

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

Electronically Filed
Aug 31 2017 03:46 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

BRENDAN DUNCKLEY,

Petitioner,

vs.

**THE STATE OF NEVADA,
ROBERT LEGRAND,**

Respondent.

Sup. Ct. Case No. 73095

Case No. CR07-1728

Dept. 4

RECORD ON APPEAL

VOLUME 2 OF 11

DOCUMENTS

APPELLANT

**Brendan Dunckley #1023236
Lovelock Correctional Center
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Lovelock, Nevada 89419**

RESPONDENT

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APPEAL INDEX
 SCN 73095
 CASE NO. CR07-1728
 BRENDAN DUNCKLEY vs STATE OF NEVADA, ROBERT LEGRAND
 Date: AUGUST 31, 2017

PLEADING	DATE FILED	VOL.	PAGE NO.
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SUPREME COURT RECEIPT FOR DOCUMENTS	03-04-10	3	424
SUPREME COURT RECEIPT FOR DOCUMENTS	06-16-10	3	457
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SUPREME COURT RECEIPT FOR DOCUMENTS	05-23-17	6	973
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WITHDRAWAL OF ATTORNEY	07-23-09	3	348-351

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JUL - 3 2007

RONALD A. LONGTIN, JR., CLERK

By: Shince
DEPUTY CLERK

Code 1491

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

THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

vs.

Dept. No. 4

BRENDAN DUNCKLEY

Defendant.

COURT SERVICES REPORT

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CR07-1728 DC-9900001221-037
STATE VS. BRENDAN DUNCKLEY (3 Pages
District Court 07/03/2007 11:04 AM
Washoe County 1491
DOC TPRINCF

Washoe County Pretrial Services Assessment Report

Case Filing

Filed Name DUNCKLEY, BRENDAN
--

Arrest

Booked Name DUNCKLEY, BRENDAN	Arresting Agency RENO POLICE DEPT	Booking Number 07-09242	Arrest Date 04/30/2007
---	---	-----------------------------------	----------------------------------

Case Number	NOC	Type	Description	Counts	Court	Bail Amt/Type
07-16796	04346	M	ASSAULT	1	RMC	355 B

Defendant Information

Sex M	Race WHITE	Birthdate 07/04/1976	Age 31	Height 5' 08"	Weight 178	SS Number On File
Address 4458 HIGH PLAINS DRIVE RENO, NV 89523				Residence County: 07 Yr 06 Mo		Born CARMEL, NY,
Telephone (775) 787-1961		Time at Current Address 01 Yr 00 Mo		Primary Language ENGLISH		
Lives With MORGAN DUNCKLEY		Relationship WIFE		ID Number	Type	Expiration Date
Marital Status MARRIED		How Long		Military Service NONE		Discharge
Employment/Support Status Employed		How Long 01/00				
Employer ESSENTIAL PARKING		Employer Telephone (775) 379-7657				

Defendant Justice Identifier Codes/Criminal History

FBI Number	SID Number							
Arrests	Violent Fels	Felonies	Violent Misd	Misdemeanors	MMSD	Traffic	DUI	Pending

Comments

MR DUNCKLEY REPORTS HE HAS BEEN IN THE AREA FOR 7 1/2 YRS. HE HAS BEEN AT HIS CURRENT ADDRESS FOR 1 YR. HE LIVES WITH HIS WIFE. THE DEFENDANT AND HIS WIFE ARE EMPLOYED AT ESSENTIAL PARKING CONTROL (BOOTING). THE DEFENDANT HAS A HISTORY OF VIOLENCE. HE IS CURRENTLY PENDING FELONY CHGS IN DC. DANGER TO THE COMMUNITY WOULD APPEAR HIGH. NOTHING VERIFIED.

Assessment Status

	Assessment MISD NR	Initials RLOVATO
--	------------------------------	----------------------------

Client: DUNCKLEY, BRENDAN	SSN: On File
Case#: 07-16796	DOB: 07/04/1976

Identification

Court:

RENO MUNICIPAL COURT

Charge(s):

ASSAULT

Address:

4458 HIGH PLAINS DRIVE RENO, NV 89523

Length:

01 Yr 00 Mo

Phone:

775 787-1961

Occupation and Employer:

DIRECTOR OF OPERATIONS
ESSENTIAL PARKING CONTROL

Financial Information

Asset	VEH	5,000	
Income	EMPLOYMENT	1,600	DEF 1,600/ SPOUSE 2,000
Expense	RENT AND UTL	1,000	
Expense	CAR PAYMENT	500	
Expense	CHILD SUPPORT	375	
Liability	CREDIT CARDS/ L	22,300	
SUMMARY:			
	ASSETS:	5,000	INCOME: 1,600
	LIABILITIES:	-22,300	EXPENSES: -1,875
	NET WORTH:	-17,300	CASH FLOW: -275

Determination: INDIGENT

Recommendation

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

Screening Agent/Witness:

Date: _____

Comments:

Mr. Dunckley claims no money or assets to retain private counsel. He lives with his mother in law who helps him financially.

