

2017

**The State of Utah, Plaintiff/Appellee v. Travis Scott Murray,
Defendant/Appellant.**

Utah Court of Appeals

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_ca3



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Supreme Court; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah.

Recommended Citation

Brief of Appellee, *State of Utah v Murray*, No. 20170022 (Utah Court of Appeals, 2017).
https://digitalcommons.law.byu.edu/byu_ca3/3731

This Brief of Appellee is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs (2007–) by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

Case No. 20170022

IN THE
UTAH COURT OF APPEAL

STATE OF UTAH,
Plaintiff/Appellee,

v.

TRAVIS SCOTT MURRAY,
Defendant/Appellant.

Brief of Appellee

Appeal from an order revoking and reinstating probation for
third-degree-felony driving under the influence, in the Third
Judicial District, Salt Lake County, the Honorable Ann Boyden
presiding

DIANA PIERSON
SHARLA DUNROE
Salt Lake Legal Defender Assoc.
424 East 500 South, Suite 300
Salt Lake City, UT 84111

Counsel for Appellant

THOMAS B. BRUNKER (4804)
Deputy Solicitor General
Sean D. Reyes (7969)
Utah Attorney General
160 East 300 South, 6th Floor
P.O. Box 140854
Salt Lake City, UT 84114-0854
Telephone: (801) 366-0180

SIM GILL (6389)
Salt Lake District Attorney's Office

Counsel for Appellee

Oral Argument not requested

FILED
UTAH APPELLATE COURTS

NOV 22 2017

Case No. 20170022

IN THE
UTAH COURT OF APPEAL

STATE OF UTAH,
Plaintiff/Appellee,

v.

TRAVIS SCOTT MURRAY,
Defendant/Appellant.

Brief of Appellee

Appeal from an order revoking and reinstating probation for
third-degree-felony driving under the influence, in the Third
Judicial District, Salt Lake County, the Honorable Ann Boyden
presiding

DIANA PIERSON
SHARLA DUNROE
Salt Lake Legal Defender Assoc.
424 East 500 South, Suite 300
Salt Lake City, UT 84111

Counsel for Appellant

THOMAS B. BRUNKER (4804)
Deputy Solicitor General
Sean D. Reyes (7969)
Utah Attorney General
160 East 300 South, 6th Floor
P.O. Box 140854
Salt Lake City, UT 84114-0854
Telephone: (801) 366-0180

SIM GILL (6389)
Salt Lake District Attorney's Office

Counsel for Appellee

Oral Argument not requested

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTRODUCTION	1
ISSUE	3
STATEMENT OF THE CASE.....	3
A. Facts.	3
B. Proceedings.	4
ARGUMENT SUMMARY	7
ARGUMENT	8
THE DISTRICT COURT DID NOT PLAINLY ABUSE ITS DISCRETION WHEN IN RESPONSE TO SERIOUS PROBATION VIOLATIONS, IT REVOKED AND REINSTATED MURRAY'S PROBATION RATHER THAN CONTINUING HIS ORIGINAL PROBATION.....	8
A. Murray did not preserve his appellate issue that the district court should have continued his probation rather than revoke and reinstate it.	9
B. Murray has not shown that the district court plainly abused its discretion by allowing him another opportunity to successfully complete probation through revoking and reinstating probation.....	11
CONCLUSION.....	14
CERTIFICATE OF COMPLIANCE	15
ADDENDA	
Addendum A: Utah Code Ann. § 77-18-1	
Addendum B: Transcript, Probation Revocation Hearing, dated December 12, 2016	

TABLE OF AUTHORITIES

STATE CASES

<i>State v. Jenkins</i> , 2016 UT App 41, 368 P.3d 873	3, 8, 9, 12
<i>State v. Maestas</i> , 2012 UT 46, 299 P.3d 892.....	12
<i>State v. Robinson</i> , 2014 UT App 114, 327 P.3d 589.....	9
<i>State v. Snyder</i> , 2015 UT App 172, 355 P.3d 246	3, 8, 12

STATE STATUTES

Utah Code Ann. § 41-6a-502	4
Utah Code Ann. § 77-18-1	14

Case No. 20170022

IN THE
UTAH COURT OF APPEAL

STATE OF UTAH,
Plaintiff/Appellee,

v.

TRAVIS SCOTT MURRAY,
Defendant/Appellant.

Brief of Appellee

INTRODUCTION

Murray pleaded guilty to felony driving under the influence of alcohol. It was his fourth DUI. The district court imposed the statutory prison term, suspended it, and granted Murray probation.

Murray admitted violating that probation by (1) using methamphetamine, cocaine, and alcohol, and (2) violating the ignition interlock requirement. At the revocation hearing, he asked for an opportunity for further treatment and to complete probation. He specifically objected only to serving any jail time. The State and Adult Probation and Parole asked the court to impose a one-year jail term to close the case out.

The district court revoked and reinstated Murray's probation, ordered him to complete substance-abuse counseling, and imposed a 180-day jail

term. It said it was granting Murray's request with the exception that it imposed a 180-day jail term. Murray responded, "Thank you." He never objected that the court should have continued the original probation rather than revoking and reinstating probation.

On appeal, Murray argues that the district court erred by revoking and reinstating probation rather than continuing his original probation. He argues that the error was plain because the probation relief granted varied from what both parties requested. But he cites no cases holding that the parties' requests bound a court's discretion about when and how to grant probation.

And Murray has not otherwise shown that the district court plainly abused its discretion. The district court had to decide what to do with a habitual drunk driver who violated his probation by drinking alcohol and circumventing the ignition interlock requirement—the technological means intended to prevent him from driving drunk again. Rather than impose the original prison sentence or even sending Murray to jail for a year on an unsuccessful probation finding, the court exercised extraordinary grace and allowed him another opportunity to successfully complete his probation.

And Murray has inadequately briefed his prejudice argument. He concludes that his probation likely would have ended sooner had the district

court not revoked and reinstated. But the court could have extended his original probation, and Murray offers no reasoned explanation why the district court would have chosen a shorter period on an extended rather than reinstated probation.

ISSUE

Has Murray shown that the trial court plainly erred when it revoked and reinstated his probation rather than continued his original probation?

Standard of Review. Appellate courts review probation decisions for an abuse of discretion. *See, e.g., State v. Snyder*, 2015 UT App 172 ¶7, 355 P.3d 246. Because Murray did not preserve the issue he raises on appeal, he must show that the district court plainly erred. *See, e.g., State v. Jenkins*, 2016 UT App 41 ¶2, 368 P.3d 873.

STATEMENT OF THE CASE

A. Facts.

A trooper pulled Murray over for speeding and running a red light. When the trooper talked to Murray, he could smell alcohol. Murray admitted consuming alcohol. The intoxilyzer revealed a breath alcohol content of .141. When the trooper checked Murray's driver record, he discovered that Murray had three prior DUI convictions. R4.

