

SPECIALTY COURTS

Guest Author James Popovich, Speciality Courts Manager, Second Judicial District Court

The Second Judicial District's Specialty Court Programs

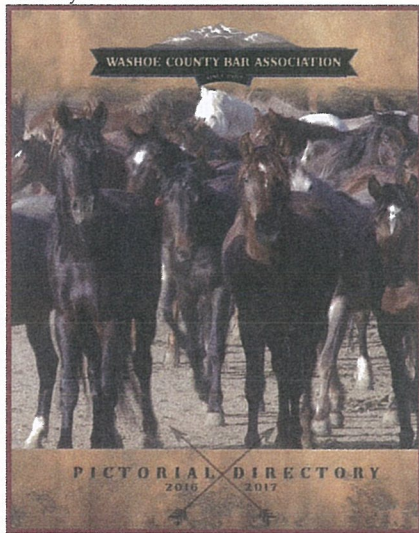
He started smoking methamphetamine (meth) at the age of 12, when his father introduced him to the “high” and the ritual of daily use. By the time he was 15, he was injecting meth and heroin on a daily basis. He had been in and out of the juvenile detention center due to numerous run-ins with law enforcement. His grandparents placed him in an out-of-state drug treatment program, which he left two weeks later, against staff advice. His grades were far below average and he continued having behavioral issues, which resulted in numerous suspensions, so he ended up dropping out of high school. By then, he was selling drugs and associating with a local neighborhood gang. At the age of 18, he was arrested and charged with Possession of a Controlled Substance, a felony. He appeared in the Second Judicial District Court (SJDC) and was given the option of entering Diversion Court.

After a difficult start in Diversion Court with a few relapses on heroin, he was evaluated for, and transferred to, Medication-Assisted Treatment (MAT) Court. He was prescribed Suboxone, which helped manage his withdrawal symptoms. Thereafter, he remained drug-free through the duration of his program. He participated in weekly individual and group counseling sessions, was drug tested frequently, and prepared for and passed his GED test.

This description is fictitious, however, it depicts the common experiences and events for many of our specialty court participants. Successful cases like this are commonplace across all of the Second Judicial District Court's Specialty Courts. It is known that success depends on the participant's motivation to change, as well as correctly matching needs with the appropriate level of care and resources. The disease of addiction and mental

illness are costly to treat and extremely resource-dependent.

The SJDC's Specialty Courts rely on grants from the Administrative Office of the Courts (AOC) in order to offer the multitude of services needed to help participants achieve success. The local treatment providers do receive reimbursements through Medicaid and Nevada's Substance Abuse Prevention and Treatment Agency (SAPTA) for direct services. However, additional funding is needed to assist with developing and maintaining the infrastructure of each court, as well as paying for participants who are not eligible for Medicaid. Professional services that the SJDC contracts for include substance abuse counseling and mental health therapy; drug testing; targeted case management; and medication-assisted treatment. The SJDC also employs seven Specialty Court Officers, who are primarily funded through Washoe County General Fund dollars along with AOC grants. To help offset the cost of salaries, benefits, and services, some of the participant contributions are re-directed to the county General Fund.



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The initial funding source for AOC grants was made available through the 2003 passage of Assembly Bill 29 (NRS 176.0613). That year the Specialty Court Funding Committee was also created to oversee specialty court operations in Nevada. SJDC's "AB-29 courts" include: Adult Drug; Diversion; Mental Health; Family Drug; Family Mental Health; Veterans; and Felony DUI. These courts were awarded \$919,152 for fiscal year 2017. SJDC served a total of 1,550 participants in these seven courts during calendar year 2015.

Another source for funding SJDC Specialty Courts was established during the 78th session of the Nevada Legislature in 2015. The Legislature approved a state General Fund appropriation of three million dollars each year of the biennium to enhance specialty court programs. For fiscal year 2017, the SJDC was awarded \$244,296 for its new Youth Offender Drug Court, Northern Nevada Regional Mental Health Court (an expansion of the existing Mental Health Court), and to create and operate a new Medication-Assisted Treatment Court. Since November 2015, 53 participants have been served by the three new courts and funding is available to serve an additional 42 through the end of June 2017.

