

FILED  
USDC UT Approved 05/06/00 Revised 01/28/04

2005 JAN 25 A **United States District Court**  
**District of Utah**

**UNITED STATES OF AMERICA**  
DEPUTY CLERK  
**vs.**

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

**David N. Nemelka, Jr.**

Case Number: **2:02cr00027-002 Conway**

Plaintiff Attorney: **Robert Lund**

Defendant Attorney: **Brent O. Hatch, Esq.**

Atty: CJA \_\_\_ Ret  FPD \_\_\_

Defendant's Soc. Sec. No.: \_\_\_\_\_

Defendant's Date of Birth: \_\_\_\_\_

Defendant's USM No.: **09363-081**

Defendant's Residence Address: \_\_\_\_\_

Country United States of America

**1/11/05**  
Date of Imposition of Sentence

Defendant's Mailing Address:  
Same

Country Same

THE DEFENDANT:

- pleaded guilty to count(s)
- pleaded nolo contendere to count(s) which was accepted by the court.
- was found guilty on count(s)

COP 1/11/05 Verdict \_\_\_\_\_

**1s, 2s of the Misdemeanor Information**

**Title & Section**  
18:USC 1018; 18:2

**Nature of Offense**  
False Certificate or Writing; Aiding and Abetting

**Count Number(s)**  
1s, 2s

Entered on docket  
1/26/05 by: ce  
Deputy Clerk

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) **1, 2, 3, 4-11 of the Indictment** (is)(are) dismissed on the motion of the United States.

**SENTENCE**

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of \_\_\_\_\_

Upon release from confinement, the defendant shall be placed on supervised release for a term of \_\_\_\_\_

- The defendant is placed on Probation for a period of **24 months**.  
The defendant shall not illegally possess a controlled substance.

109

Defendant: David N. Nemelka, Jr.  
Case Number: 2:02cr00027-002 Conway

*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

**SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION**

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. Defendant shall have no control over foreign bank accounts.
2. Defendant shall not engage in nominee trades.
3. Defendant shall not engage in business transactions with his father David R. Nemelka, Sr.

**CRIMINAL MONETARY PENALTIES**

**FINE**

The defendant shall pay a fine in the amount of \$ \$5,000.00 , payable as follows:

forthwith.

in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

other:  
\_\_\_\_\_

The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:

The interest requirement is waived.

The interest requirement is modified as follows:  
\_\_\_\_\_

**RESTITUTION**

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>

Defendant: David N. Nemelka, Jr.  
 Case Number: 2:02cr00027-002 Conway

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--------------------------------------

Totals: \$ \_\_\_\_\_ \$ \_\_\_\_\_

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- Restitution is payable as follows:
  - in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
  - other: \_\_\_\_\_
- The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until \_\_\_\_\_ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).
  - An Amended Judgment in a Criminal Case will be entered after such determination

**SPECIAL ASSESSMENT**

The defendant shall pay a special assessment in the amount of \$ \$50.00, payable as follows:

- forthwith.
- \$25.00 for Count 1s and 2s for a total of \$50.00

**IT IS ORDERED** that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

**PRESENTENCE REPORT/OBJECTIONS**

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

**DEPARTURE**

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

**RECOMMENDATION**

- Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons: \_\_\_\_\_

Defendant: David N. Nemelka, Jr.  
Case Number: 2:02cr00027-002 Conway


---

**CUSTODY/SURRENDER**

- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district at \_\_\_\_\_ on \_\_\_\_\_.
- The defendant shall report to the institution designated by the Bureau of Prisons by \_\_\_\_\_ Institution's local time, on \_\_\_\_\_.

DATE:

Jan 14 2005

  
\_\_\_\_\_  
John E. Conway  
United States District Judge

Defendant: David N. Nemelka, Jr.  
Case Number: 2:02cr00027-002 Conway

**RETURN**

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

United States District Court  
for the  
District of Utah  
January 26, 2005

\* \* CERTIFICATE OF SERVICE OF CLERK \* \*

Re: 2:02-cr-00027

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Judge John E. Conway  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO  
#740  
333 LOMAS BLVD NW  
ALBUQUERQUE, NM 87102  
EMAIL

US Probation  
DISTRICT OF UTAH  
,  
EMAIL

United States Marshal Service  
DISTRICT OF UTAH  
,  
EMAIL

Mr. J. Garry McAllister, Esq.  
1291 W 12600 S STE 102  
RIVERTON, UT 84065  
EMAIL

Robert E. Gooding, Esq.  
HOWREY SIMON ARNOLD & WHITE  
2020 MAIN ST STE 1000  
IRVINE, CA 92614

Stephanie Ames, Esq.  
32 EXCHANGE PL #101  
SALT LAKE CITY, UT 84111  
EMAIL

Mr. Max D Wheeler, Esq.  
SNOW CHRISTENSEN & MARTINEAU  
10 EXCHANGE PLACE  
PO BOX 45000  
SALT LAKE CITY, UT 84145-5000  
EMAIL

Brent O. Hatch, Esq.  
HATCH JAMES & DODGE  
10 W BROADWAY STE 400  
SALT LAKE CITY, UT 84101  
EMAIL

Mr. Loren E Weiss, Esq.  
VAN COTT BAGLEY CORNWALL & MCCARTHY  
50 S MAIN STE 1600  
PO BOX 45340  
SALT LAKE CITY, UT 84145  
EMAIL

Mr. Stewart C. Walz, Esq.  
US ATTORNEY'S OFFICE  
,  
EMAIL

Mr. Richard N Lambert, Esq.  
US ATTORNEY'S OFFICE  
,  
EMAIL

Robert A. Lund, Esq.  
US ATTORNEY'S OFFICE  
,  
EMAIL