● ORIGINAL ●

FILED

JUL - 3 2007

RONALD A. LONGTIN, JR., CLERK

By: *[Signature]*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE
OF

STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

vs.

Dept No. D4

BRENDAN DUNCKLEY

Defendant.

APPLICATION FOR SETTING

TYPE OF ACTION:

Criminal

MATTER TO BE HEARD:

Arraignment

DATE OF APPLICATION:

7/3/2007

COUNSEL FOR DEFENDANT(S):

David C. O'Mara, Esq.

Setting at 09:00:00 on 7/17/2007

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DC-9900001215-007
STATE VS. BRENDAN DUNCKLEY (2 Pages
District Court 07/03/2007 12:11 PM
Washoe County 1250
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CR07-1728
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TOTAL 0'30" PAGES SENT: 1 PAGES PRINTED: 0

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	<p style="text-align: center;">FILED</p> <p style="text-align: center;">JUL - 3 2007 RONALD A. LONGIN, JR. CLERK By: <i>[Signature]</i> DEPUTY CLERK</p> <p style="text-align: center;">IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">STATE OF NEVADA,</td> <td style="width: 50%;">Case No. CR07-1728</td> </tr> <tr> <td style="text-align: center;">Plaintiff,</td> <td style="text-align: center;">Dept No. D4</td> </tr> <tr> <td style="text-align: center;">vs.</td> <td></td> </tr> <tr> <td>BRENDAN DUNCKLEY</td> <td></td> </tr> <tr> <td style="text-align: center;">Defendant.</td> <td></td> </tr> </table> <p style="text-align: center;">APPLICATION FOR SETTING</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"><u>TYPE OF ACTION:</u></td> <td style="width: 50%;">Criminal</td> </tr> <tr> <td><u>MATTER TO BE HEARD:</u></td> <td>Arraignment</td> </tr> <tr> <td><u>DATE OF APPLICATION:</u></td> <td>7/3/2007</td> </tr> <tr> <td><u>COUNSEL FOR DEFENDANT(S):</u></td> <td>David C. O'Mara, Esq.</td> </tr> </table> <p>Setting at 09:00:00 on 7/17/2007</p>	STATE OF NEVADA,	Case No. CR07-1728	Plaintiff,	Dept No. D4	vs.		BRENDAN DUNCKLEY		Defendant.		<u>TYPE OF ACTION:</u>	Criminal	<u>MATTER TO BE HEARD:</u>	Arraignment	<u>DATE OF APPLICATION:</u>	7/3/2007	<u>COUNSEL FOR DEFENDANT(S):</u>	David C. O'Mara, Esq.
STATE OF NEVADA,	Case No. CR07-1728																		
Plaintiff,	Dept No. D4																		
vs.																			
BRENDAN DUNCKLEY																			
Defendant.																			
<u>TYPE OF ACTION:</u>	Criminal																		
<u>MATTER TO BE HEARD:</u>	Arraignment																		
<u>DATE OF APPLICATION:</u>	7/3/2007																		
<u>COUNSEL FOR DEFENDANT(S):</u>	David C. O'Mara, Esq.																		

7/11/07 6

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2007 JUL 12 PM 2:41

RPD RP07-009446, RPD RP05-034027

RONALD A. LONGTIN, JR.

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

BY [Signature]
DEPUTY

CR07-1728
STATE VS. BRENDAN DUNCKLEY (5 Pages
District Court 07/12/2007 02:41 PM
Washoe County
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,
Plaintiff,

Case No. CR07-1728

v.

Dept. No. 4

BRENDAN DUNCKLEY,
Defendant.

INFORMATION

RICHARD A. GAMMICK, District Attorney within and for the County of Washoe, State of Nevada, in the name and by the authority of the State of Nevada, informs the above entitled Court that BRENDAN DUNCKLEY, the defendant above named, has committed the crimes of:

COUNT I. SEXUAL ASSAULT ON A CHILD, a violation of NRS 200.366, a felony, (F1000) in the manner following:

That the said defendant on or between the 14th day of August A.D., 1998, and the 13th day of August A.D., 2000, or thereabout, and before the filing of this Information, at and within the County of Washoe, State of Nevada, did willfully and unlawfully subject ASHLEY V., a female child under the age of fourteen years,

1 having a date of birth of August 14, 1986, to sexual penetration,
2 against the victim's will or under conditions in which the defendant
3 knew or should have known that the victim was mentally or physically
4 incapable of resisting or understanding the nature of the defendant's
5 conduct, to wit, sexual intercourse, in a parking lot at or near
6 Longley Lane, Reno, Washoe County, Nevada;

7 or in the alternative,

8 COUNT II. LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN
9 YEARS, a violation of NRS 201.230, a felony, (F650) in the manner
10 following:

11 That the said defendant on or between the 14th day of
12 August A.D., 1998, and the 13th day of August A.D., 2000, or
13 thereabout, and before the filing of this Information, at and within
14 the County of Washoe, State of Nevada, did willfully, unlawfully, and
15 lewdly commit a lewd or lascivious act upon or with the body of
16 ASHLEY V., having a date of birth of August 14, 1986, a female child
17 under the age of fourteen years at the time that the said act was
18 committed, in that the said defendant engaged the victim in sexual
19 intercourse at or near Longley Lane, Reno, Washoe County, Nevada,
20 and/or put his hand down her pants to fondle her genital area in an
21 elevator at the Atlantis Hotel and Casino, 3800 South Virginia
22 Street, Reno, Washoe County, Nevada, with the intent of arousing,
23 appealing to, or gratifying the lust, passions, or sexual desires of
24 himself or the child;

25 or in the alternative,

26 ///

1 COUNT III. STATUTORY SEXUAL SEDUCTION, a violation of NRS
2 200.364 and NRS 200.368, a felony, (F1010) in the manner following:

3 That the said defendant on or between the 14th day of
4 August A.D., 1998, and the 13th day of August A.D., 2000, or
5 thereabout, and before the filing of this Information, at and within
6 the County of Washoe, State of Nevada, did willfully and unlawfully,
7 being over 21 years of age, commit an act of statutory sexual
8 seduction with the person of ASHLEY V., having a date of birth of
9 August 14, 1986,, who was then and there under the age of 16 years,
10 in that the said defendant engaged in an act of sexual intercourse
11 with the said ASHLEY V. in a parking lot at or near Longley Lane,
12 Reno, Washoe County, Nevada.

13 COUNT IV. SEXUAL ASSAULT, a violation of NRS 200.366, a
14 felony, (F1000) in the manner following:

15 That the said defendant on the 10th day of March A.D.,
16 2007, or thereabout, and before the filing of this Information, at
17 and within the County of Washoe, State of Nevada, did willfully and
18 unlawfully subject JESSICA H. to sexual penetration, against the
19 victim's will and/or under conditions in which the defendant knew or
20 should have known that the victim was mentally or physically
21 incapable of resisting or understanding the nature of the defendant's
22 conduct, to wit, fellatio at 1675 Sky Mountain Drive, #827, Reno,
23 Washoe County, Nevada.

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

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

BY David W. Clifton
DAVID W. CLIFTON
1653
Chief Deputy District Attorney

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

4

5 RENO POLICE DEPARTMENT

6 DETECTIVE T.K. BROOME
7 OFFICER SCOTT HEGLAR

8 ASHLEY V., Silver Springs Conservation Camp

9 JESSICA RAE H.

10

11

12

13

14 The party executing this document hereby affirms that this
15 document submitted for recording does not contain the social security
16 number of any person or persons pursuant to NRS 239B.230.

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RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By David W. Clifton
DAVID W. CLIFTON
1653
Chief Deputy District Attorney

PCN RPD0726517C
PCN RPD0726524C

07068446

CRIMINAL PROGRESS SHEET

INF. 7/12/07

CASE NO. CR07-1728

CR07-1728 DC-09900079896-018
STATE VS. BRENDAN DUNCKLEY 1 Page
District Court 07/17/2007 08:30 AM
Washoe County MIN
MTN SW111 TAM

AI. 7.28.08

2AI.

2INF.

DEFT: BRENDAN DUNCKLEY

@102844

LANGUAGE:

CUSTODY STATUS: CUSTODY [] NIC [X] BAIL [X] \$ 18,500 OR [] OR [] W/COURT SERVICES

ARR. DATE: 7.17.07 DEPT. NO. 4 REPORTER: S. Loder B. VanHulen CLERK: M. Stone

TRUE NAME: same as above

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

WAIVED 60 DAY RULE: YES [X] NO [] DATE: 7.17.07

P & P Ref: L. Garrison / K. Pappas

NOT GUILTY [X] By: GUILTY [X] ALFORD [] NC [] TO: Cts 1 + 2 of Info

REMANDED TO JUSTICE COURT FOR FURTHER PROCEEDINGS: pre-trial mtg deadlines set forth / Ct service supervision ordered

MOTION 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

ENTRY OF PLEA: DATE: DEPT. NO.* REPORTER: CLERK:

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

[] WAIVED PSI P & P Ref:

CHANGE OF PLEA: DATE: DEPT. NO. REPORTER: CLERK:

GUILTY [] ALFORD [] NC [] TO:

[] WAIVED PSI P & P Ref: TRIAL DATE OF: VACATED

CONTINUED TO: 10.19.07 9:00 FOR: Pre-Trial Mtgs (3 hrs)

CONTINUED TO: (vacated) 3.13.08 9:00 FOR: mtg to confirm

CONTINUED TO: (vacated) 3.24.08 10:00 FOR: Jury Trial (5 days)