SJDC has also received other grants including, a 3-year SAMHSA grant for Prison Reentry Court and an Office of Traffic Safety (OTS) grant for Felony DUI Court. These federal grants have assisted in developing the critical infrastructure required to operate these two programs. The SAMHSA grant expired this past July and the OTS grant will expire in 2019. Also, a donation was made to Youth Offender Drug Court from Doors to Recovery, a community non-profit organization. This gift helped

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CONVERSATIONS ON DISCOVERY CONTINUED
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private Facebook postings to determine relevance); *Thompson*, 2012 WL 2342928, at *4 (“[b]ecause Plaintiff has not claimed that the requested information is privileged or protected, the Court finds an *in camera* review of Plaintiff’s social networking site accounts unnecessary”); *EEOC v. Simply Storage Mgmt.*, 270 F.R.D. 430, 436 (S.D. Ind. 2010) (requiring plaintiff’s counsel to determine what social networking communications are responsive to discovery requests in the first instance).

Some parties seeking social media discovery may be tempted to serve a subpoena duces tecum on a third-party host or Internet service provider. In that regard, the Stored Communications Act, 18 U.S.C. §§ 2701-2703 (2012), limits the ability of these kinds of third-parties to voluntarily disclose information about their customers and subscribers. In addition, federal courts have held that this act does not contain an exception for civil discovery subpoenas. See *Crispin v. Christian Audigier, Inc.*, 717 F. Supp. 2d 965, 976 (C.D. Cal. 2010) (regarding subpoena directed to social networking sites). The act does not override a party’s obligation to produce relevant ESI within its possession, custody, or control. See *Gensler* at 26-27 & nn.77-79 (noting, inter alia, that “Facebook policies make it patently clear that account holders ‘own’ the contents of their pages”).

Of course, the discoverability of social media information implicates preservation obligations for litigants. As an initial matter, social media content should be included in litigation-hold notices instructing the preservation of all relevant evidence. Some social media sites facilitate the ability of a user to obtain and preserve this information. Facebook users can download a copy of that user’s Facebook data by selecting “Settings” at the top right of any Facebook page, clicking “Download a copy of your Facebook data” below

the General Account Settings, and then clicking “Start My Archive.” See *Baxter v. Anderson*, Civil Action No. 16-142-JWD-RLB, 2016 WL 4443178, at *4 n.2 (M.D. La. Aug. 19, 2016). Twitter and some other social networking websites apparently have similar capabilities. See *id.* As with other relevant material, the failure to preserve relevant social media information can result in the imposition of sanctions, although the Court has broad discretion in determining the extent to which sanctions are warranted. See *Thurmond v. Bowman*, No. 6:14-CV-6465W, 2016 WL 1295957, at *7-11 (Mar. 31, 2016), *recommendation adopted*, 2016 WL 4240050 (W.D.N.Y. Aug. 10, 2016); *Painter v. Atwood*, No. 2:12-cv-01215-JCM-NJK, 2014 WL 1089694, at *3-9 (Mar. 18, 2014), *reconsideration denied*, 2014 WL 3611636 (D. Nev. July 21, 2014); *Gatto v. United Airlines, Inc.*, Civil Action No. 10-cv-1090-ES-SCM, 2013 WL 1285285, at *3-5 (D.N.J. Mar. 25, 2013); *Katiroll Co. v. Kati Roll & Platters, Inc.*, Civil Action No. 10-3620 (GEB), 2011 WL 3583408, at *1, 3, 7 (D.N.J. Aug. 3, 2011). As illustrated by one decision in which plaintiff and her counsel (who had advised his client to “clean up” his Facebook account) were ordered to pay monetary sanctions totaling over \$700,000, see *Allied Concrete Co. v. Lester*, 736 S.E.2d 699, 702-03 (Va. 2013), this obligation must be taken seriously.

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cover medication costs for participants that were not covered by Medicaid or for medication that was not on the managed care organizations’ formularies at that time.

According to a December 2010 publication entitled *Research Update on Adult Drug Courts*, written by Douglas Marlowe, rigorous studies examining long-term outcomes of individual drug courts found that reductions in crime last at least three years and can endure for more than 14 years. Recidivism is usually secondary to a return to drug use and the antisocial lifestyle that places offenders back within the justice system.

As we all continue to work towards building safe, secure and healthy communities throughout our county and state, it is imperative that we engage criminal offenders with substance abuse and mental illness with intensive therapeutic interventions in specially-trained courts. Criminal behavior may pass, but the disease of addiction lasts a lifetime, if we do not.

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