7 Q Were you the tenant?

8 A Yes.

9 Q Did you have a liability policy of any kind on
10 that premises?

11 A No.

12 Q Had you ever had a tenant's package liability
13 policy?

14 A No, none.

15 Q Had you ever had within five years before this
16 accident any kind of umbrella or general liability
17 policy?

18 A No.

19 Q At the time the accident happened, what assets
20 did you own other than a checking account in the bank?

21 A Nothing.

22 Q Did you have more than \$5,000 in the checking
23 account?

24 A No.

25 Q Are you, as far as you know, the beneficiary of
26 any will or trust of any kind?

27 A No.

28 Q Is your name listed as an interested owner on

1 any real estate that you know of?

2 A Nothing, absolutely nothing.

3 Q Are all of your grandparents alive?

4 A Uh-huh.

5 Q I need a vocal answer.

6 A Yes.

7 Q Okay. What is your -- what are their ages?

8 A Approximately 68.

9 Q Both of them are in their late Sixties?

10 A Yeah.

11 Q What is your maternal grandfather's business?

12 What does he do?

13 A Retired.

14 Q From what kind of work?

15 A I guess lab technician, Pathay's (ph.) Studios.

16 He just -- he ran film.

17 Q And your paternal, your father's father, what's

18 his business?

19 A I have no idea. Never met the man, so I -- I

20 have to retract the answer if they're all alive,

21 because I don't know if he is alive.

22 Q How about your paternal grandmother? Do you

23 know her?

24 A Yes. I don't have any contact with her.

25 Q Now, has your father made any gifts of stock or

26 interests in any of his businesses to you?

27 A No.

28 Q Will you explain to me -- I note you have some

1 stepbrothers or sisters. Are any of those three your
2 father --

3 A No. I have one -- no, none of the
4 stepbrothers, no.

5 Q You have one natural sister?

6 A I have one natural sister.

7 Q Does she own any interest in your father's
8 business?

9 A No, not at all.

10 Q Are any of his investments --

11 A Nothing.

12 Q Has your father indicated to you whether you
13 are the beneficiary of any insurance policies?

14 A No, not at all.

15 Q Do you own anything that is yours that someone
16 else is holding on your behalf that's in their name
17 but it's really yours?

18 A No. All I have is my car.

19 Q You indicated, I think, or -- let me just ask
20 you. What's your income been in the last six months?

21 A Sporadic, waiting for a next project, pick up
22 remodel-type.

23 Q Have you had a \$2,000 a month income from some
24 source?

25 A Have I had?

26 Q In the last six months.

27 A No.

28 Q When you reported to the Court that your income

1 was \$2,000 a month, what did you have reference to?

2 MR. POWERS: Well, can we define what you're
3 talking about in terms of reporting to the Court?

4 Q BY MR. ADLER: When you were questioned for
5 purposes of probation, did you tell the Court your
6 income was \$2,000 a month?

7 MR. POWERS: This is last Friday you mean?

8 THE WITNESS: No. Well --

9 MR. POWERS: Wait, time out. It's vague and
10 ambiguous as to time and place.

11 Q BY MR. ADLER: Within the last 30 days, and a
12 court representative asked you. Did you tell them
13 that you had \$2,000 a month income?

14 MR. POWERS: That includes probation reports,
15 any statements made to a court officer out of court?

16 MR. ADLER: Yes. I don't mean in court.

17 Let me withdraw the question for a moment.

18 Q BY MR. ADLER: Have you made any -- I am
19 correct that you made no statements in court to
20 anybody; is that right?

21 A Yeah, correct.

22 Q Okay. Outside of the courtroom, but to someone
23 you connected as being somehow involved with the
24 court, in the last 30 days did you tell anybody that
25 you had \$2,000 a month income?

26 A Yes.

27 Q What did you have reference to when you said
28 you had \$2,000 a month income?

1 A Basically I was basing that on an average from
2 working for Sierra Pacific.

3 Q There was no particular source then that was
4 producing --

5 A No.

6 Q -- \$2,000 a month income for you?

7 A No. See -- no.

8 Q Okay. Is your father in good health?

9 A Yes.

10 Q Do you know whether you're the beneficiary of
11 his will?

12 A No, not at all.

13 Q Does your father have partners in the company?

14 A I'm not sure.

15 Q Is it incorporated, do you know?

16 A Yes.

17 Q Who owns the stock in the company, Sierra
18 Pacific?

19 A I would think my father.

20 MR. POWERS: Well, wait a minute. Do you know?

21 THE WITNESS: No, I don't know.

22 MR. POWERS: Remember, we're not here to guess.

23 If you don't know, tell him you don't know.

24 Q BY MR. ADLER: Has your father indicated to you
25 what he intends to do with the stock in his company or
26 his ownership interest in his company?

27 A No.

28 Q Do you have any knowledge as to what the net

1 worth of your father's company is?

2 A No.

3 Q As I understand it, you attended a Truckee
4 Meadows Hospital after the accident, a rehabilitation
5 program?

6 A Yes.

7 Q Who paid for that?

8 A My insurance company.

9 Q California State Auto Association you mean?

10 A No.

11 Q What insurance?

12 A My medical insurance policy.

13 Q Oh, okay. Through Sierra Pacific?

14 A Yeah.

15 Q And did anybody other than insurance pay any of
16 your medical bills after the accident, anybody other
17 than medical insurance through Sierra Pacific, any
18 individual person?

19 A Myself.

20 Q Anybody else?

21 A No.

22 Q Let me ask you a few questions about you
23 personally. You used to have a Nevada driver's
24 license; is that right?

25 A Yes.

26 Q Do you still?

27 A No.

28 Q Okay. Was that -- when you had it, was the

1 driver's license number --

2 A I can't answer if it's no or not. I was
3 thinking of a revocation notice that I got, but --

4 Q That was in California?

5 A That was in California. I just found out.

6 Q Was your Nevada driver's license 526513577?

7 A Yes, it was.

8 Q Was that your Social Security number?

9 A Yes.

10 Q They use --

11 A Yes.

12 Q And do you know what your California's driver's
13 license number was?

14 A No. I surrendered that when I moved to Tahoe
15 nine years ago.

16 Q Okay. In 1986, you were driving a vehicle with
17 the license number 389BJA?

18 A Yes.

19 Q What vehicle was that?

20 A Ford Bronco.

21 Q Oh. That's the same Ford Bronco you still own?

22 A Uh-huh.

23 Q You gave an address of 1565 Vivian Lane. What
24 is 1565 Vivian Lane?

25 A That's 1585.

26 Q What is 1585 Vivian Lane?

27 A It's my previous girlfriend's home where I used
28 to reside.

1 Q Okay. What is John Alden, Inc.?

2 A Medical insurance carrier.

3 Q What other occupations have you had in the last
4 three years other than for Sierra Pacific and the
5 self-employment you've told me about?

6 A Nothing else. When I stayed at --

7 MR. POWERS: Off the record.

8 (Off-the-record discussion.)

9 Q BY MR. ADLER: Does your father own an interest
10 in any other company other than Sierra Pacific?

11 A No.

12 Q What's your stepfather's occupation?

13 A He sells maintenance chemicals.

14 Q Self-employed or for someone else?

15 A For himself.

16 Q Does he have employees working for him?

17 A I believe so.

18 Q And he's the father of your stepbrothers and
19 sisters? Is that the people you listed as
20 stepbrothers and sisters?

21 A No.

22 Q Who are your stepbrothers and sisters?

23 A My father's ex-wife's kids.

24 Q So they are through your father, your father's
25 children?

26 A No, they are previous marriage of my
27 stepmother's. They're her kids from a previous
28 marriage.

1 Q I gotcha. Okay. Does your stepfather have any
2 other children?

3 A I believe a son.

4 Q Do you know anything about his intentions with
5 regard to wills or trusts?

6 A No, I do not.

7 Q Does he own anything other than this chemical
8 business?

9 A Not to my knowledge.

10 MR. ADLER: I don't have anything else to ask
11 him right now.

12 (Off the record.)

13 Q BY MR. ADLER: Let's go back on the record just
14 a moment.

15 You stopped working for Sierra Pacific about
16 '87?

17 A Leave of absence.

18 Q And you didn't work anywhere from '87 --

19 A Yes.

20 Q Where else did you work after '87?

21 A I built a house in Incline Village.

22 Q What do you mean you built it?

23 A I was a carpenter on that house.

24 Q Who owned -- they paid you to do the work?

25 A Yes.

26 Q Who was that? Who employed you to do that?

27 A I was hired by Dan Garrett.

28 Q How does he spell his name?

1 A G-a-r-r-e-t-t.

2 Q Where is he living?

3 A In Kings Beach, I believe. I was paid by -- I
4 got pay stubs somewhere at home. It was Marcy -- I
5 don't remember their last name.

6 Q Were they the owners?

7 A Owners of the house.

8 Q And where was that house? In Kings Beach?

9 A Incline Village.

10 Q Do you know the address?

11 A No, I don't.

12 MR. ADLER: Okay. I have no other questions.

13 (Brief recess taken.)

14 MR. POWERS: Let's go back on the record.

15 MR. ADLER: You want to clarify an answer?

16 MR. POWERS: Yeah. He wants to make it clear,
17 and I think you do understand, that he has been
18 carried as an employee of record with Sierra Pacific
19 on an ongoing basis. That doesn't mean that he always
20 does actual physical work for them. Am I correct?

21 THE WITNESS: Yes.

22 MR. POWERS: And that you have done other
23 things on a self-employment basis during periods of
24 time when you were actually not doing work physically
25 for Sierra Pacific?

26 THE WITNESS: Right.

27 MR. POWERS: That if somebody looked, there
28 would be a constant period where you would be an

1 employee of record for Sierra Pacific?

2 THE WITNESS: Uh-huh.

3 MR. POWERS: But that doesn't -- That's yes?

4 THE WITNESS: Yes.

5 MR. POWERS: But that doesn't necessarily mean
6 you were always working for Sierra Pacific and earning
7 money during those periods of time; is that right?

8 THE WITNESS: That's accurate.

9 MR. POWERS: Okay.

10 Q BY MR. ADLER: So that even after '87, you were
11 listed on the books as an employee, but they weren't
12 paying you any money; is that correct?

13 A Yes, and have since worked for Sierra Pacific
14 after the accident.

15 Q At the very moment today, are you still being
16 carried as an employee of Sierra Pacific?

17 A Yes.

18 Q Are they paying you any money now?

19 A No.

20 Q Has Sierra Pacific ever paid you money when you
21 weren't actually working and spending time on a job?

22 A No.

23 Q Okay.

24 (Brief recess taken.)

25 (Whereupon Mr. Specchio joins
26 the deposition.)

27 Q BY MR. ADLER: Okay. Now, to continue with the
28 deposition, Mr. Burkett, do you remember the accident

1 on July 29th?