CONTINUED TO: 8.5.08 9:00 FOR: Sentencing

CONTINUED TO: FOR:

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CASE NO. CR07-1728 **TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCKLEY**

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONT'D TO
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<p>7/17/07 HONORABLE CONNIE STEINHEIMER DEPT. NO.4 M. Stone (Clerk) S. Loder (Reporter)</p>	<p><u>ARRAIGNMENT</u> Deputy District Attorney Kelli Vioria, Esq., represented the State. Defendant present with counsel David O'Mara, Esq. Probation officer Lupe Garrison also present. Defendant handed copy of Information; indicated to the Court that name as set forth on same was his true name; waived reading and entered a plea of not guilty to the charge set forth therein. Defendant waived the 60-Day Rule and COURT ORDERED this matter set for jury trial. COURT FURTHER ENTERED ORDER that all pre-trial motions shall be filed and served no later than September 17, 2007; all responses to those pre-trial motions shall be filed and served no later than September 28, 2007; and all replies to those responses shall be filed and served no later than October 5, 2007. Defendant remained out of custody.</p>	<p>10/19/07 9:00 a.m. Pre-Trial Motions (3 Hours) 3/13/07 9:00 a.m. Mtn to Confirm Trl 3/24/07 10:00 a.m. Jury Trial (5 Days)</p>
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2007 JUL 19 AM 10:37

RONALD A. LONGTIN, JR.

BY *[Signature]*
DEPUTY

CODE 3700

CR07-1728 DC-9900001297-093
STATE VS. BRENDAN DUNCKLEY 142 Pages
District Court 07/19/2007 10:37 AM
Washoe County 3700
RKB/ELP

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

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THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728
Dept. No. 4

vs.

BRENDAN DUNCKLEY

PROCEEDINGS

w/b

STATE OF NEVADA vs. BRENDAN DUNCKLEY – RCR 2007-033884

July 19, 2007

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

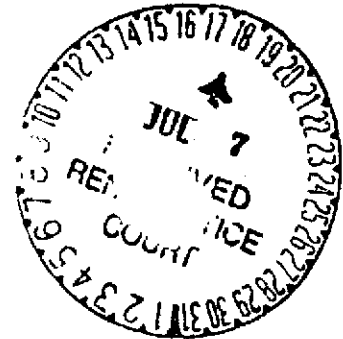
1. TRANSCRIPT OF PROCEEDINGS HELD ON JULY 2, 2007
2. SECOND AMENDED CRIMINAL COMPLAINT; ARREST REPORT AND DECLARATION OF PROBABLE CAUSE (RPD 0726517C); CRIMINAL COMPLAINT; ARREST REPORT AND DECLARATION OF PROBABLE CAUSE (RPD 0726524C);
3. APPLICATION FOR APPOINTMENT OF PUBLIC DEFENDER; WASHOE COUNTY PUBLIC DEFENDER CASE CONFLICT NOTIFICATION
4. CERTIFIED COPY OF COURT DOCKET
5. ACTION BAIL BOND IN THE SUM OF \$15,000.00 (POWER NO. A25-00325488); ACTION BAIL BOND IN THE SUM OF \$18,500.00 (POWER NO. A25-00325487)

RONALD A. LONGFIN, JR.
Clerk of the Court

By 
Deputy

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ORIGINAL



IN THE JUSTICES COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
HONORABLE HAROLD ALBRIGHT, JUSTICE OF THE PEACE

--o0o--

THE STATE OF NEVADA,) Case No. RCR2007-033884
)
Plaintiff,) Dept. No. 4
)
vs.)
)
BRENDAN DUNCKLEY,)
)
Defendant.)

TRANSCRIPT OF PROCEEDINGS
PRELIMINARY EXAMINATION
Monday, July 2, 2007

APPEARANCES:

For the Plaintiff: DAVID W. CLIFTON, ESQ.,
Deputy District Attorney
One South Sierra Street
Reno, Nevada 89520

For the Defendant: DAVID C. O'MARA, ESQ.,
Attorney at Law
P.O. Box 2270
Reno, Nevada 89505

Reported by: EVELYN J. STUBBS, CCR #356

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I N D E X

WITNESSES:

<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
5	25	38	40
43	54	56	58
61	76	85	
90	110		

JESSICA H.
MICHELLE A.
ASHLEY V.
TOM KEITH BROOME

EXHIBITS:

Marked for IDENTIFICATION

Admitted into EVIDENCE

None Marked

1 RENO, NEVADA; MONDAY, JULY 2, 2007; 2:47 P.M.

2 --o0o--

3
4 THE COURT: This is the time set for Case Number
5 RCR 2007-033884, State versus Brendan Dunckley, who is
6 present in court with his attorney, David O'Mara.