B. Proceedings.

The State charged Murray with (1) third-degree-felony driving under the influence (Utah Code Ann. §41-6a-502 (West Supp. 2017-2018)), (2) class-B-misdemeanor alcohol restricted driver (§41-6a-530 (West 2013)), (3) class-C-misdemeanor speeding (§41-6a-601 (West 2013)), and (4) class-C-misdemeanor running a red light (§41-6a-305 (West Supp. 2017-2018)). R2-3.

Murray and the State worked out a plea agreement. Murray pleaded guilty to third-degree-felony DUI. In exchange, the State dismissed the other three counts and agreed to “recommend 62.5 days.” R29-34.

The district court entered judgment on March 17, 2014. It imposed and suspended the statutory zero-to-five-year prison term. It ordered Murray to serve 100 days in jail, giving him nine days credit for the time he already served. It imposed a \$2876.70 fine. R40-41.

The court also gave Murray probation. The conditions included (1) cooperating in treatment assessment and completing any treatment deemed necessary, (2) refraining from alcohol and illegal drug use, (3) submitting to alcohol and drug testing, (4) paying for ignition interlock systems to be installed on any vehicle Murray owned or operated, (5) maintaining automobile insurance, and (6) reporting to Adult Probation and Parole as directed. R41.

About 23 months later, Murray violated his probation. AP&P reported 10 violations. Murray admitted to four: (1) he used methamphetamine, cocaine, and alcohol; (2) he violated the ignition interlock restriction; (3) he operated a car without insurance; and (4) he failed to report as directed by AP&P. AP&P recommended terminating Murray's probation as unsuccessful and committing him to the Salt Lake County Jail for a term the district court would deem sufficient to close the case. R70-75, 103-104.

At the subsequent hearing, the State submitted on AP&P's recommendation and asked the court to impose a one-year jail term. R104-106 (the entire hearing transcript is attached as addendum B).

Murray's counsel opposed any jail time. She addressed the violations by explaining that Murray found himself homeless and "did not deal with" the situation "in an appropriate way." She reminded that Murray "had established himself as someone who is able and willing to complete treatment and he already" had. But she also acknowledged that his "actions after that" had shown that "he could benefit from more treatment." She represented that Murray "would very much like to complete probation" and "the opportunity to do treatment." R102, 105-107.

The district court acknowledged that Murray's use of controlled substances violated his probation. But it was the alcohol related violations

that troubled the court most. It emphasized that Murray was guilty of third-degree-felony DUI because he had a history of DUI. It emphasized that his use of alcohol combined with violating the ignition interlock requirement made him a danger to himself, his family, and "the community as a whole." The court recognized that it "could very fairly" impose the original prison sentence because he had violated his probation. R110.

The district court nevertheless decided not to impose the prison sentence. The court instead granted Murray's requests for an opportunity for additional treatment and to successfully complete probation. But the court imposed the price of a 180-day jail term. And the court warned that if Murray did not comply, he would not get "a year in jail to close," but would instead face the original prison sentence. R111-12.

The district court then revoked and reinstated Murray's probation for 12 months from the date of the hearing and imposed the 180-day jail term. The court reiterated its view that the 180-day jail term was the only place where it and the defense disagreed. When the court concluded, Murray responded, "Thank you." He did not object that the court actually had not given him what he requested or that it should have continued probation rather than revoking and reinstating probation. *Id.*

ARGUMENT SUMMARY

A district court has discretion to grant, deny, or revoke probation. Even when a district court revokes probation, an appellate court will reverse only when the evidence of a probation violation is so deficient that the district court abused its discretion. And a single supported violation will justify a decision to revoke probation.

Murray admitted to four probation violations. But he asked that the district court given him an opportunity to successfully complete probation and for more treatment. On appeal, he argues that the district court abused its discretion when it granted his request through revoking and reinstating his probation rather than continuing under the original probation.

Murray did not preserve this argument. He never objected to the district court's chosen route to give him what he asked for. Instead, he thanked the court.

On appeal, he has not proven plain error. He argues only that the district court plainly erred because its solution conflicted with what both parties requested. But he cites no clear law establishing that the parties' requests bounded the district court's discretion.

Any he has not otherwise shown that the district court plainly abused its discretion. The court had to decide how to deal with a habitual drunk

driver whose probation violations showed he had again become a drunk-driving threat to the community—he had resumed drinking and circumvented the interlock ignition probation requirement. Under the law, the court was entitled revoke probation. It chose instead to give Murray the opportunity he asked for.

Finally, Murray has inadequately briefed his prejudice argument. He concludes that the original probation would likely have been completed by now. But because Murray violated his probation, the district court had authority to extend its original term. Murray offers no reasoned analysis why the court would have reached a different conclusion about how much longer to keep him on probation under the original probation instead of under revoked and reinstated probation.

ARGUMENT

The district court did not plainly abuse its discretion when in response to serious probation violations, it revoked and reinstated Murray's probation rather than continuing his original probation

A district court has discretion to grant, deny, or revoke probation. *See, e.g., Snyder*, 2015 UT App 172 ¶7. And even when a district court revokes probation, the appellate courts will not reverse unless “the evidence of a probation violation, viewed in the light most favorable to the trial court's findings, is so deficient that the trial court abused its discretion....” *Jenkins*,

2016 UT App 41 ¶2. Because Murray did not preserve his appellate argument—that the trial court should have continued the original probation rather than revoking it and reinstating it—he must show that the district court plainly abused its discretion.

Murray has not met his burden. Here, the evidence of a probation violation was strong—Murray admitted to four violations. Yet the trial court still did not revoke his probation and send him to prison. It revoked and reinstated his probation to give him what he asked for—the opportunity for more treatment and to successfully complete probation.

A. Murray did not preserve his appellate issue that the district court should have continued his probation rather than revoke and reinstate it.

To preserve an issue for appeal, the appellant must have presented it to the district court in a way that gave the court a fair opportunity to rule on it. *See, e.g., State v. Robinson*, 2014 UT App 114 ¶10, 327 P.3d 589. Murray did not give the district a fair opportunity to rule on whether he was entitled to have his original probation continued or whether the court was free to revoke and reinstate his probation. In fact, the district court fairly believed that, with

one exception not relevant here, it had given Murray all that he had asked for.¹

Murray told the district court he “would very much like to complete probation” and “the opportunity to do treatment.” R105-106. The district court gave him both—by reinstating probation, it gave him to opportunity to complete it, and it ordered further treatment as a condition of his reinstated probation.

And it is clear from the record that the district court believed that it was giving Murray what he was asking for. The court said that Murray’s “requests that [he] would like an opportunity to do this successfully and do treatment is going to be granted.” The court then proceeded to revoke and reinstate probation and ordered that Murray successfully complete substance abuse treatment. Murray never objected that the court gave him less than he had asked for, let alone ask the court to continue his original probation. To the contrary, he thanked the court. R111-12.