2 A No.

3 Q What's the last thing you remember before the
4 accident?

5 A Leaving the parking lot of the restaurant I was
6 in.

7 Q Captain John's?

8 A Yes.

9 Q Do you remember who was in the car with you?

10 A Yes.

11 Q Who was in the car with you?

12 A Louis Bramy, B-r-a-m-y.

13 Q And where was he in the vehicle the last you
14 remember?

15 A Passenger seat.

16 Q In the front?

17 A Front.

18 Q Okay. Was your car parked in the parking lot?

19 A Yes.

20 Q I say "your car," that was --

21 A Oh, no.

22 Q It was Miss --

23 A Devyak.

24 Q -- Devyak's vehicle?

25 A Right.

26 Q And had you driven that car before?

27 A Yes.

28 Q It was a Subaru?

1 A Yes.

2 Q What year?

3 A '85.

4 Q And did you have her permission to drive it?

5 A Yes.

6 Q Was there any reason you were driving that
7 rather than the Bronco at the time?

8 A My car wasn't starting. My battery was dead.

9 Q Okay. Was Mr. Brame awake the last you
10 remember?

11 A Yes.

12 Q Was he coherent?

13 A Yes.

14 Q Were you able to talk with him?

15 A Yes.

16 Q Did you two know each other before he got in
17 your car that night?

18 A Yes.

19 Q Did he ask to ride in your car?

20 A I believe so.

21 Q Whose idea was it that he ride with you?

22 A It was mentioned by somebody with us, and I
23 can't tell you exactly who, that he might ride with me
24 'cause he had been there longer than myself.

25 Q Was his car in the parking lot, also?

26 A I do not remember.

27 Q Had you been together -- Let me withdraw that.
28 Had you been in Captain John's before you left?

- 1 A Yes.
- 2 Q How long had you been in Captain John's?
- 3 A I believe an hour and a half.
- 4 Q Were you and Mr. Bramey together in Captain
5 John's during that hour and a half?
- 6 A Yes.
- 7 Q Who else was with you at that time?
- 8 A There were three or four people, and I can't
9 tell you exactly who.
- 10 Q Well, can you remember any of the people who
11 were with you at that time?
- 12 A Pat Brown.
- 13 Q Who was Pat Brown?
- 14 A Just a friend of both of ours.
- 15 Q Is that a male or a female?
- 16 A Male.
- 17 Q What is his -- where does he live?
- 18 A I'm not sure. He's moved. He used to live in
19 Kings Beach. He's moved, and I don't know where.
- 20 Q What's his occupation?
- 21 A Oh, I believe painter.
- 22 Q Whom did he work for?
- 23 A I don't know if he worked for himself or for a
24 contractor.
- 25 Q How much time did Pat Brown spend with you at
26 Captain John's?
- 27 A Oh, I would say probably an hour and a half.
- 28 Q Who would know where Pat Brown is now?

1 A I have no idea.

2 Q Well, did he have any friends that were good
3 friends of his that you know of?

4 A He knows Lou, also.

5 Q He knows what?

6 A He knows Louis, also, so --

7 Q Mr. Brame?

8 A Yes.

9 Q Okay. And who else other than Mr. Brame and
10 Pat Brown were with you at Captain John's during that
11 hour and a half that you spent there?

12 A I can't give names. I'm not sure.

13 Q Were there any women with you?

14 A I believe -- what was the name? Do you
15 remember?

16 MR. SPECCHIO: The person, which one now?

17 THE WITNESS: It was a girl.

18 MR. SPECCHIO: That was actually with you or
19 people that merely saw you?

20 THE WITNESS: There was, I believe, a girl.

21 MR. SPECCHIO: Do you understand the question?

22 THE WITNESS: Yeah.

23 MR. POWERS: Well, let's stick with what you
24 remember, John. If you don't remember, just say you
25 don't remember.

26 THE WITNESS: Yeah, I really don't remember.

27 Q BY MR. ADLER: Where had you come from when you
28 came to Captain John's?

1 A From my house to Susie's -- I mean, from
2 Susie's house to Louis' house, where I found he was
3 not at home, and then on to Captain John's.

4 Q Where had you been before you were at Susie's
5 house?

6 A At Susie's house.

7 Q For how long?

8 A Probably three hours. I came from my house to
9 there.

10 Q What time did you arrive at Susie's
11 approximately?

12 A Oh, probably 12:00, 1:00 o'clock.

13 Q And you believe you left there at 3:00 or 4:00?

14 A I believe I left there at approximately 4:30,
15 quarter to 5:00.

16 Q Was Susie with you all that time?

17 A Yes.

18 Q And what time did you get to Captain John's?

19 A Between 5:00 and 5:30.

20 Q And is it correct you were at Captain John's
21 from 5:00 or 5:30 until just minutes before the
22 accident happened?

23 A Yes.

24 Q Is it correct you were on your way from Captain
25 John's when the accident happened?

26 A Yes.

27 Q Did you make any stops after you left Captain
28 John's --

1 A No.

2 Q -- before the accident happened?

3 A No.

4 Q Had you had anything alcoholic to drink before
5 you got to Captain John's?

6 A No.

7 Q Were you drunk when you got to Captain John's?

8 A No.

9 Q Had you had any drugs of any kind before you
10 got to Captain John's?

11 A No. The night before.

12 Q How many drinks did you have at Captain John's?

13 A Three.

14 Q What did you drink?

15 A Captain's Grog, orange juice and rum mixture.

16 Q Who was the bartender?

17 A A girl named Jan.

18 Q Were they pouring extra large drinks that
19 night?

20 A Just the normal that they serve.

21 Q Were they pouring three-and-a-half ounce shots?

22 A I couldn't tell you that, whatever the drink
23 consists of.

24 Q Did you ever tell Susie that they were pouring
25 extra large drinks?

26 A No.

27 Q What do they charge you for a Captain's Grog?

28 A I believe \$3.00 or 3.50.

1 Q And did you have any understanding of how much
2 alcohol was in those drinks?

3 A No.

4 Q Do you know what the proof was of the rum they
5 were putting in?

6 A No.

7 Q Did you ask for any special rum?

8 A No.

9 Q Was Mr. Brame already at Captain John's when
10 you got there?

11 A Yes.

12 Q Was he intoxicated when you got there?

13 MR. POWERS: I'm sorry. Excuse me. Was Brame?

14 Q BY MR. ADLER: Was Brame intoxicated when you
15 got there?

16 A I don't remember.

17 Q At any time did he become obviously drunk while
18 you were there?

19 A Yes.

20 Q Did they serve him alcohol after he became
21 obviously drunk?

22 A I could not say, so no.

23 Q Did they have any drinks after he became
24 obviously drunk?

25 A Not to my knowledge.

26 Q Was there an attendant in the parking lot at
27 Captain John's?

28 A Yes.

1 Q What was the attendant's name?

2 A Peter.

3 Q Do you know his last name?

4 A Hewitt.

5 Q Pardon me?

6 A Hewitt.

7 Q Can you spell that?

8 A H-e-w-i-t-t.

9 Q Okay. And were you personally acquainted with
10 Peter Hewitt?

11 A Somewhat.

12 Q Did you ever drink with him?

13 A No.

14 Q Where did Peter Hewitt live? Do you know?

15 A Incline Village.

16 Q Does he still live there?

17 A To the best of my knowledge.

18 Q Does he still work for Captain John's?

19 A I do not --

20 Q Let me withdraw the question.

21 Do you know, was he in his own business or was
22 he an employee of Captain John's? Do you know?

23 A No, I don't. I don't know.

24 Q Is he still a parking attendant at Captain
25 John's?

26 A I do not know.

27 Q Had you seen him as a parking attendant there
28 before that night?

1 A Yes.

2 Q On a number of occasions?

3 A No, not a number.

4 Q Did he tell you that night that
5 Mr. Brame was too drunk and he shouldn't drive himself
6 and you should drive him?

7 A Somebody did. I cannot say if it was Peter or
8 not.

9 Q Do you have any memory of who said that?

10 A No.

11 Q Did Mr. Hewitt ever before the night of July
12 29th, when the accident happened, ever tell you that
13 you were too drunk and shouldn't drive?

14 A No.

15 Q Did you ever see him tell anybody that?

16 A No.

17 Q Did you ever see any of the parking attendants,
18 whether it was Mr. Hewitt or someone else at Captain
19 John's, tell anybody that they shouldn't drive, they
20 should go with someone else or take a taxi or anything
21 of that nature?

22 A No, the only time I ever even seen or talked to
23 him is when I get my own car.

24 Q Was there only valet parking at Captain John's?

25 Let me withdraw that. It's not clear.

26 Captain John's is off the road; you have to
27 pull down into an area to get in there?

28 A Yes.

1 Q If you don't park up on the road and you park
2 down in by Captin John's, can you park yourself?

3 A At certain times.

4 Q Okay. In the evenings?

5 A Depends on their business, but normally it's
6 valet parking.

7 Q Okay. And normally was it Peter Hewitt who was
8 the parking attendant in the evenings?

9 A For the last couple months, I believe.

10 Q Did you know the name of any other attendants
11 who worked there?

12 A No.

13 Q Do you remember leaving Captain John's?

14 A I remember getting in my car, diving up the
15 parking lot. That's the highway driving lot. That's
16 the last I remember.

17 Q Do you remember pulling onto the highway?

18 A Not really.

19 Q Do you have any recollection of how fast you
20 were going on the highway at any point?

21 A No.

22 Q Do you remember passing any vehicles?

23 A No.

24 Q Now, do you remember making a statement to a
25 probation officer in which you said you made an
26 improper pass?

27 A Yes.

28 Q And which you said you were unable to negotiate

1 the turn?

2 A Yes.

3 Q Do you remember making an improper pass?

4 A No.

5 Q Do you remember being unable to negotiate the
6 turn?

7 A Nope.

8 Q Well, what did you base your statement on to
9 the probation officer that you made an improper pass?

10 A That was from reading reports and everything.
11 I was trying to put the accident in perspective from
12 other data.

13 Q Do you know Mr. Maxwell Bennett?

14 A Yes.

15 Q Did you tell him how the accident happened?

16 A No.

17 Q Did he question you about how the accident
18 happened?

19 A I believe so.

20 Q He was an investigator investigating the
21 accident?

22 A Right.

23 Q And he, among other things, asked you how the
24 accident happened?

25 A Yes.

26 Q What did you tell him?

27 A I don't remember how it happened.

28 Q Did you sign a statement for him?

1 A Not that I know of.

2 Q Did you give him the names of any witnesses who
3 would know anything about how the accident happened?

4 A I believe one name.

5 Q Whose name did you give?

6 A Which proved to be -- his name is John, which
7 he proved to have no information.

8 Q What was his last name?

9 A I'm not sure.

10 Q Well, can you help identify him, his
11 occupation, where he lived?

12 A Cook, Captain John's cook.

13 Q He is a cook at Captain John's?

14 A Yes.

15 Q What did you think he knew?

16 A That the possibility of a car pulling a boat
17 had crossed over the line and not myself.

18 Q Where did you get that idea?

19 A Somebody had called me in the hospital, and I
20 don't remember who.

21 Q And told you that's what happened?

22 A Uh-huh.

23 Q Which hospital did they call you at?

24 A Tahoe Forest.

25 Q Have you made any effort to find out who called
26 and told you that?

27 A Max Bennett did all the research.

28 Q Did he find out who called and said that?

1 A I don't know his report. That was all done a
2 long time ago.

3 Q Did you tell Susan what happened?

4 A No, I was unable to tell. I mean, she found
5 out from I don't know who and showed up at the
6 hospital. I was unable to speak.