7 Mr. Clifton is here on behalf of the State.

8 Are we ready to proceed to preliminary hearing?

9 MR. CLIFTON: State's ready, Your Honor.

10 MR. O'MARA: Ready, Your Honor.

11 THE COURT: Thank you.

12 MR. CLIFTON: We will have up to four witnesses.
13 I'm not sure if we will call them all or if all of them
14 are here. I have three victims in this case I have not
15 met, so I'm not sure on the exact dates, so I may have to
16 juggle some dates on motions to amend or depending on how
17 the testimony goes.

18 Right now you can see the counts are charged
19 fairly broadly as far as the dates as far as cases more
20 than two-years old.

21 We're prepared to go forward with our first
22 witness who is here and ready to be sworn.

23 Will there be a Rule of Exclusion being invoked?

24 MR. O'MARA: Yes, there will be, Your Honor.

1 THE COURT: All right. The Rule of Exclusion
2 has been invoked, and that's a rule to preserve the
3 purity of the testimony on the stand.

4 So you're ordered to step out of the courtroom.
5 You cannot discuss the case with any other person, except
6 the two attorneys, until you're released from the rule
7 later today.

8 MR. O'MARA: Your Honor, if you could please
9 advise all of the witnesses as they come in and out of
10 the courtroom. I only see that there's one witness at
11 this time, but if there's subsequent witnesses, if they
12 could also be given the exclusionary rule as they leave.

13 THE COURT: Is there only one witness in the
14 courtroom?

15 MR. CLIFTON: No, there's two right now.

16 THE COURT: Okay. What's your name, ma'am?

17 AUDIENCE MEMBER: Jessica.

18 THE COURT: Jessica. Okay. What's your name?

19 AUDIENCE MEMBER: Jolene.

20 THE COURT: Is she going to be a witness?

21 MR. CLIFTON: No.

22 THE COURT: Is Jessica going to be a witness?

23 MR. CLIFTON: Yes, and Detective Broome.

24 THE COURT: All right. Detective, thank you.

1 Who is going to be your first witness?

2 MR. CLIFTON: Jessica.

3 THE COURT: If you'll come forward, Jessica. If
4 you'll step out, please, Detective, and I'll try and
5 watch for witnesses.

6 MR. O'MARA: Thank you very much, Your Honor.

7 THE COURT: If you'll come around here. There's
8 a little door handle that will let you into the witness
9 stand. When you step in you may feel some movement, but
10 it's kind of a leveling device.

11 Let me swear you in, please.

12

13 JESSICA H.,
14 called as a witness by the plaintiff herein,
15 being first duly sworn, was examined
16 and testified as follows:

17

18 DIRECT EXAMINATION

19 BY MR. CLIFTON:

20 Q Please tell us your first name.

21 A Jessica.

22 Q Is that standard spelling?

23 A Yes.

24 Q And your last name begins with what letter?

1 A H.

2 Q What's your date of birth?

3 A 8-5-83.

4 Q Are you currently a resident of Washoe County,
5 Nevada?

6 A Yes, I am.

7 Q How long have you resided here?

8 A Five years.

9 Q I want to direct your attention to March 10th of
10 this year, 2007. Do you recall your whereabouts, say, in
11 the evening of that particular date?

12 A Yes.

13 Q Did you have a boyfriend at that time of the
14 year?

15 A Yes.

16 Q On March 10th, did you become involved in a
17 fight that day or any type of breakup?

18 A Yes, I did.

19 Q Do you recall having occasion to go for a walk
20 because of that breakup?

21 A Yes.

22 Q Was he living with you at the time?

23 A Yes.

24 Q What was that address?

1 A 1675 Sky Mountain Drive, Apartment 827.

2 MR. CLIFTON: Your Honor, that's my first
3 amendment. I notice on Count VI, which is Page 4 of the
4 amended criminal complaint, it has the apartment listed
5 as 287. It has the first two numbers transposed. I
6 would ask it be amended by interlineation to "Apartment
7 827," please, on line 12.

8 THE COURT: All right. 827 has been substituted
9 for 287.

10 MR. CLIFTON: Thank you.

11 BY MR. CLIFTON:

12 Q Jessica, was that in Reno, Washoe County,
13 Nevada?

14 A Yes.

15 Q Were you upset over this fight or breakup with
16 your boyfriend?

17 A Yeah.

18 Q Which was it? Was it both --

19 A It was just an argument.

20 Q Let's call it that, an argument. What's his
21 first name?

22 A Emialiano.

23 Q Okay. E-M --

24 A E-M-I-A-L-I-A-N-O.

1 Q Had you had anything to drink that evening or
2 afternoon?

3 A Yes.

4 Q Was it because of the argument or even before
5 that?

6 A No, it was just before that.

7 Q Okay. So you weren't drinking because of the
8 argument or fight?

9 A No.

10 Q Did you have occasion then to go for a walk from
11 that particular apartment?

12 A Yes.

13 Q Do you remember where you went?

14 A I was going to walk to my brother's house and I
15 decided not to.

16 Q Did you stop anywhere before coming back to the
17 apartment?

18 A I walked down the street and turned around and
19 came back.

20 Q So you didn't stop anywhere else; at a store or
21 anything like that?

22 A No.

23 Q So you only went a block and started coming
24 back?

1 A Yeah.

2 Q As you were coming back do you recall anybody
3 that you thought was a little out of place or unusual as
4 far as behind you or following you?