¹ Murray expressly objected only to imposing jail time. In a footnote, Murray concedes that he has served his jail sentence and continues that he is serving the reinstated probation term “that is the subject of this appeal.” Aplt.Br.6 n.1. Yet throughout his brief he argues that the district abused its discretion by both (1) revoking and reinstating probation, and (2) imposing a 180-day jail term. Because he has served that term, the court cannot grant him relief and the issue is moot.

Nothing in this exchange gave the district court a fair opportunity to address whether it should have continued his original probation. Rather, everything suggested to the court that Murray was satisfied with revoking and reinstating his probation as the means to grant his requests for treatment and an opportunity to successfully complete probation.

Murray nevertheless says he preserved the appellate issue “by trial counsel’s argument to allow Murray to *continue on probation without revoking and reinstating probation.*” Aplt.Br.9 (emphasis added). Except trial counsel never made that argument. She asked only that Murray have the opportunity to successfully complete probation. R105-107. She never argued that the court should not grant that request by revoking and reinstating probation. *Id.* And when the district court said that it was granting counsel’s request through revoking and reinstating probation, counsel did not object and Murray thanked the court. R111-12.

Murray never gave the court a fair opportunity to address his appellate issue. That issue may therefore be reviewed only for plain error.

B. Murray has not shown that the district court plainly abused its discretion by allowing him another opportunity to successfully complete probation through revoking and reinstating probation.

Murray argues alternatively that the district court plainly erred by revoking and reinstating probation because, according to him, that relief

conflicted with what the parties asked for. He says that the State asked to revoke his probation and impose a jail sentence. He says he asked the court to "continue on probation." Aplt.Br.10.

But an "error is obvious only if 'the law governing the error was clear at the time the alleged error was made.'" *State v. Maestas*, 2012 UT 46 ¶37, 299 P.3d 892 (citation omitted). Murray cites no case holding that a district court's probation decisions are limited to selecting between the parties' requests. He makes no other obvious error argument. His plain error argument fails for that reason alone.²

In any event, Murray cannot prove that the district court abused its discretion, plainly or otherwise. Even when a district court revokes probation, this Court will reverse only when ""the evidence of a probation violation, viewed in the light most favorable to the trial court's findings, is so deficient that the trial court abused its discretion in revoking defendant's probation."" *Jenkins*, 2016 UT App 41 ¶2 (citations omitted). A "'single violation of probation is legally sufficient to support a probation revocation.'" *Snyder*, 2015 UT App 172 ¶7, 355 P.3d 246 (citation omitted).

² As demonstrated in subpoint A, Murray did not make plain that the district court had somehow not followed his request. He asked for an opportunity to successfully complete probation. The district court gave him that instead of revoking his probation and sending him to prison.

Murray admitted four violations, three more than the district court needed to revoke his probation outright. The district court thus correctly recognized that it could have revoked Murray's probation and sent him to prison.

But it didn't. Instead, the district court reinstated his probation. On this record, that was an act of extraordinary grace. This case was Murray's fourth DUI conviction. The violations that led to revoking his probation involved resumed alcohol use and circumventing the ignition interlock—the technological safeguard against him driving drunk yet again. The court rightly recognized that despite what he may have accomplished before, he had again become a threat to the community. Based on Murray's admitted probation violations and the renewed threat he posed, the court could have properly exercised its discretion to revoke his probation and send him to prison. The court nevertheless showed Murray extraordinary mercy by reinstating his probation. It thus did not plainly err by not granting relief that Murray never actually asked for in the first place—continuing with the original probation.

Finally, Murray has inadequately briefed his prejudice argument, and the Court should affirm for that reason alone. Murray concludes that had the district court continued his original probation he “likely” would have

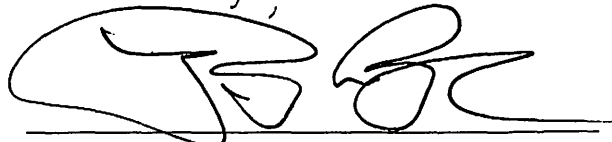
"completed his probationary period earlier." Aplt.Br.10. But he offers no reasoning why this was so. Because Murray violated his probation, the district court was free to extend the period of his original probation. Utah Code Ann. §77-18-1(12)(a)(i) (West Supp. 2017-2018). And the court apparently believed that an additional 12 months of probation was appropriate. Murray offers no reasoned analysis why the court would have reached a different conclusion about how much longer to keep him on probation under the original probation instead of under revoked and reinstated probation.

CONCLUSION

For the foregoing reasons, the Court should affirm.

Respectfully submitted on November 22, 2017.

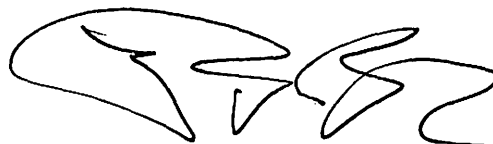
SEAN D. REYES
Utah Attorney General

A handwritten signature in black ink, appearing to read 'T B Brunker', written over a horizontal line.

THOMAS B. BRUNKER
Deputy Solicitor General
Counsel for Appellee

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with rule 21(g), Utah Rules of Appellate Procedure, governing public and private records.



THOMAS B. BRUNKER
Deputy Solicitor General

CERTIFICATE OF SERVICE

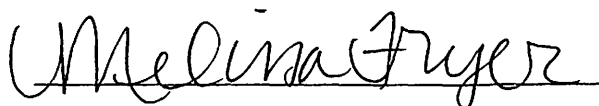
I certify that on November 22, 2017, two copies of the Brief of Appellee were ☐ mailed ☒ hand-delivered to:

Diana Pierson
Sharla Dunroe
Salt Lake Legal Defender Assoc.
424 East 500 South, Suite 300
Salt Lake City, UT 84111

Also, in accordance with Utah Supreme Court Standing Order No. 8, a courtesy brief on CD in searchable portable document format (pdf):

☒ was filed with the Court and served on appellant.

☐ will be filed and served within 14 days.