7 Q Have you ever discussed with anybody how
8 much -- Let me withdraw that.

9 Have you ever discussed with anybody other than
10 your lawyers how much you had to drink at Captain
11 John's?

12 A Not that I know of.

13 Q Excuse me?

14 A Not that I know of.

15 Q Okay. Now, you then indicated that the day
16 before the accident you'd used some drugs. You mean
17 on the 28th?

18 A Yes.

19 Q Okay. At any time on the day of the 29th --
20 Let me withdraw that.

21 What time did you wake up that day?

22 A 9:00 o'clock.

23 MR. SPECCHIO: You're referring to --

24 MR. ADLER: The 29th.

25 Q BY MR. ADLER: You woke up about 9:00 o'clock?

26 A Yeah.

27 Q Any time after you awoke on the 29th did you
28 use any drugs of any kind?

1 A No.

2 Q When was the last time before the accident you
3 used any drugs?

4 MR. SPECCHIO: Okay. We're getting in an area
5 I'm a little concerned with. His answer as it stands
6 on the record right now is he had consumed drugs the
7 day before.

8 MR. ADLER: That's correct. As I understood --
9 I really don't want to quarrel with you. That will
10 get us nowhere, but I thought you in open court made
11 statements, but --

12 MR. SPECCHIO: Well, basically -- if we could
13 be off the record.

14 MR. ADLER: Sure.

15 (Off-the-record discussion.)

16 Q BY MR. ADLER: Let's go back on the record.

17 My question is, when was the last time before
18 you woke up on the morning of the 29th that you used
19 any drugs?

20 A When was the last time that I woke up on the
21 29th that I used them? On the 28th, and I don't know
22 a specific time.

23 Q Do you know if it was daytime or nighttime?

24 A Toward the evening hours.

25 Q Was it dark outside?

26 A Yes, it was dark.

27 Q And what was the drug or drugs?

28 A Just a small amount of cocaine.

1 Q And how did you use it?

2 A Inhalation.

3 Q How much did you use?

4 A I don't know exactly, not -- just a small
5 amount.

6 Q Well, I don't know what you mean. Can you in
7 any way quantify the amount?

8 A No, I can't give you an amount. I don't have
9 any idea of a weight.

10 Q On how many occasions that evening, that would
11 be on the 28th of July, 1988, did you inhale cocaine?

12 A One occasion.

13 Q Did you feel the effect of it?

14 A Yeah.

15 Q What was the effect of it?

16 A Well, I don't know how to explain it really.

17 MR. POWERS: You want to know --

18 MR. ADLER: What he felt was the physiological
19 effect on him.

20 Q BY MR. ADLER: How did it affect you?

21 MR. POWERS: He doesn't mean from a chemical or
22 biological standpoint, but how you felt.

23 THE WITNESS: Yeah, I understand. It's just --
24 I just don't know how to answer.

25 Q BY MR. ADLER: You mean you can't explain it,
26 or you don't know? I don't know what you're -- or you
27 prefer not to. I don't understand what the answer
28 means.

1 MR. SPECCHIO: Do you understand the question?

2 THE WITNESS: Yeah, I understand the question.

3 I just -- I'm just trying to come up with the word for
4 a feeling of --

5 MR. SPECCHIO: Elated?

6 THE WITNESS: Yeah, okay. That's perfect.

7 Q BY MR. ADLER: Is that the only reaction you
8 got from inhaling the cocaine?

9 A Yeah.

10 Q Did you have a driver's license on the day the
11 accident happened?

12 A Yes.

13 Q From what state or states?

14 A Nevada.

15 Q Had that license been suspended by the State of
16 Nevada?

17 MR. POWERS: You mean before the accident?

18 MR. ADLER: Before the accident.

19 THE WITNESS: I'm not sure. That's something
20 I'd have to talk with Mr. Specchio about.

21 Q BY MR. ADLER: Did you physically have a --

22 A Yes.

23 Q -- card that said, "Nevada driver's license"?

24 A Yes, yes, expiration date 1989.

25 Q At any time before this accident had you had to
26 give up possession of that license, physical
27 possession of it to keep in the State of Nevada?

28 A No, I did not.

1 Q Had you ever been advised within three years
2 before this accident happened --

3 (Interruption in proceedings.)

4 (Off the record.)

5 Q BY MR. ADLER: Within three years before this
6 accident, did you ever deliver up possession of that
7 license to the State of Nevada or the State of
8 California?

9 A No.

10 Q Had you ever been advised that your license had
11 been suspended?

12 A In that three-year period?

13 Q Well, at any time when you had the Nevada
14 license, had you ever been told that the license had
15 been suspended?

16 A Not that particular license, no.

17 Q Okay. How about in 1984? Did you have your
18 license suspended at that time?

19 A Yes, I did.

20 Q Did you give up possession of the license at
21 that time?

22 A I had lost my license, and there was nothing to
23 give up.

24 Q But they told you it had been suspended?

25 A Yes, ninety days.

26 Q And how did you go about getting it back after
27 ninety days?

28 A I hadn't drove, I wasn't driving, and waited

1 some time after ninety days. I went to the DMV. I
2 was notified that I had to have an SR22 form. I
3 notified my insurance company who -- or, my insurance
4 agent who was working on an SR22, and went back to DMV
5 who reinstated my license.

6 Q The SR22 was to prove financial responsibility,
7 insurance?

8 A Yeah. Well, I had proof of insurance, but I
9 don't know exactly what it is. It's also to prove
10 that, but I already had proof of financial.

11 Q Weren't you required to attend a school before
12 you got your license reinstated in '84?

13 A I don't -- do not think so. I was under a
14 different impression.

15 Q Okay. Did you, in fact, go to DUI school at
16 that time?

17 A No, I did not, no.

18 Q In 1986, October of '86, were you stopped for
19 drunk driving at that time?

20 A No.

21 Q What were you stopped for at that time, if
22 anything?

23 A I believe a speeding ticket.

24 Q In California?

25 A I don't know if that was the State of
26 California.

27 Q In December of '86, you had a speeding ticket
28 in Nevada; is that right?

1 A I would have to see that DMV report to be sure
2 on these dates. I don't know.

3 MR. POWERS: Well, if you don't know, just tell
4 him you don't know.

5 Q BY MR. ADLER: I'm talking about something in
6 California. Do you remember being stopped by the
7 Highway Patrol in California in '86 before a speeding
8 ticket in Nevada in December of '86?

9 A I don't recall.

10 Q Okay. How many times altogether in your life
11 have you had your driver's license suspended before
12 the accident of July 28th -- 29th, 1988?

13 A One time to my knowledge.

14 Q That was in 1984?

15 A Yes.

16 Q By Nevada?

17 A Yes.

18 Q Were you knocked out in the accident of July
19 29th?

20 A I don't know.

21 Q Well --

22 A I really don't know.

23 Q Do you remember talking to the police at the
24 scene of the accident?

25 A No.

26 Q Do you remember talking to anybody at the scene
27 of the accident?

28 A No.

1 Q Do you remember how you got to the hospital?

2 A No.

3 Q Do you have any knowledge as to why you don't
4 have the memory, from any source, anybody told you why
5 you don't have memory of this?

6 A A concussion I received.

7 Q Who told you that?

8 A Doctor.

9 Q Do you know the name of a doctor who told you
10 that?

11 A Dr. Uota.

12 Q Do you know how to spell it?

13 A U-o-t-a. Just that I had a concussion. I
14 can't say that he told me that's the reason for no
15 memory. That is my assumption.

16 Q Do you have any other basis other than him
17 telling you you had a concussion for your belief that
18 your lack of memory is from somehow hitting your head?

19 A No.

20 Q I don't know that I asked. Do you still own
21 the Bronco?

22 A Yes.

23 Q Is there insurance on the Bronco now?

24 A Yes.

25 Q Through the same agent?

26 A No.

27 Q Who is it through now?

28 A It only covers the vehicle through the bank who

1 holds title.

2 Q Oh. Is there any liability insurance on the
3 Bronco now?

4 A No.

5 Q Have you had any liability insurance on the
6 Bronco since the accident?

7 A No.

8 Q Okay. When you were at Susan's from 12:00 or
9 1:00 o'clock until you left, were you having anything
10 alcoholic to drink at that time?

11 A No, none whatsoever.

12 Q Were you taking any drugs that afternoon?

13 A Not at all.

14 Q Was Susan with you when you were there?

15 A Yes.

16 Q Who else was with you at that time, if anyone?

17 A No one.

18 Q Did you notify your father about this accident,
19 the July 29th accident?

20 A No, I can't do anything. I was in the hospital
21 for a week.

22 Q Have you ever talked to him about the accident?

23 A Yes.

24 Q Where did that happen? Where did you talk to
25 him?

26 A He came to see me at the hospital.

27 Q Did he ask you what happened?

28 A No. He was basically informed by everyone

1 else, because I wasn't aware of really what happened.

2 Q Did you discuss with him what happened in the
3 accident?

4 A More he discussed with me.

5 Q Okay. But did you also discuss with him what
6 happened?

7 A Talking back and forth from what he was telling
8 me about the accident is all.

9 Q Okay. But my question is whether you said
10 anything to him about what happened.

11 A I don't remember.

12 Q Did he accuse you of being drunk when the
13 accident happened?

14 A No.

15 Q Did he ask you in any way about whether you
16 were drinking before the accident?

17 A He was informed of it.

18 Q But did he ask you about what he had heard?

19 A No.

20 Q Did you discuss with him your drinking before
21 the accident?

22 A Yes.

23 Q What did you tell him?

24 A I had two or three drinks. That's all I
25 remember.

26 Q Did he ask you how you could have had such a
27 high blood alcohol on two or three drinks?

28 A No. I don't know if he was aware of my

1 alcohol --

2 MR. POWERS: Well, just answer the question.

3 Q BY MR. ADLER: Did you discuss with your father
4 drug use before the accident?

5 A No.

6 Q Did he discuss with you -- ask you about having
7 used drugs before the accident?

8 A I don't recall.

9 Q Who decided you should attend the Truckee
10 Meadows Hospital DUI program?

11 MR. POWERS: Well, I object to that as being a
12 little vague and ambiguous, but go ahead.

13 Q BY MR. ADLER: Well, I'll withdraw the
14 question.

15 Did you attend an alcohol program at the
16 Truckee Meadows Hospital after the accident?

17 A Yes, I did.

18 Q Who decided you should do that?

19 MR. POWERS: I have the same objection, but you
20 can answer.

21 THE WITNESS: Ultimately myself.

22 Q BY MR. ADLER: Why did you decide to do that?

23 A Obviously there was a problem with my drinking.

24 Q What did you feel the problem with your
25 drinking was?

26 A It caused me to get in this accident, and up to
27 that point I didn't think it was a problem.

28 Q And how many days did you attend that program?

1 A Twelve days.

2 Q And why did you stop?

3 A My insurance wouldn't pay any more.

4 Q Did they pay for the first twelve days?

5 A Yes.

6 Q And they somehow notified you they wouldn't pay
7 more than twelve days?

8 A Yes.

9 Q Was that in writing?

10 A It was done through the business office of the
11 hospital. They informed me that my funds had run out,
12 and I did not have enough to complete the program.

13 Q Okay. Before this accident happened, did you
14 believe you were addicted -- Let me withdraw that.

15 Before this accident happened, did you believe
16 you had an addiction problem?

17 A No.

18 Q Before the accident happened, did you believe
19 you were abusing alcohol?

20 A No.

21 Q Have you changed your mind since the accident?

22 A Yes.

23 Q About both the addiction and the abuse?

24 MR. POWERS: Well, are we talking about -- Let
25 me define it because it's vague and ambiguous. Are
26 you talking about his addiction to something separate
27 and --

28 Q BY MR. ADLER: Let me explain to you. Your

1 attorney has filed -- Mr. Specchio has filed some
2 documents in court in which he alleged that you had an
3 addiction problem.