5 A Yes.

6 Q Can you describe?

7 A I was just walking down the street and someone
8 was in the car and asked me if I needed a ride.

9 Q And that was on your way back to the apartment?

10 A Yeah.

11 Q So you were going back toward your apartment?

12 A Yes.

13 Q Was it a male or female?

14 A Male.

15 Q Was he in a vehicle?

16 A Yes.

17 Q What type?

18 A It was a minivan.

19 Q And he pulled up alongside of you?

20 A Um-hum.

21 Q Did he have his window down?

22 A Yes.

23 Q Was it the passenger window or the driver's
24 window?

1 A The passenger.

2 Q He said what to you?

3 A "Do you need a ride?"

4 Q What did you respond, if anything?

5 A I just kept walking.

6 Q You didn't say anything?

7 A No.

8 Q What happened next?

9 A Then he asked me again, and I just kept walking.

10 Q You didn't say anything again?

11 A (Shakes head.)

12 Q Answer out loud for the reporter.

13 A No.

14 Q What happened after that, the second time?

15 A I just walked to my apartment.

16 Q Okay. Was he still following you or along side
17 of you or what?

18 A Not that I knew of.

19 Q So you thought when you were going to your
20 apartment he wasn't behind you anymore?

21 A Yes, sir.

22 Q Did anything happen as you approached your
23 apartment?

24 A No.

1 Q Okay. Are you on the first floor, second, what?

2 A Second.

3 Q Stairs or elevator?

4 A Stairs.

5 Q Is there a name for these apartments or
6 anything?

7 A Vista Ridge.

8 Q And you're still alone, correct?

9 A Yes.

10 Q You're not carrying anything?

11 A No.

12 Q Do you even have a purse, do you know?

13 A No.

14 Q Was your boyfriend at the apartment when you
15 left for this walk?

16 A Yes.

17 Q How long were you gone?

18 A 20 minutes, 15 minutes.

19 Q Did you know whether he would be there or not
20 when you got back?

21 A Yes.

22 Q All right. Did you think he would be or
23 wouldn't be?

24 A Yeah, I suspected he would be there. He

1 wouldn't have gone anywhere.

2 Q When you got home you went up the stairs, I take
3 it?

4 A Yes.

5 Q And you approached your door?

6 A Um-hum.

7 Q Was your door locked or open?

8 A It was unlocked.

9 Q Did you go inside?

10 A Yes, I did.

11 Q Can you tell us what happened next?

12 A I walked into my apartment and said, "Josh,"
13 walked straight back --

14 Q Who is Josh?

15 A That's what I call my ex-boyfriend.

16 Q Did you yell it out like you were looking for
17 him?

18 A Yeah, and I walked straight back --

19 Q Into the apartment?

20 A And to the right is the bedroom. And I said his
21 name one more time. He wasn't there. I turned to the
22 left, and I looked into the bathroom, and I heard the
23 front door. And there he was standing right there.

24 Q When you say "he," are you referring to Josh?

1 A No.

2 Q Somebody else?

3 A Somebody else.

4 Q Let's stick with Josh for a minute. Did you
5 find Josh?

6 A No.

7 Q So you expected him to be there, but after this
8 20 minutes he had left?

9 A Yeah.

10 Q Sometime during that 20 minutes that you were
11 gone?

12 A Yes.

13 Q So you call out to him, walk around the
14 apartment, and don't find him?

15 A Yeah.

16 Q Something drew your attention to your front
17 door?

18 A Um-hum.

19 Q What was it?

20 A I heard someone come into my apartment.

21 Q Did you close the door behind when you went in?

22 A I closed the door behind me, but my door, if you
23 just let it swing closed, it will bounce right back open,
24 it will stay cracked.

1 Q So you didn't latch it or lock it, deadbolt it
2 or anything like that?

3 A No.

4 Q Even when you came back from this walk it was in
5 that condition also?

6 A No.

7 Q It was shut?

8 A Yeah.

9 Q Was it locked?

10 A No.

11 Q Were you able to just turn the handle and walk
12 in, that's what you mean by open?

13 A Yes.

14 Q The door itself was closed, though?

15 A Um-hum.

16 Q So when you looked back and you see this person,
17 he wouldn't have needed a key to get in?

18 A No.

19 Q Was the door part way open or all the way open?

20 A It doesn't latch all the way closed. You can
21 just push.

22 Q When you see him, was the door all the way open
23 or part way open?

24 A It was closed, like behind him was the door.

1 Q So he had come into the apartment?

2 A Um-hum.

3 Q And the door closed behind him?

4 A Yes.

5 Q Or he closed the door?

6 A (Nods head.)

7 Q And you didn't agree to this?

8 A No.

9 Q You didn't even know he was behind you?

10 A No.

11 Q You didn't even know he'd come into the
12 apartment?

13 A No.

14 Q How did you react?

15 A I was startled, I was scared.

16 Q What did you do?

17 A He told me -- he stood right there and he told
18 me to suck his dick.

19 Q Did you recognize this person from any earlier
20 occasion that night before you saw him in the apartment?

21 A No.

22 Q Was it the same man that was in the van outside
23 that had approached you on the street?

24 A I didn't really look at him that good when I was

1 walking down the street.