Addenda

Addenda

Addendum A

Addendum A

Utah Code Annotated § 77-18-1 (West2017) Suspension of sentence--Pleas held in abeyance--Probation--Supervision--Presentence investigation--Standards--Confidentiality--Terms and conditions--Termination, revocation, modification, or extension--Hearings--Electronic monitoring

- (1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.
- (2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant on probation. The court may place the defendant:
 - (i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;
 - (ii) on probation under the supervision of an agency of local government or with a private organization; or
 - (iii) on court probation under the jurisdiction of the sentencing court.(b) (i) The legal custody of all probationers under the supervision of the department is with the department.
 - (ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.
 - (iii) The court has continuing jurisdiction over all probationers.
 - (iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.
- (3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department. These standards shall be based on:
 - (i) the type of offense;
 - (ii) the results of a risk and needs assessment;
 - (iii) the demand for services;
 - (iv) the availability of agency resources;

(v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of persons convicted of class B or C misdemeanors or infractions or to conduct presentence investigation reports on class C misdemeanors or infractions. However, the department may supervise the probation of class B misdemeanants in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that the defendant:

(a) perform any or all of the following:

(i) provide for the support of others for whose support the defendant is legally liable;

(ii) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(iii) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(iv) serve a term of home confinement, which may include the use of electronic monitoring;

(v) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(vi) pay for the costs of investigation, probation, and treatment services;

(vii) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and
(viii) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation; and

(b) if convicted on or after May 5, 1997:

(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED

certificate, or vocational certificate prior to being placed on probation; or

(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:

(A) a diagnosed learning disability; or

(B) other justified cause.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a)(i) Probation may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(ii) (A) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(B) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded

and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

- (iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.
 - (b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.
 - (ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.
- (11) (a)(i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.
- (ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.
- (iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.
- (b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.
- (12) (a)(i) Probation may be modified as is consistent with the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404, but the length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.
- (ii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

- (b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.
 - (ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.
- (c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.
 - (ii) The defendant shall show good cause for a continuance.
 - (iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.
 - (iv) The order shall also inform the defendant of a right to present evidence.
- (d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.
 - (ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.
 - (iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.
 - (iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.
- (e) (i) After the hearing the court shall make findings of fact.
 - (ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.
 - (iii) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:
 - (A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or
 - (B) the sentence previously imposed shall be executed.

(iv) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iii), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit himself or herself to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

- (a) the defendant is appropriate for and can benefit from treatment at the state hospital;
- (b) treatment space at the hospital is available for the defendant; and
- (c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

- (a) ordered by the court pursuant to Subsection 63G-2-202(7);
- (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;
- (c) requested by the Board of Pardons and Parole;
- (d) requested by the subject of the presentence investigation report or the subject's authorized representative; or
- (e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15)(a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16)(a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for those persons who have been determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Addendum B

Addendum B

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE

SALT LAKE COUNTY, STATE OF UTAH

STATE OF UTAH,

: Case No. 131908284

Plaintiff,

:
: Appellate Court Case No. 20170022

vs.

:

TRAVIS SCOTT MURRAY,

:

Defendant.

:
: With Keyword Index

POST SENTENCING DECEMBER 12, 2016

BEFORE

JUDGE ANN BOYDEN

CAROLYN ERICKSON, CSR
CERTIFIED COURT TRANSCRIBER

1775 East Ellen Way
Sandy, Utah 84092
801-523-1186

APPEARANCES

For the Plaintiff:

SAMUEL P. SUTTON
Deputy District Attorney

For the Defendant:

SHARLA M. DUNROE
Attorney at Law

* * *

INDEX

ORAL ARGUMENTS	Page
Ms. Dunroe	1, 5
Probation Officer	4
Mr. Sutton	5
Defendant Murray	3, 8
SENTENCE	11

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

SALT LAKE CITY, UTAH; DECEMBER 12, 2016

JUDGE ANN BOYDEN

(Transcriber's note: Identification of speakers
may not be accurate with the audio recordings.)

PROCEEDINGS

(Time 10:59:48)

MS. DUNROE: Travis Murray, please?

THE COURT: Murray, thank you.

Is Mr. Murray in custody?

MS. DUNROE: He is.

THE COURT: All right. With Mr. Murray, I am
dealing with affidavits from AP&P alleging violations of the
probation on this third degree DUI. I received the first one
in February of 2016 but I have since received a more updated
one but it's a month later. My most recent one is March
23rd, 2016.

MS. DUNROE: That's what I have as well and I
confirmed with AP&P today that that's the most recent one
they have.

THE COURT: So how are we addressing those?

MS. DUNROE: Can I have just a quick moment?

THE COURT: Uh-huh (affirmative).

MS. DUNROE: Judge, Mr. Murray intends to enter
admissions to numbers 1, 4, 6 and 9.

THE COURT: All right. And agreed upon

1 recommendations, are we looking at what has - the
2 recommendation is closing with jail time? Is he serving
3 other...

4 MS. DUNROE: No, he's not currently serving any
5 other commitments. We don't stipulate to the jail that will
6 be requested by AP&P. We have a separate -

7 THE COURT: You want to make some argument with
8 that, but there hasn't been an agreed upon. And it's 1, 3, 4,
9 and 9 or what?

10 MS. DUNROE: It's 1, 4, 6 and 9.

11 THE COURT: That's actually what I circled but then
12 I didn't trust my numbers.

13 MS. DUNROE: And numbers 3, 4, 5, 6, 7 and 8 result
14 from events that ended up in the filing of Justice Court case
15 number -

16 THE COURT: All from the same date? And that's how
17 it was resolved was No. 4?

18 MS. DUNROE: Correct, well, 4 and 6.

19 THE COURT: Four and 6, so that makes sense to that
20 one.

21 All right Mr. Murray, this makes sense to me. What
22 you need to know before you make any admissions is we're not
23 dealing with the case in the justice court, we're dealing
24 with how I should address a third degree DUI that you're on
25 probation for. If you admit that you're not compliant or if

1 I find that you're not compliant, you risk losing the
2 privilege of probation altogether and having the zero to five
3 years prison sentence imposed. Do you understand that?

4 DEFENDANT MURRAY: Yes.

5 THE COURT: Without any further evidentiary
6 hearing, is it your decision to make those admissions to me
7 today or do you want me to set it for - you want to make the
8 admissions today as your attorney has said or do you want me
9 to set it for an evidentiary hearing?

10 DEFENDANT MURRAY: No ma'am, I'd just like to move
11 forward with -

12 THE COURT: With those admissions today?

13 DEFENDANT MURRAY: Yes.

14 THE COURT: Number 1 is that you used alcohol,
15 meth, and cocaine on October - excuse me - January 8th of
16 2016, you admit that?

17 DEFENDANT MURRAY: Yes, ma'am.

18 THE COURT: The next line also includes opiates.
19 All four substances on that January 8th date?

20 DEFENDANT MURRAY: Yes, ma'am.

21 THE COURT: Number 4 is that you committed the
22 offense of ignition interlock on February 20th, did you plead
23 guilty to that Class C Misdemeanor in justice court?

24 DEFENDANT MURRAY: Yes, ma'am.

25 THE COURT: And No. 6 is that you committed the

1 offense of operating the vehicle without insurance, a Class C
2 Misdemeanor from the same date. Was that part of your plea?

3 DEFENDANT MURRAY: Yes, ma'am.

4 THE COURT: And No. 9 is you did not report on
5 February 23rd. Do you admit that as well?

6 DEFENDANT MURRAY: Yes, I do.

7 THE COURT: All of these are 2016 dates.

8 I will accept admissions to number 1, 4, 6, and 9
9 as knowingly made today and strike the remaining conditions
10 today. Those admissions are certainly a basis for my ruling
11 today.