4 Did you tell Mr. Specchio you had an addiction
5 problem?

6 MR. SPECCHIO: Do you understand that, or is it
7 ambiguous? Do you understand?

8 THE WITNESS: No.

9 MR. POWERS: It's also privileged, isn't it?

10 MR. ADLER: Well, he's put it in the file. I
11 mean, I read it in the court file.

12 MR. POWERS: Well, does it say that Mr. Burkett
13 told his attorney that, or is that an allegation that
14 Mr. Specchio has made?

15 MR. ADLER: Mr. Specchio alleged that his
16 client had an addiction problem and an alcohol abuse
17 problem.

18 MR. POWERS: Well, I don't think that
19 necessarily means that the source of that information
20 was his client, and I don't think that the --

21 MR. SPECCHIO: Maybe we should go off the
22 record.

23 MR. ADLER: Sure.

24 (Discussion off the record.)

25 MR. ADLER: Let's go back on the record. I'm
26 not sure where we are, but let me ask the question,
27 then you people can do what you want.

28 Q BY MR. ADLER: Did you -- Let's take this a

1 step at a time. Did you decide after this accident
2 happened that you had an addiction problem?

3 A Again --

4 MR. SPECCHIO: Is it referring to alcohol?

5 MR. ADLER: I don't know.

6 (Interruption in proceedings.)

7 (Off the record.)

8 Q BY MR. ADLER: Okay. My question is: After
9 this accident happened, did you decide that you had an
10 addiction problem? And I understand and I intend to
11 ask what it is, but I want to get one step at a time.
12 And if you do, I'll ask you what you were addicted to.
13 If you don't, we don't have to go any further, but I
14 have some reason to believe that --

15 A My answer is no.

16 Q After the accident happened, did you decide you
17 had any alcohol abuse problem?

18 A Yes.

19 Q Okay. What led you to believe you had an
20 alcohol abuse problem?

21 MR. POWERS: Well, I think that's asked and
22 answered. Go ahead. I mean, that's my objection. Go
23 ahead.

24 THE WITNESS: Well, first of all, I have two
25 things. First of all, the accident; secondly, my
26 treatment through Truckee Meadows made me aware of all
27 of this. This is what I've learned about myself and
28 the problem.

1 Q BY MR. ADLER: Okay. You don't have any
2 information of any kind about any possible insurance
3 that would cover this other than the California State
4 Auto policy on Susie's car?

5 A No.

6 MR. ADLER: I have no other questions.

7 (Off the record.)

8 MR. ADLER: We have stipulated that the witness
9 can review a copy rather than the original of the
10 deposition, and we further stipulated that he can have
11 90 days in which to, once he's received the copy, to
12 make corrections, and through his counsel he'll notify
13 the court reporter of the corrections.

14 But I think the code provides that after a
15 reasonable opportunity to review it, it can be used as
16 if it were signed. So it doesn't make any big
17 difference except for his opportunity to correct it if
18 he wants.

19 MR. POWERS: Okay.

20 (The deposition concluded at 3:50 p.m.)
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Pursuant to Section 2025 (Q) (1) of the Code of Civil Procedure of the State of California, I hereby certify that I have read my deposition, made those changes and corrections that I deem necessary, and approve the same as now true and correct.

Dated this _____ day of _____, 1989.

JOHN SCOTT BURKETT

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I certify that the said transcription was by the said witness, JOHN SCOTT BURKETT, thereafter read over, corrected and signed, and by the said witness declared to be his deposition in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County of _____, State of California,
this _____ day of _____, 1989.

Notary Public in and for the
County of _____
State of California

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF PLACER

3 DEPARTMENT NUMBER FOUR

HON. RICHARD L. GILBERT, JUDGE

4 --oOo--

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)

6 Plaintiff,)

No. 1183

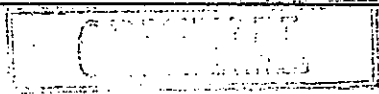
7 vs.

8 JOHN SCOTT BURKETT,

9 Defendant.)

FILED

JUN 23 1989



10 --oOo--

11 FRIDAY, MARCH 3, 1989

MARY ANN HULSE
COUNTY CLERK OF PLACER COUNTY

BY *[Signature]*
DEPUTY

12 --oOo--

13 (The above-entitled matter came on regularly this
14 day for probation hearing, judgment and sentence, before
15 the Honorable RICHARD L. GILBERT, Judge of the Superior
16 Court of the State of California, in and for the County of
17 Placer, Department Number Four thereof.

18 The said Defendant, JOHN SCOTT BURKETT, was
19 personally present and in attendance upon the Court, and he
20 was attended and represented by RICHARD SPECCHIO, Attorney
21 at Law, acting as his counsel.

22 The People were represented by DANIEL GONG, Deputy
23 District Attorney in and for the County of Placer, State
24 of California.

25 The Probation Department was represented by MICHAEL
26 SIPE, Deputy Probation Officer.

27 JON SASEK, CSR 1650, Official Shorthand Reporter
28 of the Superior Court, was in attendance upon the Court

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and acting.

The following proceedings were then had, to wit:)

(Comments were heard
from the victims, not
transcribed herein.)

THE COURT: Mr. Gong, additional comment on behalf
of the People?

MR. GONG: Thank you, your Honor.

I have read and reviewed the recommendation by the
Probation Department.

I'm in total concurrence with the recommendations
and with the analysis presented by the Probation
Department.

It is clear from looking at the record of
Mr. Burkett that he should receive a six-year state
prison commitment.

He has a prior driving record that justifies
six years.

He has three prior citations and convictions for
driving for speeding.

He has two prior convictions for driving without a
license in his possession.

In fact, on the convictions for driving without a
license in California that occurred on October 13, 1986, he
received two citations on the same day.

He was cited, first. Apparently, the cite did not
attract his attention and he continued to drive, and he was
cited again on the same day. He was convicted on
both citations.

1 He has a prior 1984 DUI out of the State of Nevada.

2 In that case he was also speeding, apparently going
3 ⁵⁷
70 miles an hour.

4 He was again driving without a license in his
5 possession. He was driving without a license.

6 Your Honor, my understanding is that he was placed
7 on probation in Nevada for a period of three years.

8 That means that at the time of this offense his
9 probation had only expired approximately one year.

10 Though he has no prior criminal record, his driving
11 record would justify state prison commitment.

12 Further, the facts of this case are so serious that
13 the only message that Mr. Burkett and others like him
14 should receive is a state prison commitment.

15 He was driving at a point one seven blood alcohol
16 taken an hour and twenty-two minutes after the offense,
17 which would have made his blood alcohol level at the time
18 of the offense a point one nine when you consider the burn-
19 off rate.

20 He was driving with cocaine in his blood which shows
21 current usage or usage within six hours.

22 He was again driving approximately twice the speed
23 limit, going 70 miles and hour in a 35-mile-an-hour zone.

24 His driving prior to the impact itself would suggest
25 that he had a total disregard for human life.

26 He was trying to pass a motor vehicle on the right
27 improperly, swerved -- which was just prior to a curve in
28 the road.

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He struck Kelly Kolozsi's vehicle going in the opposite direction when he crossed over the center divider.

The Defendant in his probation statement denies any alcohol problem, says that he is a social drinker who drinks on occasion; does not crave alcohol, does not have a drug problem. In fact, shows no remorse whatsoever.

I would suggest to the Court that this man should not be granted probation, should receive a commitment to state prison.

In our line of work we often compare cases.

We compare Mr. Burkett to others we have dealt with in the past, and I would make a simple comparison that Mr. Burkett's case compares to the Mariscal case we had here a couple years ago where he received a six-year commitment to state prison.

In fact, Mr. Burkett's case is more aggravating than the Mariscal case.

Mr. Mariscal had a blood alcohol level of point one one.

Mr. Burkett is much higher, point one seven.

Mr. Mariscal did not have any drugs in his system.

Mr. Burkett has or had cocaine in his system.

Mr. Mariscal had no prior record, criminal record, but he did, in fact, have the same type of driving record. He had the prior citations for speeding and reckless driving.

When you compare Mr. Burkett's case to the recent case we had here involving the Doyle case where the school

1 teacher was tragically killed in Tahoe, she was granted --
2 or he was, Doyle, granted probation, but in that case he
3 had no DMV record at all, no prior speeding tickets, no
4 prior DUI convictions.

5 This case demands that a message should be sent to
6 the people driving in Lake Tahoe, to Mr. Burkett, that if
7 you drive with drugs in your system, you drive with alcohol
8 in your system, that you are going to be severely punished
9 for it.

10 I think it calls out for a sentence of six years,
11 and I would submit it, your Honor.

12 THE COURT: Thank you, Mr. Gong..

13 Mr. Specchio, I will give you some options on how to
14 proceed, if you will, subject to your objection to
15 the continuance.

16 You request the continuance. You may wish to
17 respond now and then indicate to me, as well, what you
18 feel in addition you would need to present, and I can
19 evaluate --

20 MR. SPECCHIO: Thank you.

21 THE COURT: -- the materiality of that in light of
22 my view.

23 MR. SPECCHIO: Thank you, your Honor.

24 There are two people that we have been attempting
25 to subpoena.

26 Those people work at Captain John's. We have
27 interviewed them and taken a statement from them early on,
28 but to subpoena them for today's hearing we have been

1 unable to do so at this time.

2 THE COURT: And these people are who?

3 MR. SPECCHIO: Peter Hewitt, H-e-w-i-t-t, and Rachel
4 Herring.

5 THE COURT: And --

6 MR. SPECCHIO: And possibly a Karen Anderson, as
7 well. But I am not -- have not interviewed her to know
8 whether or not she would be appearing.

9 THE COURT: Can you give me an offer of proof as to
10 what materiality, what the materiality of that information
11 would be?

12 MR. SPECCHIO: Yes, your Honor. I believe that
13 their testimony will reflect that Mr. Burkett was on the
14 absorption phase, not the burn-off phase.

15 An hour and a half, approximately, after he was
16 driving is when the blood alcohol was taken.

17 The medical records that I provided the Court and
18 counsel would reflect that it was higher than that sometime
19 after the CHP took their test, and from these witnesses I
20 think it would reflect that at the time he entered the
21 vehicle that he appeared based on their statements to be
22 well in control, which would indicate to me that he was on
23 the absorption phase, and everything that he had consumed
24 at the restaurant was in an absorption phase, and at the
25 time he was driving it was substantially less than one
26 seven; and that's the offer of proof with regard to those
27 particular people.

28 Jeff Zinder has provided --

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THE COURT: Excuse me a moment.

MR. SPECCHIO: I am sorry.

THE COURT: What would be the lapse of time from entering the vehicle to the time of the accident that would be established by them?

MR. SPECCHIO: It was within a minute, your Honor. Captain John's is right down the street from the location of the accident.

THE COURT: Thank you. Go ahead.

MR. SPECCHIO: Secondly, there's Jeff Zinder from the drug detection labs that we had sent the blood out to be reanalyzed.

There is a letter that I provided you with from Bernice Stone that indicated the metabolites and their active nature, and so on.

Jeff Zinder, who reanalyzed it, concurred with that and is to provide us with a report.

He has not provided it yet. He is either going to be present or provide us a letter indicating the metabolites and the degree to which they were noticed in the sample would not have a bearing on a person's driving ability.