2 Q So you don't know one way or the other?

3 A No.

4 Q And that's the person you never answered anyway,
5 correct?

6 A Um-hum.

7 Q So this person that comes in the door, you don't
8 know if you're seeing him for the first time or if he
9 could have been the person in that van; is that what
10 you're saying?

11 A Yes.

12 Q Did you recognize this person from anytime,
13 anywhere that you'd seen him before?

14 A No.

15 Q Didn't think you knew him?

16 A No.

17 Q So after he says that and you're shocked or
18 startled, what did you do or say?

19 A I had no choice but to. He was in the front
20 door and the other way to get out is off the balcony.

21 So I went and -- to do it, but I bit him.

22 Q Okay. Where were you when this happened?

23 A I was in the back part of my apartment.

24 Q Did you try to lock yourself in a bathroom or

1 bedroom or anything?

2 A No.

3 Q Did he come to you or did you go to him?

4 A I went to him.

5 Q This person you never met before?

6 A Yes.

7 Q All right. Did you take any of your clothes
8 off?

9 A No.

10 Q Did he take any of his clothes off?

11 A No.

12 Q Was it a zipper, buttoned?

13 A Buttoned, it was his pants.

14 Q Okay. And who undid his pants?

15 A He did.

16 Q When he said that to you, did he already have
17 his penis exposed?

18 A He was exposing it.

19 Q As he was saying it?

20 A Yes.

21 Q Were you scared, frightened?

22 A Yes, I was very scared, very frightened.

23 Q Did he threaten you?

24 A No.

1 Q Did you argue with him, say anything to him?

2 A No, I didn't know what to do. He told me to do
3 it and --

4 Q What were you afraid of?

5 A Of him.

6 Q Did he have any weapon?

7 A No.

8 Q Did he threaten to hit you, strike you, anything
9 like that?

10 A No.

11 Q All right. And you didn't try to avoid him or
12 get away or say, "I'm going to call the cops," or
13 anything like that?

14 A I didn't have any way to.

15 Q I mean, you didn't say that though, either?

16 A No.

17 Q You had no way to call anybody or --

18 A No.

19 Q Was it close proximity, him to you?

20 A Um-hum. It's a very small apartment.

21 Q Do you have a phone in the apartment?

22 A No, I don't.

23 Q Okay. So when you went toward him --

24 A Um-hum.

1 Q -- were you both standing? Were you kneeling or
2 was somebody on a chair?

3 A He was standing, I was standing.

4 Q Okay. And you just bent down?

5 A Um-hum.

6 Q And you said you bit him?

7 A Yes.

8 Q Did he have an erection?

9 A Yes.

10 Q Was this consensual in any way?

11 A No.

12 Q You're certain you hadn't seen him in a bar or
13 anything before this happened at all?

14 A No, I've never seen him before.

15 Q When you went down on him, you bit him?

16 A Um-hum.

17 Q He had an erection?

18 A (Nods head.)

19 Q After you bit him did he still maintain the
20 erection?

21 A No, no.

22 Q Did he say anything?

23 A He said "stop" or -- you know, that was it. He
24 tried to run out of the apartment and I chased him.

1 Q Don't go that far yet.
2 He said stop or said something?
3 A He said "ow."
4 Q Ow or stop?
5 A Um-hum.
6 Q Did he strike you, hit you?
7 A He slightly hit me upside my head so that I
8 would stop.
9 Q Okay. He was blocking your only realistic exit
10 to the apartment; is that what you said before?
11 A Yes.
12 Q And your boyfriend was not there?
13 A No.
14 Q So you had nowhere else you could go. And
15 you're afraid of him, but he didn't have a weapon. What
16 were you afraid of?
17 A I didn't know what would happen.
18 Q That he might strike you?
19 A Yes.
20 Q Okay. After you bit him, his penis went
21 flaccid?
22 A Yes.
23 Q It was no longer erect, correct?
24 A No.