12 What is the State and AP&P asking for and then I'll
13 let the defense respond?

14 MR. ?: Your Honor, the defendant basically said he
15 didn't want to do supervision. He even - AP&P attempted to
16 work with him by giving him room sanctions after the
17 violations and he said - we ordered him to report and he, and
18 I see a quote that said "Yeah, I don't, I don't know about
19 that." So he's just basically saying whatever AP&P wants,
20 I'm going to do what I want and he got new charges while on
21 probation. He pled to those in a prior to us knowing about
22 them, he pled guilty. I think a year imposed would be a
23 reasonable offer on this, just because he doesn't want to do
24 probation.

25 THE COURT: One of the allegations that we did not

1 address was the, his leaving the state, that he didn't report
2 on those days and -

3 MR. ?: Yes, there are several instances where he
4 had phone conversations with his agent where he was out-of-
5 state in California, Wyoming, Idaho which is in direct
6 violation of his probation agreement.

7 THE COURT: Okay, all right. Thank you.

8 And does the State have anything further?

9 MR. SUTTON: Your Honor, the State would submit on
10 that recommendation from AP&P (inaudible).

11 THE COURT: Okay, thank you. Then the defendant's
12 response?

13 MS. DUNROE: I absolutely see how AP&P could have
14 taken Mr. Murray's words and actions as a signal of
15 disrespect. I don't think he intended them that way. Mr.
16 Murray, for perhaps the first time in his life, was met with
17 a situation of homelessness. It's not one he had encountered
18 before then and it was the homelessness that he did not deal
19 with in an appropriate way. And, you know, I say that, I
20 don't know what I would do to deal with homelessness but that
21 is the situation he found himself in. His father could offer
22 him both a place to live and a job and I think during those
23 time periods he was with his dad, he was sober. The
24 conversations that maybe preceded that when he did test
25 positive for the use of drugs, they did come at a time when

1 he had relapsed and I don't know that we should read too much
2 into what someone whose under the influence of substances,
3 you know, may have to say about doing treatment.

4 But it is clear that Mr. Murray actually has
5 established himself as someone who is able and willing to
6 complete treatment and he already did.

7 Now, certainly his actions after that show that he
8 could benefit from more treatment and that's not uncommon
9 either but AP&P has reported that his treatment provider made
10 them aware that he did complete treatment and he did. That
11 was prior to the relapse which is what happened. I
12 understand - which is why I think that he could benefit from
13 additional treatment but that is not to say that Mr. Murray
14 ever intended to just run away and to not deal with any of
15 this. He dealt with this situation in a way that I think
16 came out of a situation of fear and perhaps some
17 irresponsibility. He and I have discussed that and he
18 understands that what he did was not appropriate, that he
19 needs to stay in the state. He tells me the situation that
20 is different now is that he does in fact have a place to live
21 in the state which he previously did not have. That's a
22 somewhat new development for him and that he can stay in the
23 state and would very much like to complete probation because
24 he did do well. He did well for a while. He was unable to
25 pay the fine which I think is why his probation wasn't closed

1 out sooner but that's not uncommon with a fine of close to
2 \$3000. And he would very much like the opportunity to do
3 treatment again, to do treatment and probation. He thinks he
4 can complete it, he wants to complete it and frankly, he's
5 already shown us that he has the ability and the desire to at
6 least complete the treatment portion.

7 Again, his plan, and I think AP&P's ideas for him
8 sort of went off the rails when he was met with that
9 homelessness and it was a pretty substantial thing for him in
10 his life, a very stressful event that he did not handle
11 appropriately and obviously that caused him to be in
12 violation of his probation.

13 THE COURT: Have there been any new charges other
14 than this February 20th case with -

15 MS. DUNROE: The AP&P agent and I were able to find
16 a retail theft case that was filed on the date he was booked
17 into jail.

18 THE COURT: And when was that?

19 MS. DUNROE: That was November 22nd.

20 THE COURT: And that's why my next question was
21 what ultimately brought him into jail was a new arrest and a
22 new offense, is that -

23 MS. DUNROE: That has not been adjudicated and he
24 very much maintains his innocence there. He has, to my
25 knowledge, at least what he tells me is a retail theft is not

1 something he's ever committed. He doesn't have a history of
2 theft offenses and he was with a group of people who may have
3 been guilty of that and then he was also arrested for guilty
4 by association. So I understand he intends to fight that
5 case and that one has not been adjudicated, there's not even
6 a court date for it.

7 THE COURT: And is it still holding him or is only
8 my warrant on this non-compliance?

9 MS. DUNROE: I don't have his most current booking
10 sheet to be able to tell you that but we did find it -

11 THE COURT: And he's been in jail since November
12 20th on that arrest or whatever that is.

13 MS. DUNROE: November 22nd.

14 THE COURT: Twenty-two. And all right.

15 DEFENDANT MURRAY: May I have a quick word?

16 THE COURT: I'm going to let you respond
17 ultimately, you get the last word. There were a couple more
18 questions I just wanted to clarify and I may have. I think I
19 did answer it. What is it that you want me to know?

20 DEFENDANT MURRAY: One thing my attorney has
21 already kind of touched on this already but I do have the
22 will to remain sober and clean. I've shown that for AP&P,
23 for the last three years by completing courses. I've had UAs
24 throughout the entire process and haven't really messed up
25 until basically after the three years was suppose to be up

1 but due to not being able to pay the fines, then dealing with
2 not having a place to live, kind of got the better of me but
3 I would like to get back on the right track and remain clean
4 and get a job and be a productive member of society. And
5 there was one other thing that I wanted to say but I've
6 forgotten at this point.

7 Yeah, as far as the absconding, I just wanted to
8 say that my dad was really just trying to help me out in a
9 tight bind when I didn't have a place to live. One of his
10 very strict rules was "there will be no drinking or drugs in
11 my house or you will be homeless and I won't be able to help
12 you from there" and I've done some - I've helped my dad, he
13 owns a commercial plumbing business. He's not here today or
14 able to verify that but he would verify for me that I was
15 clean the entire time and working for him and when I came
16 back, I had every intention of contacting Agent Whitehead who
17 is my probation officer but, ummm, things didn't work out the
18 way I'd planned and was just basically hanging around with
19 the wrong crowd and they were stealing from WalMart. I was
20 guilty by association but did not steal anything from there
21 and I had told the Walmart security repeatedly that as well
22 so that should go okay.

23 THE COURT: Well, and all of this is important
24 information, Mr. Murray, but what you and your defense
25 attorney are asking me to do is just kind of treat this

1 something different than it is. We are dealing with a third
2 degree felony DUI. You don't even get to the level of a
3 third degree DUI until you have a history of DUI and the
4 sentence that was suspended was not a year in jail, that you
5 don't really want to do because you just really relapsed and
6 were just kind of doing what you thought was best or your dad
7 though was best. You were on probation for a felony with a
8 suspended prison sentence and that is the sentence that the
9 law provides and I could very fairly impose at his point.
10 The factors that you did well at the beginning of probation
11 are factors that I take into consideration but this is not a
12 case where you are just looking at possession of a controlled
13 substance where you relapsed and now you want to get back on
14 track and now you've got a better living situation.