THE COURT: That's with respect to the cocaine?

MR. SPECCHIO: With respect to cocaine. That the cocaine -- the fact that the metabolites were present would indicate that the cocaine had been consumed somewhere between six hours or as many as one day prior to the time of this incident.

1 And I think that's consistent with my client's
2 statement in terms of when he had consumed cocaine.

3 Truckee Meadows, I think I indicated to the Court
4 that there were some records that we have been trying to
5 obtain from them.

6 Yesterday I received something from them which was
7 no more than a bill indicating that he had attended.

8 What I wish to present for the Court is the actual
9 chart notes which would reflect how he did there, what his
10 involvement was, his attitudes as they were reflected in
11 the records and to the counselors there.

12 THE COURT: I assume that you can tell me from your
13 client's viewpoint those things, can you not, today?

14 MR. SPECCHIO: Well, I don't think I can,
15 your Honor, because we have not had -- we have not seen the
16 actual chart notes.

17 I would -- I am in hopes that they are going to
18 reflect an earnest involvement on his part. Not having
19 them, I can't say.

20 But whatever they do reflect, I think it is relevant
21 to the Court.

22 Lastly, Doctor Arozza. When I had called the Court
23 last week he had some time problems.

24 I called the Court, and I was informed that you had
25 a 1204 hearing scheduled and that the Court was not going
26 to be able to take any testimony, and in light of that he
27 had made changes.

28 I would wish him to be present to reflect how John

1 performed on an MMPI, basically a personality inventory,
2 and also to comment upon a plan, rehabilitation plan, upon
3 Mr. Burkett's release from custody.

4 And we are very realistic and understand that
5 he will be going into custody, but I believe what is
6 imposed should have some bearing in terms of what his
7 evaluation is.

8 It is somewhat analogous to a diagnostic in terms of
9 I'd suspect an MMPI being employed, and I would be in hopes
10 that the Court would consider that.

11 So with those factors, your Honor, and in light
12 of my receiving the probation report late on Monday, in
13 light of the recommendation, it was my hope that the Court
14 would give me an opportunity to present an alternative
15 probation report and encompassing the factors that I have
16 previously indicated.

17 THE COURT: What is the Defendant's proposal that
18 those materials would support?

19 MR. SPECCHIO: I think they would support several
20 things, your Honor.

21 There have been statements about him not
22 being remorseful.

23 I think that's going to reflect itself in
24 several ways.

25 I believe that whether or not he has been employed
26 in the past, there is some indication of that.

27 THE COURT: I am sorry. Maybe I didn't communicate
28 my question.

1 MR. SPECCHIO: I am sorry.

2 THE COURT: I want to know what it is the Defendant
3 is seeking by way of a court order that that would support.

4 MR. SPECCHIO: With regard to the continuance,
5 your Honor?

6 THE COURT: No. I assume he is seeking a grant
7 of probation.

8 What conditions of probation would you be proposing?

9 MR. SPECCHIO: Well, your Honor, we'd be proposing a
10 rehabilitation plan at some time incorporated into the
11 sentencing scheme as conditions.

12 THE COURT: What, do you have something specifically
13 in mind?

14 MR. SPECCHIO: I suspect it would involve itself
15 with Doctor Arozza to some degree overseeing a
16 rehabilitation plan.

17 I suspect, going into an inpatient program.

18 It was interrupted previously not because he, as
19 there's been some mention, that he didn't complete the
20 program because of substance abuse or things of that sort.

21 That is not the case. What, in fact, occurred was
22 he was involved in the inpatient program at the cost of
23 approximately \$12,000 for a month.

24 The insurance terminated and would not pay anymore
25 than, I believe, half of the program.

26 He was without means to proceed with that program.

27 He got involved in the outpatient program at Truckee
28 Meadows, had borrowed \$2,000 to engage in that and, in

1 fact, actively engaged in that.

2 And that was somewhat interrupted by, it is true,
3 court appearances, seeing myself and doctors early on in
4 this program.

5 He had substantial contacts with the doctors two and
6 three times a week.

7 He has had surgery. It is possible he has to have
8 additional surgery.

9 In fact, as he sits here right now, he has an
10 appointment to go in because the wires had broke loose. He
11 still has wires in his mouth, and so on.

12 The time that we have had has served one purpose.
13 He has been improving healthwise which has rendered him fit
14 for incarceration more so now than he was one month ago,
15 and I suspect one month in addition, he would be very
16 prepared for incarceration.

17 I think as it stands at this point in time, I don't
18 know if that would be the case, but I am not the doctors.

19 I'm running adrift. Am I off --

20 THE COURT: No, you are on point, but I'd also like
21 you, because I need to assess the materiality of the
22 materials, information you'd like to present, I'd like to
23 have your comments on some of the other issues that have
24 been raised as supporting a state prison sentence, as
25 opposed to probation, particularly the relevance and
26 significance of the past record, the circumstances of the
27 driving with a suspended license and the violation of the
28 previous court orders.

1 I would like to have your comment on the statements
2 that have been attributed to the Defendant, I believe it
3 was at booking according to the probation officer report.

4 Also, the allegations that he has driven a vehicle
5 since the accident.

6 The address on the registration is of concern to me.

7 I'd appreciate your comments on those issues,
8 as well.

9 MR. SPECCHIO: Okay. With regard to the address on
10 the driver's license, -- I believe it was, wasn't it, or
11 was it registration?

12 THE COURT: I don't recall.

13 MR. SPECCHIO: In any event, the information he gave
14 giving an address was an address, I believe it was on the
15 license, my recollection is it was on the license, and that
16 was a residence that he, in fact, did live; and we were
17 going to bring the young lady who lived at that residence
18 in today, and have been unable to do so, and we didn't
19 learn of that until really reading the probation report.

20 He believed it to be an accurate address, as he sits
21 here today believes it not to be an inaccurate address.

22 And that was one of the things, also, that I failed
23 to mention that we intended to do, because it seems to be a
24 point of contention.

25 With regard to drinking and driving, I don't know
26 where they got the information.

27 I, quite frankly, would love to see those people
28 come forward, because Mr. Burkett tells me that has not

he said it
was a typo

1 been the case.

2 He does wait for his girlfriend at work
3 periodically, and she works in a casino, but he does not
4 consume alcohol when he does so. *Lanzas
she didn't
work there*

5 Now, if somebody saw him inside of the casino and
6 that's what they are basing it on, they are totally in
7 error in terms of whether or not he's consumed alcohol.
8 Excuse me.

9 (Mr. Specchio conferred
10 with Defendant Burkett.)

11 MR. SPECCHIO: Oh. Yes. There was mention that he
12 got in an accident. Again, that is an error.

13 Suzie's car while parked at work was hit by a snow
14 plow, and that's the only damage that we know, and it was
15 sitting. No one was driving the vehicle, and she had
16 brought it to work.

17 Again, there's been no drinking and no driving.
18 There's been no accident.

19 With regard to the statements that were made, I read
20 those to Mr. Burkett.

21 We reviewed the report together, and he's just at
22 awe that anybody could possibly say that.

23 If people wish to make inferences about, like in one
24 statement there, his attitude reflected this statement.
25 Not so.

26 THE COURT: The statement is, the source of that
27 statement is attributed, I believe, to the booking officer.

28 MR. SPECCHIO: Yes.

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MR. GONG: Deputy Harris.

THE COURT: He denies making the statement?

MR. SPECCHIO: He denies making the statement,
your Honor.

I believe it was Mike Harris, Deputy Mike Harris,
and per the report, page 16, line 15, 16.

According to Harris, the Defendant's attitude was
that he did not commit a crime and he shouldn't be here
with all the criminals, and then there was also something
said about the food.

THE COURT: I, with all due respect to the Kolozsis,
I was not concerned with that as much as I was the
statement attributed in the probation report, particularly
to the deputy, the named deputy, and that was the comments
that you have noted, and also the "So what?" comment which
I believe is contained in the probation officer's report,
as well.

MR. SPECCHIO: With regard to the "So what?" at the
hospital, your Honor, Mr. Burkett indicates to me that at
the time he was in the hospital he couldn't even talk, and
that he has no recollection of anything like that because
it is contrary to the way he, in fact, felt, and it is just
unbelievable to him that these statements can be made.

Additionally, with that of Officer Harris. I take
it, from Officer Harris, he says the Defendant's attitude
was that.

So I suspect that he is somewhat speculating or what
have you.

1 But in that regard I can only tell you that I have
2 represented him for several months now, and I have only
3 seen a very, very remorseful person that's had his life
4 turned up-side-down.

5 I mean, I can understand everybody wishing to tag
6 these things on him given the circumstances, but the other
7 side of the coin is what we are trying to present to
8 the Court, and I think to do so fully I would like to have
9 the continuance.

10 THE COURT: I don't want to mislead you.

11 I know that you are arguing for the continuance, but
12 I also don't want you to miss the opportunity to respond
13 substantively to the extent that you can to the issues that
14 have been raised.

15 And I am particularly concerned and do want your
16 present response to the issues concerning the past record,
17 in particular.

18 MR. SPECCHIO: Okay.

19 THE COURT: So I'd like you to -- I don't see any
20 reason why you can't address the relevance or your position
21 on the relevance of those things now, and I'd like to have
22 your views on this.

23 MR. SPECCHIO: Well, with regard to the DUI,
24 your Honor, clearly that occurred four years prior to
25 this incident.

26 The speeding tickets, we don't deny the existence of
27 any of these.

28 The speeding tickets, the latest one was over two

1 years old; and with regard to whether they occurred on the
2 same day, I don't think that's accurate.

3 They occurred at different times, and the latest one
4 being two years old.

5 THE COURT: What explanation does Mr. Burkett give
6 for failing to comply with the Nevada court orders with
7 respect to financial responsibility and, most importantly,
8 participation in the driving under the influence school?

9 MR. SPECCHIO: Your Honor, whatever transpired there
10 I am not exactly certain.

11 Mr. Burkett indicates to me he had cause to believe
12 that that condition was alleviated or relieved, he was
13 relieved of that condition.

14 And I suspect if he did not form that opinion
15 accurately, I suspect there would have been a violation of
16 probation for not completing the school.

17 He doesn't have a clear recollection as to what
18 factors went into that, but somebody at the court indicated
19 that to him.

20 He did not proceed with the school, and there was
21 never a violation of probation.

22 So I don't believe he actively, intentionally
23 violated any court order.

24 THE COURT: Driving without a license. Comment
25 on that?

26 MR. SPECCHIO: Well, with regard to the license,
27 there was one confusion early on. When the license was
28 first revoked, suspended, there was a problem with the

1 insurance company failing to file an SR22.

2 THE COURT: The proof of financial responsibility
3 form in Nevada?

4 MR. SPECCHIO: Yes. And he communicated with his
5 insurance company in that regard.

6 We don't have letters to verify that. We are
7 attempting to after ^{Sept} having seen -- we might have, we might
8 have something. _{John}

9 THE COURT: Assuming all that is true, the question
10 I am posing is not what caused the license to be revoked,
11 but why was he driving when the license was revoked
12 whatever justification or mitigation there might have been
13 for the revocation.

14 We are talking about a period of some three years.

15 MR. SPECCHIO: Your Honor, it had been reinstated.
16 After that was cleared up on financial responsibility, it
17 was reinstated. It had run out --

18 THE COURT: When was it reinstated?

19 MR. SPECCHIO: I'm not exactly sure the date it was
20 reinstated. I know that he had insurance and --

21 THE COURT: The probation officer's report, page 9,
22 indicates that as a result of the conviction in December of
23 '84 it was revoked, later reinstated, and then canceled due
24 to the failure to provide the proof of financial
25 responsibility.