15 You are dealing with a DUI and the fact that you
16 convicted of driving without the ignition interlock
17 protections, the fact that you were consuming alcohol and
18 weren't on probation and weren't compliant, is a danger,
19 danger, dangerous situation to yourself, to your family and
20 to the community as a whole and so the requests that are
21 being made by all sides here - and what I take into
22 consideration is, that you have failed to comply with felony
23 DUI probation, not that you just decided to do this on your
24 own. The answer when you found yourself homeless was going
25 into AP&P and saying I've done two years of success, let's

1 get this done, help me, I need treatment. It wasn't just
2 saying, Well, I can blow it off and do it on my own not being
3 responsive when AP&P instructed you to come back. The fact
4 that you have done what you have done, Mr. Murray, is the
5 basis for my not imposing the prison sentence right now.

6 Your requests that you would like an opportunity to
7 do this successfully and do treatment is going to be granted
8 that I'm going to give you an opportunity but it is going to
9 be with a significant sanction and it is going to be with the
10 understanding that if you fail to comply, you're not getting
11 a year in jail to close.

12 So I am revoking and reinstating probation for a
13 period of 12 months from today's date. The reason that it is
14 so short a time is because you've done a longer time and
15 because if you don't succeed, I'm going to be imposing the
16 original sentence as the sanction. However, Mr. Murray, this
17 is where the difference between your request for a simple
18 possession, a simple relapse, a simple just trying to do it,
19 is the factor. I am imposing a 180-day jail sentence
20 beginning from November 22nd with the order that you
21 successfully complete the CATS Program in jail. You may be
22 released upon successful completion of the CATS Program in
23 jail and you go directly to AP&P and finish your year's worth
24 of probation. If you don't complete CATS or if you don't
25 qualify for CATS - and it looks like you can - then you

1 simply serve the 180-day jail sanction. This is the way that
2 you keep the prison sentence suspended and this the way that
3 you can ultimately finish probation rather than just calling
4 your own shots and having a year-long jail sentence for an
5 unsuccessful completion.

6 The financial obligations on a DUI are mandated so
7 they are still in place and you still need to figure that
8 out.

9 Good luck, I think this is the only compromise that
10 you can do but I do think it is a fair one for you. Good
11 luck, thank you.

12 DEFENDANT MURRAY: Thank you.

13 (Whereupon the hearing was concluded)
14
15
16
17
18
19
20
21
22
23
24

25 (Transcript completed on January 26, 2017)

<p>\$</p> <p>\$3000 [1] 7:2</p> <hr/> <p>1</p> <p>10:59:48 [1] 1:6</p> <p>12 [2] 1:1 11:13</p> <p>180-day [2] 11:19 12:1</p> <hr/> <p>2</p> <p>2016 [5] 1:1,14,16 3:16 4:7</p> <p>2017 [1] 12:14</p> <p>20th [3] 3:22 7:14 8:12</p> <p>22nd [3] 7:19 8:13 11:20</p> <p>23rd [2] 1:16 4:5</p> <p>26 [1] 12:14</p> <hr/> <p>8</p> <p>8th [2] 3:15,19</p> <hr/> <p>A</p> <p>ability [1] 7:5</p> <p>absconding [1] 9:7</p> <p>absolutely [1] 5:13</p> <p>accept [1] 4:8</p> <p>accurate [1] 1:4</p> <p>actions [2] 5:14 6:7</p> <p>additional [1] 6:13</p> <p>address [2] 2:24 5:1</p> <p>addressing [1] 1:20</p> <p>adjudicated [2] 7:23 8:5</p> <p>admissions [7] 1:24 2:22 3:6,8,12 4:8,10</p> <p>admit [3] 2:25 3:16 4:5</p> <p>affidavits [1] 1:12</p> <p>agent [3] 5:4 7:15 9:16</p> <p>agreed [2] 1:25 2:8</p> <p>agreement [1] 5:6</p> <p>alcohol [2] 3:14 10:17</p> <p>allegations [1] 4:25</p> <p>alleging [1] 1:12</p> <p>altogether [1] 3:2</p> <p>ann [1] 1:2</p> <p>answer [2] 8:19 10:24</p> <p>ap&p [14] 1:12,18 2:6 4:12, 15,19 5:10,13 6:9 7:15 8: 22 10:25 11:3,23</p> <p>ap&p's [1] 7:7</p> <p>appropriate [2] 5:19 6:18</p> <p>appropriately [1] 7:11</p>	<p>argument [1] 2:7</p> <p>around [1] 9:18</p> <p>arrest [2] 7:21 8:12</p> <p>arrested [1] 8:3</p> <p>association [2] 8:4 9:20</p> <p>attempted [1] 4:15</p> <p>attorney [3] 3:8 8:20 9:25</p> <p>audio [1] 1:4</p> <p>aware [1] 6:10</p> <p>away [1] 6:14</p> <hr/> <p>B</p> <p>back [4] 9:3,16 10:13 11:3</p> <p>basically [3] 4:19 8:25 9: 18</p> <p>basis [2] 4:10 11:5</p> <p>beginning [2] 10:10 11:20</p> <p>benefit [2] 6:8,12</p> <p>best [2] 10:6,7</p> <p>better [2] 9:2 10:14</p> <p>between [1] 11:17</p> <p>bind [1] 9:9</p> <p>blow [1] 11:2</p> <p>booked [1] 7:16</p> <p>booking [1] 8:9</p> <p>both [1] 5:22</p> <p>boyden [1] 1:2</p> <p>brought [1] 7:21</p> <p>business [1] 9:13</p> <hr/> <p>C</p> <p>california [1] 5:5</p> <p>calling [1] 12:3</p> <p>came [2] 6:16 9:15</p> <p>case [6] 2:14,23 7:14,16 8: 5 10:12</p> <p>cats [4] 11:21,22,24,25</p> <p>caused [1] 7:11</p> <p>certainly [2] 4:10 6:7</p> <p>charges [2] 4:20 7:13</p> <p>circled [1] 2:11</p> <p>city [1] 1:1</p> <p>clarify [1] 8:18</p> <p>class [2] 3:23 4:1</p> <p>clean [3] 8:22 9:3,15</p> <p>clear [1] 6:4</p> <p>close [2] 7:1 11:11</p> <p>closed [1] 6:25</p> <p>closing [1] 2:2</p>	<p>cocaine [1] 3:15</p> <p>commercial [1] 9:13</p> <p>commitments [1] 2:5</p> <p>committed [3] 3:21,25 8:1</p> <p>community [1] 10:20</p> <p>complete [8] 6:6,10,23 7: 4,4,6 11:21,24</p> <p>completed [1] 12:14</p> <p>completing [1] 8:23</p> <p>completion [2] 11:22 12: 5</p> <p>compliant [3] 2:25 3:1 10: 18</p> <p>comply [2] 10:22 11:10</p> <p>compromise [1] 12:9</p> <p>concluded [1] 12:13</p> <p>conditions [1] 4:9</p> <p>confirmed [1] 1:18</p> <p>consideration [2] 10:11, 22</p> <p>consuming [1] 10:17</p> <p>contacting [1] 9:16</p> <p>controlled [1] 10:12</p> <p>conversations [2] 5:4,24</p> <p>convicted [1] 10:16</p> <p>couple [1] 8:17</p> <p>courses [1] 8:23</p> <p>crowd [1] 9:19</p> <p>current [1] 8:9</p> <p>currently [1] 2:4</p> <p>custody [1] 1:9</p> <hr/> <p>D</p> <p>dad [4] 5:23 9:8,12 10:6</p> <p>danger [2] 10:18,19</p> <p>dangerous [1] 10:19</p> <p>date [6] 2:16 3:19 4:2 7:16 8:6 11:13</p> <p>dates [1] 4:7</p> <p>days [1] 5:2</p> <p>deal [3] 5:18,20 6:14</p> <p>dealing [6] 1:12 2:23,23 9: 1 10:1,15</p> <p>dealt [1] 6:15</p> <p>december [1] 1:1</p> <p>decided [1] 10:23</p> <p>decision [1] 3:6</p> <p>defendant [11] 3:4,10,13, 17,20,24 4:3,6 8:15,20 12: 12</p>	<p>12</p> <p>defendant's [1] 5:11</p> <p>defense [2] 4:13 9:24</p> <p>degree [4] 1:13 2:24 10:2, 3</p> <p>desire [1] 7:5</p> <p>development [1] 6:22</p> <p>difference [1] 11:17</p> <p>different [2] 6:20 10:1</p> <p>direct [1] 5:5</p> <p>directly [1] 11:23</p> <p>discussed [1] 6:17</p> <p>disrespect [1] 5:15</p> <p>drinking [1] 9:10</p> <p>driving [1] 10:16</p> <p>drugs [2] 5:25 9:10</p> <p>due [1] 9:1</p> <p>dui [8] 1:13 2:24 10:2,3,3, 15,23 12:6</p> <p>dunroe [15] 1:7,10,17,21, 23 2:4,10,13,18 5:13 7:15, 19,23 8:9,13</p> <p>during [1] 5:22</p> <hr/> <p>E</p> <p>encountered [1] 5:17</p> <p>ended [1] 2:14</p> <p>enter [1] 1:23</p> <p>entire [2] 8:24 9:15</p> <p>established [1] 6:5</p> <p>even [3] 4:15 8:5 10:2</p> <p>event [1] 7:10</p> <p>events [1] 2:14</p> <p>evidentiary [2] 3:5,9</p> <p>excuse [1] 3:15</p> <hr/> <p>F</p> <p>fact [4] 6:20 10:15,17 11:3</p> <p>factor [1] 11:19</p> <p>factors [2] 10:10,11</p> <p>fail [1] 11:10</p> <p>failed [1] 10:22</p> <p>fair [1] 12:10</p> <p>fairly [1] 10:9</p> <p>family [1] 10:19</p> <p>far [1] 9:7</p> <p>father [1] 5:21</p> <p>fear [1] 6:16</p> <p>february [4] 1:14 3:22 4:5</p>
--	--	--	--


<p>7:14 felony [3] 10:2,7,22 fight [1] 8:4 figure [1] 12:7 filed [1] 7:16 filing [1] 2:14 financial [1] 12:6 find [3] 3:1 7:15 8:10 fine [2] 6:25 7:1 fines [1] 9:1 finish [2] 11:23 12:3 five [1] 3:2 forgotten [1] 9:6 forward [1] 3:11 found [2] 5:21 10:24 four [2] 2:19 3:19 frankly [1] 7:4 further [2] 3:5 5:8</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>getting [1] 11:10 giving [1] 4:16 granted [1] 11:7 group [1] 8:2 guilty [5] 3:23 4:22 8:3,9 9:20</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>handle [1] 7:10 hanging [1] 9:18 happened [1] 6:11 hearing [3] 3:6,9 12:13 help [3] 9:8,11 11:1 helped [1] 9:12 himself [2] 5:21 6:5 history [2] 8:1 10:3 holding [1] 8:7 homeless [2] 9:11 10:24 homelessness [4] 5:17, 18,20 7:9 house [1] 9:11</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idaho [1] 5:5 ideas [1] 7:7 identification [1] 1:3 ignition [2] 3:22 10:16 important [1] 9:23 impose [1] 10:9</p>	<p>imposed [2] 3:3 4:22 imposing [3] 11:5,15,19 includes [1] 3:18 influence [1] 6:2 information [1] 9:24 innocense [1] 7:24 instructed [1] 11:3 insurance [1] 4:1 intended [2] 5:15 6:14 intends [2] 1:23 8:4 intention [1] 9:16 interlock [2] 3:22 10:16 irresponsibility [1] 6:17</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jail [12] 2:2,5 7:17,21 8:11 10:4 11:11,19,21,23 12:1,4 january [3] 3:15,19 12:14 job [2] 5:22 9:4 justice [3] 2:14,23 3:23</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep [1] 12:2 kind [4] 8:21 9:2,25 10:6 knowing [1] 4:21 knowingly [1] 4:9 knowledge [1] 7:25</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lake [1] 1:1 last [2] 8:17,23 later [1] 1:15 law [1] 10:9 least [2] 7:6,25 leaving [1] 5:1 level [1] 10:2 life [2] 5:16 7:10 line [1] 3:18 live [4] 5:22 6:20 9:2,9 living [1] 10:14 longer [1] 11:14 looking [2] 2:1 10:12 looks [1] 11:25 losing [1] 3:1 luck [2] 12:9,11</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am [5] 3:10,17,20,24 4:3</p>	<p>maintains [1] 7:24 mandated [1] 12:6 march [1] 1:15 member [1] 9:4 messed [1] 8:24 met [2] 5:16 7:8 meth [1] 3:15 misdemeanor [2] 3:23 4:2 moment [1] 1:21 month [1] 1:15 months [1] 11:13 move [1] 3:10 murray [23] 1:7,8,9,11,23 2:21 3:4,10,13,17,20,24 4:3, 6 5:16 6:4,13 8:15,20 9:24 11:4,16 12:12 murray's [1] 5:14</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>need [3] 2:22 11:1 12:7 needs [1] 6:19 new [5] 4:20 6:22 7:13,21, 22 next [2] 3:18 7:20 non-compliance [1] 8:8 note [1] 1:3 november [4] 7:19 8:11, 13 11:20 number [4] 2:15 3:14,21 4:8 numbers [3] 1:24 2:12,13</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>obligations [1] 12:6 obviously [1] 7:11 october [1] 3:15 offense [3] 3:22 4:1 7:22 offenses [1] 8:2 offer [2] 4:23 5:21 officer [1] 9:17 one [12] 1:13,15,15,18 2:20 4:25 5:17 8:5,20 9:5,9 12:10 only [2] 8:7 12:9 operating [1] 4:1 opiates [1] 3:18 opportunity [3] 7:2 11:6,8 order [1] 11:20</p>	<p>ordered [1] 4:17 original [1] 11:16 out [5] 6:16 7:1 9:8,17 12:8 out-of [1] 5:4 own [3] 10:24 11:2 12:4 owns [1] 9:13</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>part [1] 4:2 pay [2] 6:25 9:1 people [1] 8:2 perhaps [2] 5:16 6:16 period [1] 11:13 periods [1] 5:23 phone [1] 5:4 place [5] 5:22 6:20 9:2,9 12:7 plan [1] 7:7 planned [1] 9:18 plea [1] 4:2 plead [1] 3:22 pled [2] 4:21,22 plumbing [1] 9:13 point [2] 9:6 10:9 portion [1] 7:6 positive [1] 5:25 possession [2] 10:12 11:18 preceded [1] 5:24 pretty [1] 7:9 previously [1] 6:21 prior [2] 4:21 6:11 prison [4] 3:3 10:8 11:5 12:2 privilege [1] 3:2 probation [18] 1:13 2:25 3:2 4:21,24 5:6 6:23,25 7:3, 12 9:17 10:7,10,18,23 11:12,24 12:3 proceedings [1] 1:5 process [1] 8:24 productive [1] 9:4 program [2] 11:21,22 protections [1] 10:17 provider [1] 6:9 provides [1] 10:9</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualify [1] 11:25</p>
--	--	--	---