26 MR. SPECCHIO: And I assume that's referring back to
27 the '84 DUI.

28 THE COURT: At some point thereafter.

1 I guess my question is: It seems clear that at the
2 time of the accident he did not have a valid driver's
3 license either in Nevada or California.

4 Apparently, he was aware that he did not have a
5 valid driver's license.

6 And my question is: Why was he driving?

7 MR. SPECCHIO: Your Honor, we have something from
8 DMV indicating that the license was not revoked or
9 suspended until October, I believe, or November.

10 THE COURT: That's the California --

11 MR. SPECCHIO: California.

12 THE COURT: -- license?

13 MR. SPECCHIO: The California license.

14 THE COURT: Does he contend that he had a valid
15 driver's license?

16 MR. SPECCHIO: I am sorry. That was Nevada.

17 DEFENDANT BURKETT: Nevada license.

18 THE COURT: Does he contend he had a valid driver's
19 license at the time of the accident?

20 (Mr. Specchio conferred
21 with Defendant Burkett.)

22 MR. SPECCHIO: May I have just a moment, your Honor?

23 THE COURT: Ah-huh.

24 (Mr. Specchio conferred
25 with Defendant Burkett.)

26 THE COURT: You might look at the probation
27 officer's report at page 8.

28 There is a reflection of the revocation of a

1 California driver's license in October.

2 MR. SPECCHIO: Of '88. That's correct.

3 THE COURT: Of '88. Had there been a valid
4 California driver's license prior to that time?

5 DEFENDANT BURKETT: I believe I have that letter,
6 and I thought it was Nevada. No.

7 THE COURT: Mr. Gong, do you have the underlying DMV
8 records, or Mr. Sipe?

9 MR. GONG: I have a certified copy of his DMV which
10 shows that on October 13, 1986, he was cited twice for
11 driving without a license, once for driving without a valid
12 license, speeding, and driving without a license in
13 his possession.

14 THE COURT: All right. Do we have the records that
15 support the probation officer's conclusion at page 8 of the
16 probation report that refers -- apparently, refers to a
17 California Department of Motor Vehicles record and
18 California license revocation?

19 It is possible that his privilege to drive was
20 revoked, rather than the existing license, is what I
21 am wondering.

22 MR. SPECCHIO: We had the letter from DMV somewhere
23 here, your Honor, where it corroborates the fact it was
24 suspended or revoked in October after the accident.

25 THE COURT: Yeah. The question is what was revoked,
26 the privilege or the license?

27 MR. GONG: I have a copy of his DMV record, if the
28 Court would like to see it.

1 THE COURT: Maybe it will help.

2 My reading of this DMV printout would indicate that
3 his license is a license that was issued in January of
4 1977, duplicate issued in June of 1977, was surrendered to
5 Nevada, and then apparently subsequent to this accident
6 independent revocation action was taken by California, but
7 the license would have been an expired license, in
8 any event.

9 Do you have a copy of this, Mr. Specchio?

10 MR. SPECCHIO: No, I don't, your Honor. I have a
11 copy of that order of revocation.

12 THE COURT: You might want to look at it.

13 MR. SPECCHIO: Thank you.

14 THE COURT: Yeah. This order is an order revoking
15 his privilege to drive, as opposed to -- so that's
16 consistent with my reading of the printout.

17 Well, the bottom-line question remains the same.

18 What explanation does he have for driving with no
19 license either from California or Nevada?

20 MR. SPECCHIO: Your Honor, I don't believe there is
21 an explanation.

22 THE COURT: What would be your comments as to why he
23 ought to be considered for a grant of probation in
24 this matter?

25 MR. SPECCHIO: Your Honor, I think that it is an
26 unfortunate and terrible thing that's occurred here, but on
27 the other hand, if we look to his act, -- and I believe,
28 again, I'm urging a continuance, because I believe that

1 there are things that can be reflected by witnesses that is
2 going to show that at the time he entered that vehicle that
3 he was not a person that was, objectively speaking, not
4 having the appearance of being swashed, being real drunk.

5 THE COURT: If we go back an hour and a half or so
6 from the time of the taking of the blood, which would
7 roughly correspond with the time he got in the vehicle, we
8 are at most going to reduce that blood alcohol level down
9 to, I would suppose the lowest would be somewhere around a
10 one one or one two, and probably more likely a one three or
11 one four at the time he entered the vehicle.

12 MR. SPECCHIO: Well, and that's somewhat
13 speculative, because I guess everything you could consume
14 you would absorb within an hour and a half.

15 Burn off at point oh two per hour, assuming he has a
16 regular metabolic ratio of twenty-one hundred to one.

17 But trying to establish what he was at the point he
18 was driving, we know it was something less than one seven,
19 and to exactly fix it is somewhat difficult.

20 THE COURT: I agree.

21 MR. SPECCHIO: However, I think the observations of
22 those people who were present when he got into the vehicle
23 is very relevant.

24 THE COURT: I agree, but unless you are going to be
25 contending that he, essentially, drank -- in order to be at
26 a one seven, he'd have to consume how many drinks,
27 somewhere in the neighborhood of --

28 MR. SPECCHIO: One seven, --

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THE COURT: -- six or seven.

MR. SPECCHIO: -- eight.

THE COURT: Do you contend he drank those within the hour before he got into the car?

MR. SPECCHIO: No, your Honor. I don't think that's our position at all.

I think what our position is, though, it is substantially less than a one seven, and a person who is a one seven versus a one oh objectively is going to exhibit different symptoms.

THE COURT: Agree.

MR. SPECCHIO: I don't think there is any question -- or I believe we will be able to show that he got in the vehicle immediately from the bar, and shortly thereafter got in the accident and then the time span occurs where the absorption occurs.

And it seems reasonable, even without those people, to assume if he left the bar he had just recently consumed; and the fact that we have two blood tests, one by the CHP, one by the hospital, reflecting he's on the rise, we know that he was something less than a one seven.

So I think it is relevant to see if the guy had cause to believe that he was going to endanger other people as manifested by his objective symptoms.

That's really important. I mean, many of us, unfortunately for others, people have gotten into cars and not realized the amount of alcohol they have consumed, and because of the absorption rate they feel differently down

1 the road than they did when they got in the vehicle, and I
2 think that's the case right here.

3 And that bears on what type of attitude he had and
4 how negligent he was when he got behind the wheel.

5 THE COURT: Okay. Go ahead.

6 MR. SPECCHIO: In any event, your Honor, I suspect
7 there's been a period of time in which there haven't been
8 any Vehicle Code violations, the DUI being four years, the
9 speeding tickets two. The most recent being two.

10 I question sincerely whether or not the statements
11 that have been attributed to him, such as "So what?" and
12 the like, I don't believe that to be true, and I think if
13 the Court gives us an opportunity to be heard in that
14 regard from Mr. Burkett, from his girlfriend, from those
15 people that are closest to him, the Court would then be
16 able to have a feel for his remorse.

17 And as I see it right now, it seems to be somewhat
18 one-sided in terms of how remorseful he really is.

19 So we wish to address the Court, or Mr. Burkett
20 would like to address the Court in that regard.

21 Again, the statements about him drinking and
22 driving, they just don't have any basis to them.

23 Those people should come forward, because it is just
24 like him being in an accident. It just is not accurate.

25 He has not been drinking since he's been out. He's
26 not been driving since he's been out. He could not get in
27 another accident since he's been out of custody
28 last summer.

1 I think the fact that the cocaine was a
2 consideration, I believe, in the mind of the District
3 Attorney, and I suspect in the minds of the parents here,
4 as well, I believe that objectively we can illustrate that
5 at the time he was driving he was not under the influence
6 of cocaine that would have in any way affected his
7 driving ability.

8 He has involved himself with Truckee Meadows. He
9 has involved himself with the alcohol program, AA, from the
10 time he left the outpatient program at Truckee Meadows, and
11 has been involved in that up to today's date.

12 I have made certain notes. With regard to the food
13 when he was in the jail, if that comment was made, it's
14 because he probably couldn't eat. He had his jaw wired, I
15 believe, at that point in time.

16 And he indicates to me he had not eaten for two days
17 until they had acquired a blender so he could take
18 down liquid.

19 Based on that, your Honor, my feeling is that --
20 again, I am pushing for the continuance so we can provide
21 the Court with this material in a more structured form, but
22 on the basis of what we have before us at this point in
23 time, I believe that the level at which he got into the car
24 and the cocaine are substantial factors for the Court.

25 If he was not under the influence of cocaine when
26 he was driving, and if he was at a substantially lower
27 blood alcohol rate or level, I believe that's a very
28 significant factor in terms of what his, what his breach of

1 responsibility was, to what degree. *Responsible for speed*
2 The fact that he had not been driving, *and aggressive dangerous driving* had not been

3 in an accident, had not commented in the regard of "So
4 what?" and so on, those are relevant considerations.

5 And there are many things attributed to him that we
6 take issue with, and I object to Doctor Arozza's input.

7 I believe his performance in Truckee Meadows, the
8 chart notes, as they should reflect how he did, are going
9 to be relevant considerations as to how he has been
10 impacted by this incident, the inferences that he's done
11 nothing and conducted himself as if nothing has happened
12 since this occurred.

13 And that is not the case. His life has been
14 traumatized by it.

15 His involvement with Truckee Meadows and counseling
16 throughout from this incident reflects that.

17 Allegations that have, I hope, been dispelled with
18 regard to the accident, him driving and drinking.

19 If there is no basis for that, the Court should take
20 a totally different look than that which has been presented
21 by the People.

22 MR. GONG: Your Honor, could I make a
23 brief response?

24 THE COURT: You may when he is done.

25 MR. GONG: I believe he was.

26 THE COURT: Were you completed?

27 MR. SPECCHIO: I'm fine.

28 THE COURT: Mr. Gong?

1 MR. GONG: Your Honor, I don't think his performance
2 at the Truckee Meadows hospital has anything to do with
3 this case.

4 He already told the Probation Department he didn't
5 think he had a drinking problem. He left that program
6 after 28 days.

7 As to whether or not his blood alcohol is going up
8 or down at the time of the accident, I don't think is
9 material at this point in light of the fact that he was
10 tested for a one seven.

11 If he was going up, his blood alcohol still would be
12 in the vicinity of a point one three, one four.

13 There's been testimony at the Preliminary
14 Examination that he was, in fact, under the influence of
15 cocaine, I believe.

16 Even if he is not the one four or the one seven,
17 would justify a state prison commitment.

18 Asks for a continuance in this case to bring
19 witnesses in. My contention is that he has had two full
20 months to prepare for this hearing. The plea was entered
21 on December 29th.

22 He knew very well on that day that he was facing a
23 state prison commitment.

24 He was advised by the Court at that time the maximum
25 penalty he would face would be six years.

26 He's had two months, more than adequate time.

27 I would submit to the Court that there's more than
28 sufficient information before it now to make its ruling and

1 to do so today.

2 THE COURT: Thank you, Mr. Gong. Mr. Sipe, any
3 final comments on behalf of the Probation Department?

4 MR. SIPE: I don't have any additional comments in
5 addition to what the District Attorney has presented.
6 Thank you.

7 THE COURT: And with respect to the motion for
8 continuance, as I indicated to you on the phone,
9 Mr. Specchio, in this case the District Attorney's position
10 with respect to disposition of the case has been clear.