question [1] 7:20 questions [1] 8:18 quick [2] 1:21 8:15 quote [1] 4:18 <hr/> R <hr/> rails [1] 7:8 rather [1] 12:3 read [1] 6:1 really [4] 8:24 9:8 10:5,5 reason [1] 11:13 reasonable [1] 4:23 received [2] 1:13,14 recent [2] 1:15,18 recommendation [2] 2:2 5:10 recommendations [1] 2: 1 recordings [1] 1:4 reinstating [1] 11:12 relapse [2] 6:11 11:18 relapsed [3] 6:1 10:5,13 released [1] 11:22 remain [2] 8:22 9:3 remaining [1] 4:9 repeatedly [1] 9:21 report [3] 4:4,17 5:1 reported [1] 6:9 request [1] 11:17 requested [1] 2:6 requests [2] 10:20 11:6 resolved [1] 2:17 respond [2] 4:13 8:16 response [1] 5:12 responsive [1] 11:3 result [1] 2:13 retail [2] 7:16,25 revoking [1] 11:12 risk [1] 3:1 room [1] 4:16 rules [1] 9:10 ruling [1] 4:10 run [1] 6:14 <hr/> S <hr/> salt [1] 1:1 same [2] 2:16 4:2 sanction [3] 11:9,16 12:1 sanctions [1] 4:16	saying [3] 4:19 10:25 11:2 security [1] 9:21 sense [2] 2:19,21 sentence [9] 3:3 10:4,8,8 11:5,16,19 12:2,4 separate [1] 2:6 serve [1] 12:1 serving [2] 2:2,4 set [2] 3:7,9 sheet [1] 8:10 short [1] 11:14 shots [1] 12:4 show [1] 6:7 shown [2] 7:5 8:22 sides [1] 10:21 signal [1] 5:14 significant [1] 11:9 simple [3] 11:17,18,18 simply [1] 12:1 situation [7] 5:17,21 6:15, 16,19 10:14,19 sober [2] 5:23 8:22 society [1] 9:4 someone [2] 6:2,5 somewhat [1] 6:22 sooner [1] 7:1 sort [1] 7:8 speakers [1] 1:3 state [8] 4:12 5:1,5,8,9 6: 19,21,23 stay [2] 6:19,22 steal [1] 9:20 stealing [1] 9:19 still [3] 8:7 12:7,7 stipulate [1] 2:5 stressful [1] 7:10 strict [1] 9:10 strike [1] 4:9 submit [1] 5:9 substance [1] 10:13 substances [2] 3:19 6:2 substantial [1] 7:9 succeed [1] 11:15 success [1] 10:25 successful [1] 11:22 successfully [2] 11:7,21 supervision [1] 4:15 suppose [1] 8:25	suspended [3] 10:4,8 12: 2 sutton [1] 5:9 <hr/> T <hr/> tells [2] 6:19 7:25 test [1] 5:24 theft [3] 7:16,25 8:2 thinks [1] 7:3 third [4] 1:13 2:24 10:1,3 tight [1] 9:9 today's [1] 11:13 touched [1] 8:21 track [2] 9:3 10:14 transcript [1] 12:14 travis [1] 1:7 treat [1] 9:25 treatment [11] 6:3,6,8,9, 10,13 7:3,3,6 11:1,7 trust [1] 2:12 trying [2] 9:8 11:18 twenty-two [1] 8:14 <hr/> U <hr/> uas [1] 8:23 ultimately [3] 7:21 8:17 12:3 unable [1] 6:24 uncommon [2] 6:8 7:1 under [1] 6:2 understand [3] 3:3 6:12 8: 4 understanding [1] 11:10 understands [1] 6:18 unsuccessful [1] 12:5 until [2] 8:25 10:3 updated [1] 1:14 utah [1] 1:1 <hr/> V <hr/> vehicle [1] 4:1 verify [2] 9:14,14 violation [2] 5:6 7:12 violations [2] 1:12 4:17 <hr/> W <hr/> walmart [2] 9:19,21 wanted [3] 8:18 9:5,7 wants [2] 4:19 7:4	warrant [1] 8:8 whatever [2] 4:19 8:12 whitehead [1] 9:16 whole [1] 10:20 willing [1] 6:5 word [2] 8:15,17 words [1] 5:14 work [2] 4:16 9:17 working [1] 9:15 worth [1] 11:23 wyoming [1] 5:5 <hr/> Y <hr/> year [3] 4:22 10:4 11:11 year-long [1] 12:4 years [4] 3:3 8:23,25 10:25 year's [1] 11:23 yourself [2] 10:19,24 <hr/> Z <hr/> zero [1] 3:2
--	---	---	--

CERTIFICATE

I HEREBY CERTIFY that the foregoing transcript in the before mentioned proceeding was transcribed by me from an audio recording and is a full, true and correct transcription of the requested proceedings as set forth in the preceding pages to the best of my ability.

Signed in Sandy, Utah.


Carolyn Erickson
Certified Shorthand Reporter
Certified Court Transcriber