11 In fact, it's been so clear that when they advanced
12 the offer to the Defendant to enter a plea to one of the
13 related charges and to drop the grave charge, they made
14 that plea conditioned upon the Court not giving its
15 ordinary indication of sentence.

16 That is quite significant, inasmuch as the Court
17 often at the request of counsel for both sides gives its
18 preliminary views, and in this case the District Attorney
19 said if there was any indication by the Court, that they
20 would not even advance the offer for reduced plea.

21 And I recall specifically the discussion, and it is
22 reflected in my notes of our discussion in November of
23 Mr. Gong's position that this was a state prison case.

24 MR. SPECCHIO: Yes.

25 THE COURT: And that this was going to be their
26 position throughout.

27 I think that puts the Defendant and his counsel on
28 notice of the need to prepare to rebut that position and to

1 prepare in advance for the hearing.

2 This hearing was set over until, initially until
3 January, and was continued because of some difficulties in
4 the Probation Department receiving the appropriate
5 information.

6 So that the Defendant has received substantial
7 amount of time in order to be able to prepare for what
8 ought to be the anticipated issues in this case.

9 There are several issues which have fairly come up
10 only since the probation officer's report was received.

11 I disagree with your assessment that it is untimely.

12 The statute requires only that the probation
13 officer's report be available three days in advance, and
14 unless there is a request that it be done before that, then
15 it is only five days in advance and the old nine-day rule
16 has not been the rule for some time.

17 I recognize that that rule, three-day rule, is
18 really an unfair rule in many cases, because three days is
19 simply not enough time to prepare to meet critical issues
20 in a probation officer's report.

21 But the things in the probation officer's report
22 that need to be met, that is, which really are only the
23 statements or only what I would think are the new things in
24 this case that the defense may not have had an opportunity
25 to focus on earlier, I don't think are the critical things
26 in this case.

27 The additional information that you would seek to
28 present I, likewise, do not think are material in light of

*above,
Meadows*

1 what I believe are the critical factors in this case.

2 The critical factors -- I'm prepared to accept, and
3 I don't think the District Attorney is in a position to
4 argue other than there may be evidence that the blood
5 alcohol at the time of the Defendant's accident and at the
6 time he entered the car shortly before was lower than the
7 tested result of point one seven.

8 The authorities in my experience are not definitive
9 on the question of the influence of cocaine and the impact
10 based upon analyzed levels, and there is dispute, as I
11 understand it, in the authorities as to the reliability of
12 test results in determining the recency of the use of the
13 cocaine, because that all depends upon patterns of use in
14 the past, and there can be trace amounts in heavy users,
15 none for those who are occasional users.

16 So that information is really not going to
17 be definitive.

18 So I am willing to accept that the cocaine was not
19 an influence in the driving.

20 I, also, have no doubt, having reviewed the
21 probation officer's history in this case -- this really
22 gets to the nub of this case -- that Mr. Burkett has a
23 problem with alcohol and drugs, whether he's willing to
24 admit it or not.

25 The pattern or usage that's been established, the
26 influence that it has had on his life, clearly establishes
27 that he is an abuser of both alcohol and drugs.

28 That really gets us to the question that's presented

1 in this case and most every case like this, and that
2 question stems from the fact that, unfortunately, under our
3 laws, for good or for bad, the courts are left in a
4 position of not being able to combine appropriate
5 punishment with the kind of rehabilitation that will
6 benefit the community and the Defendant.

7 The Court's presented really with a choice of one or
8 the other.

9 I can either sentence somebody to state prison
10 where I know that he will receive nothing but dead time
11 and be released to a parole system which will not provide
12 any truly supportive support services for dealing with the
13 drug and alcohol treatment, or I have the option of not
14 more than a year of local incarceration, and then I can
15 impose some requirements for rehabilitation which can be
16 quite substantial.

17 I can, for example, condition probation on a
18 requirement that he enter into an inpatient program, and I
19 can require thereafter that he participate in outpatient
20 programs, and I can maintain those controls on him for a
21 period of five years from the date of my sentencing.

22 The problem becomes how do you make that choice?

23 In the personal view of this Court, the law does not
24 give good choices to the Court, because in many cases
25 punishment should be extracted, but also an opportunity for
26 rehabilitation because it is essential, to lock somebody up
27 only to have them come on the street, not only
28 unrehabilitated, but probably embittered from the

1 experience, and less likely to be rehabilitated as a result
2 of that.

3 However, those are the choices that I have.

4 What I think is critical in making those choices
5 in this case are some facts that simply have not
6 been disputed.

7 It is true that while there has been a past
8 violation of a driving under the influence section, that
9 was four years ago.

10 That does to a certain extent mitigate the impact of
11 that past record.

12 However, what has not been mitigated in my mind,
13 which I believe to be particularly significant in this
14 case, is that for what appears to have been at least a year
15 thereafter the Defendant was involved with the Nevada
16 courts on the question of the validity of his license, with
17 the final result that his license was revoked, and he
18 knew it.

19 He continued to drive without any lawful authority,
20 either from the State of California or the State of Nevada,
21 and that concerns me greatly.

22 What it does is it says that this is a gentleman who
23 is willing to disregard knowingly, willfully the rules
24 of law.

25 It is much different in my view, and I don't want to
26 make this a driving -- a suspended license case and not a
27 case involving death, but there is a significant difference
28 in the attitude of a Defendant who, with an alcohol

1 problem, a drug problem, who doesn't realize the impacts
2 that that will have, goes off without any intention to do
3 harm, and someone who continues knowing that their license
4 is revoked to put themselves in a vehicle day in and
5 day out.

6 In addition to that, Mr. Burkett's driving record
7 over and above the driving under the influence is not a
8 good one.

9 I concede, as you argue, that the last speeding
10 tickets were approximately just under two years prior to
11 this accident, but the fact that this accident involved
12 driving at close to if not at twice the posted speed limit,
13 in and of itself reflects a pattern of negligent driving
14 and disregard for safety that exists independent of the
15 driving under the influence, coupled with what is under any
16 circumstance a clear situation where he was driving under
17 the influence of alcohol in this case.

18 And even disregarding the potential that he was also
19 driving under the influence of cocaine, but also
20 acknowledging that that act in and of itself, whether it
21 influenced the driving or not, indicates an additional
22 degree or recklessness in this young man's life.

23 I am left with the unfortunate conclusion, and it is
24 unfortunate, indeed, for this Judge and for those who have
25 been in this court before, I think who will agree with me,
26 to conclude that I cannot say in good conscience that this
27 gentleman in light of the devastation that he has caused
28 deserves yet another opportunity for rehabilitation.

1 The disposition of this case, the offer that was
2 made to him, which I do not criticize, to have been made by
3 the District Attorney, which I understand the family
4 criticize fairly, I think was a reasonable offer to make in
5 light of the Defendant's age and the relative lack of
6 past record.

7 However, the punishment that this Court has
8 available to it I think is a reasonable punishment under
9 the circumstances.

10 With respect to the motion for continuance, this is
11 a long way of saying that while I respect that you have in
12 some ways been put in a jam, the things which could be
13 offered to me in this matter I don't think would in any
14 fashion defeat the issues which I believe are critical.

15 And accordingly, I don't see any reason or good to
16 be gained in light of those issues by that continuance, and
17 I will at this time further deny the request.

18 With respect to the application for probation, I
19 don't believe that a grant of probation is appropriate in
20 this case for the reasons that I have indicated.

21 This Court recognizes that there is no sentence that
22 I can impose, it is not my purpose in imposing sentence to
23 in any fashion make up for the loss of Kelly's life. It
24 simply is impossible.

25 Whether I sentence Mr. Burkett to a day in jail or
26 20 years in jail, I really will do nothing.

27 I just will bring a chapter in the lives of this
28 family to a close, but let me give that family a bit of

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what I hope will be wisdom.

I hope your eggs are not all in this basket. The closure that you need, this is part of it, but not all of it.

Whether you agree or disagree with the decision of this Court, don't look to the justice system to provide the healing.

It has to come from other sources. This may or may not help.

It is not the function of the courts to mete out retribution in that.

This Court is not, however, insensitive to the loss and the devastation that has been caused to you; and again, whether you agree or disagree with what happens in this case, in the finally analysis my hope is that you will not think that the loss has not been appreciated by the courts and by the system. It has.

With respect to the selection of the term, the Court does believe in this case that the factors in aggravation do outweigh the factors in mitigation.

The mitigation in this case comes from the Defendant's acknowledgement of his responsibility in the court at a relatively early stage of the proceedings.

It comes from the fact that it appears that the use of alcohol and drugs has been long standing and to a degree has been without as a result of what I believe is an addiction to alcohol and drugs.

This is not a circumstance where the Defendant has

1 willfully set out to commit a violation.

2 The circumstances in aggravation include his past
3 conviction for driving under the influence.

4 They include what I believe to have been a more than
5 normal recklessness in his driving and a greater -- at a
6 substantially greater than the legal maximum, legal limit
7 for driving under the influence in his blood alcohol.

8 In addition to the recklessness in this case, he has
9 been on three separate occasions in the past been convicted
10 of speed offenses, and I believe of substantial importance
11 is the fact that at the time of the accident and for some
12 years before he was knowingly driving without any valid
13 driver's license and no really reasonable basis to believe
14 that he had any right to be in a vehicle.

15 When considered in light of the devastating effect
16 of his conduct, it is my view that the aggravating
17 circumstances in this case outweigh the circumstances
18 in mitigation.

19 The application for probation, accordingly, will
20 be denied.

21 And it is the order and judgment of this Court that
22 as punishment for the Defendant's violation of Vehicle
23 Code -- Penal Code section -- pardon me -- 192,
24 subsection c, subdivision 1, that the Defendant be
25 imprisoned in the California State Prison for the upper
26 term of the base sentence of six years.

27 He is entitled to credit for time served for that
28 time which he has spent in custody prior to the sentencing

1 date, I believe is eleven days calculated by the
2 probation officer.

3 MR. SIPE: Page 17, your Honor.

4 THE COURT: Seventeen. He is entitled as a matter
5 of law to an additional five days good- and work-time
6 credits, for a total of credit for time served of
7 sixteen days.

8 I don't know that it is necessary to specify that
9 the sentence is being made in this fashion, but it is -- I
10 recognize the difficulties posed to the defense in this
11 case, and I recognize the ever present situation that I
12 mention where the Court is put in the position of making
13 a sentence like this which will do society probably no
14 good whatsoever.

15 As a result, I am prepared to make this sentence
16 pursuant to Penal Code section 1170(d), and while I don't
17 wish to give any false hope to the Defendant or his
18 counsel, or any substantial doubt in the minds of the
19 People as to this Court's intention, this Court does have
20 the authority in this and every other case to consider
21 recalling its sentence within 120 days should the Court be
22 apprised by the Department of Corrections or on its own
23 that the Court may have been in error in its judgment.

24 Accordingly, I simply will make the following offer
25 to the Defendant not only for purposes of substantively
26 presenting to this Court additional information, but also
27 so that you may have a complete record in case you wish to
28 pursue the, perhaps, legal error you might claim with

1 respect to this Court's decision; and that is, I will
2 invite that within 30 days you may file with the Court in
3 writing declarations or other materials which you think
4 would support a recall of this sentence.

*They failed to meet
30 days.*

5 I will not set a hearing on that. If after
6 reviewing those materials the Court believes that a hearing
7 is appropriate, then I will notify all counsel of the
8 opportunity for further hearing.

9 I wish to make it clear, however, that I am giving
10 you this opportunity, perhaps, more to allow you to have
11 the opportunity to make a reasonable record of what it is
12 you would have presented than to suggest that the Court has
13 any really substantial doubt about the appropriateness of
14 this decision.

15 I wish to make it clear that I really don't, but I
16 think in fairness under the circumstances that opportunity
17 should be presented to you.

18 It will, therefore, be the order and judgment of the
19 Court that the Defendant be remanded to the custody of the
20 sheriff for delivery to the Director of Corrections at the
21 facility designated by the Director in accordance with the
22 state prison sentence just imposed.

23 A stay of execution on that sentence by way of
24 delivery to the Department of Corrections will be granted
25 until preparation of the abstract and delivery of the
26 abstract to the sheriff.

27 Anything else this morning?

28 MR. SPECCHIO: I am sorry. With regards to that

1 stay, your Honor, --

2 THE COURT: It is only of the delivery to the
3 Department of Corrections. I am ordering his remand
4 forthwith to the sheriff.

5 MR. SPECCHIO: May we have -- he has an appointment
6 with the dentist with regards to that -- his wires in
7 his mouth.

8 Can we have a week for him to resolve that?

9 THE COURT: I understand that difficulty. I am not
10 inclined to do that.

11 As I believe I indicated to you in our telephone
12 conference, one of the options that I had in mind after
13 reading the initial materials was the possibility of a
14 further evaluation by the Department of Corrections, and I
15 made it clear to you at that point that I would likely want
16 to have him remanded forthwith for that.

17 MR. SPECCHIO: I understand that.

18 THE COURT: I decided after further consideration
19 and the points made that that is not appropriate.

20 So I assume the Defendant's at least been on notice
21 for these last days of my intention to remand him if that
22 were to be the Court's order.

23 MR. SPECCHIO: That is correct.

24 THE COURT: I think -- I understand the problems. I
25 understand the difficulties, and I have considered the
26 Defendant's physical condition in my decision.

27 My decision is a difficult one for that reason, as
28 well, but we simply are not going to be able to resolve his

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health problems in any kind of a reasonable fashion before it becomes necessary for him to begin this term.

Accordingly, I think we need to just face up to it and deal with it, and I will assume, as I must, that he will receive adequate and appropriate medical care within the Department of Corrections.

If they feel otherwise, they have the opportunity to advise me under section (d) of 1170 as a reason for a recall.

So the request for a stay of execution is denied.

MR. GONG: Thank you, your Honor.

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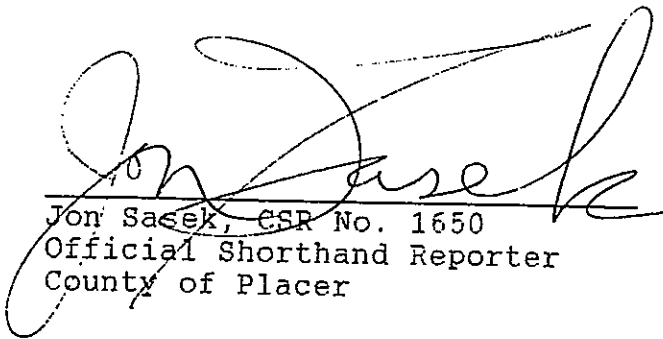
STATE OF CALIFORNIA)
) ss.
COUNTY OF PLACER)

I, JON SASEK, certify that I am an Official Shorthand Reporter and that I recorded verbatim in shorthand writing the following proceedings completely and correctly to the best of my ability:

COURT: Superior Court of the State of California
County of Placer
JUDGE: Honorable Richard L. Gilbert
ACTION: PEOPLE OF THE STATE OF CALIFORNIA vs.
JOHN SCOTT BURKETT
NUMBER: 1183
DATE: FRIDAY, MARCH 3, 1989

I further certify that I have caused such shorthand notes to be transcribed into typewriting, and that the preceding pages 1 through 39, inclusive, constitute an accurate transcript of my shorthand notes in the above matter.

Dated: May 26, 1989


Jon Sasek, CSR No. 1650
Official Shorthand Reporter
County of Placer

--oOo--

~~BURKETT~~ JUSTICE COURT
 COUNTY OF PLACER
 STATE OF CALIFORNIA
 Case No. 880481

SC 1183

CASE NO.
 COURT

THE PEOPLE OF THE STATE OF CALIFORNIA VS.
 JOHN SCOTT BURKETT

DEFENDANT CO-DEFENDANTS

COUNTS

- I Section 191.5a CPC GROSS VEHICULAR MANSLAUGHTER
 while intox.
- II Section 23153 a CVC DRIVING UNDER THE INF. WITH INJURY
- III Section 23153 b CVC DRIVING AT .10 OR ABOVE WITH INJURY

prior 23152 '84 INCLINE 12500 a CVC UNLAWFUL TO DRIVE UNLESS LICENSED
 Complaint filed 8/3/88 Warrant issued Bail \$ 170.6 C.C.P. Judge filed
 BB MT 11636 \$35,000 TO APPEAR 8/12/88 10:00am

CONTINUANCES:

Cont. on	Date	Cont. to	Time	Cont. for	Custody Status	Statutory Time	Judge
AUG 03 1988	8-4-88	1:30		Further setting	in C	TNW	Burkett
AUG 04 1988	8-5-88	1:30		Probation Report for OR	✓		Burkett
AUG 05 1988	8/12/88	10AM		PX + 7 Months Cont.	✓	TNW	Burkett
AUG 05 1988	8/16/88	9:30AM		Prelim	✓	TNW	Burkett
AUG 12 1988	8/19/88	10:00AM		PX	✓	TW	Burkett
AUG 12 1988	8/24/88	9:30AM		probation	✓	TW	Burkett

ARRAIGNMENTS:

- AUG 03 1988 Defendant present without attorney with/by attorney
 Arraignment and advisement of Constitutional Rights waived.
- AUG 03 1988 Defendant informed of charges, arraigned, and advised of the following rights: to an attorney at all stages of the proceedings; the Court would appoint an attorney if defendant does not have the financial means to retain one; to release on reasonable bail; to a speedy public trial before jury or judge; to a preliminary examination within ten Court days following plea; to the processes of the Court to subpoena; to confront and examine adverse witnesses; not to incriminate self. BARRY JONES
- AUG 03 1988 Public Defender appointed. Private Counsel appointed. Defendant advised that upon conclusion of the case the Court may conduct a hearing to determine the defendant's then ability to pay for all or any part of the cost of appointed counsel, and that defendant may be ordered to pay all or that part of said costs within defendant's ability to pay
- AUG 03 1988 Defendant committed to custody of Sheriff. Admit to bail in amount of \$ 35,000
 Defendant released on own recognizance. Defendant to remain free on bail.
 Defendant ordered discharged.
- AUG 3 1988 Referred to Probation Dept. for report re: Release on or Bail Reduction on
 Plea scheduled. See Continuances.
 JUDGE: CLERK: Ngano REPORTER:
 Defendant present without attorney with attorney
 Release on supervised own recognizance granted denied.
- AUG 03 1988 JUDGE: CLERK: REPORTER:
 Defendant present without attorney with attorney
- AUG 03 1988 Plea of NOT GUILTY all counts entered. Prior convictions denied admitted.
 PRELIMINARY EXAMINATIONS SCHEDULED. See CONTINUANCES.
 JUDGE: CLERK: Ngano REPORTER:

PRELIMINARY EXAMINATION:

- AUG 24 1988 Defendant present not present without attorney with attorney P.D. Barry Jones
 Defendant present not present without attorney with attorney
- AUG 24 1988 Preliminary examination held. Preliminary examination waived.
- AUG 24 1988 Defendant held to answer for Counts I, II, III
- AUG 24 1988 Case transferred to Superior Court and defendant ordered to appear there on 9/6/88 8:30 AM Dept 4
 Misdemeanors alleged in Count certified to Superior Court.
- AUG 24 1988 Charges in all Counts for which defendant not held to answer dismissed and defendant discharged on grounds of IOE
 Other orders of the Court:

JUDGE: CLERK: REPORTER:

PLEA OF GUILTY/CHANGE OF PLEA:

- Defendant present without attorney with attorney _____
 - On motion of District Attorney complaint amended to add a violation _____
 - Defendant requests, and is granted, permission to withdraw previous NOT GUILTY plea and/or pleads GUILTY NOLO CONTENDERE to a violation of _____ and/or pleads GUILTY NOLO CONTENDERE to a violation of _____ stipulated by the parties to be a lesser included offense within COUNT _____
 - Charges to which defendant pleads GUILTY declared to be misdemeanors on Court's motion District Attorney's motion defendant consenting thereto. (For further proceedings see misdemeanor docket form attached.)
 - On Motion of District Attorney Court orders Section(s) _____ dismissed.
 - Prior convictions _____
 - Defendant enters plea of GUILTY pursuant to 859aPC.
 - See transcript & change of plea form _____
 - Defendant certified to Superior Court and ordered to appear there on _____
 - Referred to Probation Dept. for pre-sentence report.
 - Admit to bail in amount of \$ _____ Defendant committed to custody of Sheriff. Defendant released on his own recognizance.
 - Defendant to remain free on bail. Defendant ordered discharged.
- JUDGE: _____ CLERK: _____ REPORTER: _____

WARRANTS: ISSUANCE/DISPOSITION:

- Defendant not present.
- Bail forfeited O.R. revoked for _____ other _____
- Notice of forfeiture mailed to depositor.
- Bench warrant ordered issued. Bail \$ _____
- JUDGE: _____ CLERK: _____ REPORTER: _____
- Bench warrant issued to _____
- Warrant recalled.
- Motion set aside forfeiture filed. Bond No. _____
See CONTINUANCES.
- Motion of bondsman or surety company to set aside forfeiture and exonerate reinstate bail denied granted on condition _____
- JUDGE: _____ CLERK: _____ REPORTER: _____

MISCELLANEOUS HEARINGS AND ORDERS:

8/4/88 BARRY JONES, TED PETERSON, JUDGE, REQUEST FOR O.R. DENIED, SET FOR O.R. HEARING 8/5/88 BAIL LEFT AT \$35,000. REQUEST FOR INVESTIGATOR MADE BY BARRY.

8-5-88 *Probation Officer Report Filed*

AUG 05 1988 *Def. in court with PD Jones. Oral arguments by PD & DA. Motion to reduce bail denied.*

8/11/88 NOTICE OF MOTION TO CONTINUE PRELIMINARY EXAMINATION, DECLARATION POINTS AND AUTHORITIES THEREON FILED.

AUG 12 1988 Defendant present in court with P.D. Jones. Motion for continuance granted New date for prelim is Wednesday, August 24, 1988 at 9:30 AM. PX set for August 19, 1988 at 10AM. Defendant ordered present for both matters. (PD reminded to file declaration in support of investigator).
Judge Pineschi, Clerk Burnham, DBA Peterson.

AUG 16 1988 *Decl. of Jones filed*

Order for Investigation Fees & Expenses filed

8/19/88 DEFENDANT PRESENT, D.A. AND BARRY JONES. CONFIRMED PRELIM (JUDGE PINESCHI)