1 Q Did you still try to keep biting him or do you
2 remember?

3 A No, he ran.

4 Q That chair --

5 THE COURT: That was the movement I was trying
6 to warn you about.

7 BY MR. CLIFTON:

8 Q That chair just does it on its own. I never
9 noticed that before. I'm sorry, Jessica.

10 A He pulled up his pants and ran out.

11 Q Were you glad to see that, that he left?

12 A Yeah, but I was angry. I chased him.

13 Q Okay. Chased him. Were you yelling?

14 A Yes.

15 Q What were you yelling?

16 A "Stop him. Stop him."

17 Q Were you yelling that to other people?

18 A Yeah.

19 Q Do you know if they were men or women?

20 A As we were going down the hallway and I looked
21 down at the parking lot, I saw two guys walking, and I
22 told them, "Help me. Stop him."

23 Q And did they?

24 A Yes.

1 Q And were the police called?

2 A Yes.

3 Q And they came and interviewed you?

4 A Yes.

5 Q Did you tell them about the stranger that came
6 into your apartment and told you to, quote, suck his
7 dick?

8 A Yes.

9 Q Is that the way you explained it to them?

10 A Yes.

11 Q Do you recall this person well enough to give us
12 a description of him?

13 A No.

14 Q Okay. Was he black or white?

15 A He was white.

16 Q Did he have hair?

17 A Yeah.

18 Q Was he wearing a hat?

19 A No.

20 Q Do you remember the color of the hair?

21 A Brown.

22 Q Okay. Do you know how old he was, by any
23 chance?

24 A In his 30s.

1 Q Okay. That's a description. Do you remember
2 anything about what he was wearing?

3 A He had on jeans and a black leather jacket that
4 I kept trying to grab.

5 Q To grab when?

6 A When I was chasing him.

7 Q So you actually were like right behind him?

8 A Yes.

9 Q When these men caught him or tackled him, did
10 you tell them what he had done to you also?

11 A I tried hitting him in his face and that's the
12 time when my boyfriend at the time came running up and
13 asked me what happened, because he was in the parking
14 lot.

15 Q But he didn't hear or see any of this happen --

16 A No.

17 Q -- to your knowledge?

18 A No.

19 Q He didn't come in and interrupt while it was
20 happening or anything like that?

21 A No.

22 Q If you saw this person again do you think you
23 would recognize him or remember him?

24 A (Nods head.)

1 Q You need to answer out loud.

2 A Yes.

3 Q Okay. Do you see him here in the courtroom
4 today?

5 A Yes.

6 Q Is he in front of this bar toward me or is he
7 behind the bar?

8 A In front.

9 Q Can you tell me what he's wearing today?

10 A A black suit.

11 Q Where is he seated in relation to me?

12 A To the side of you.

13 Q Right side or left side.

14 A Left.

15 Q How many people over, one or two?

16 A One.

17 Q The person right next to me?

18 A No, next to the person, so two people over.

19 Q Second person over?

20 A Yeah.

21 MR. CLIFTON: Your Honor, if the record could
22 reflect identification of Defendant Dunckley.

23 THE COURT: Record will so reflect.

24 ///

1 BY MR. CLIFTON:

2 Q Do you remember being interviewed by Detective
3 Broome of the Reno Police Department; do you remember
4 him?

5 A Yes.

6 Q And you told him what had happened to you that
7 night?

8 A Um-hum.

9 Q Were you still angry?

10 A Yeah.

11 Q Were you more angry at the argument you had with
12 your boyfriend or what this stranger made you do with
13 him?

14 A What the stranger made me do with him.

15 Q And you didn't know this person's name, correct?

16 A No.

17 MR. CLIFTON: Thank you. No further.

18 THE COURT: Mr. O'Mara.

19

20

CROSS-EXAMINATION

21 BY MR. O'MARA:

22 Q Jessica, good afternoon. My name is David
23 O'Mara. I'm an attorney representing Mr. Dunckley. If
24 you cannot hear me or you don't understood a question I

1 ask you, please just ask me to restate it or speak up
2 louder --

3 A Okay.

4 Q -- so that you have a better understanding of
5 what I'm asking and we can get a good record for the
6 court reporter.

7 Do you need a break or anything?

8 A No.

9 Q Okay. In the beginning of your testimony you
10 talked about leaving your apartment because of a breakup
11 with your boyfriend --

12 MR. CLIFTON: Your Honor, I think the word was
13 argument. I accidentally used the word breakup, she
14 corrected me to argument.

15 BY MR. O'MARA:

16 Q So it was just a mere argument?

17 A Yes.

18 Q Prior to your breakup -- excuse me, the argument
19 with your boyfriend, what did you do during that day?

20 A That day I went to the mall, and after that I
21 went to my brother's house.

22 Q What time of the day were you at the mall?

23 A Around, 11:00, 12:00.

24 Q Then you went to your brother's house?

1 I'm sorry. Let's back up. Is the mall the
2 Meadowood Mall or --

3 A Yes.

4 Q And after the mall you went to your brother's
5 house?

6 A Yeah, my brother's house.

7 Q What is your brother's name?

8 A Justin.

9 Q And does he have the last of "H" as well?

10 A Yes.

11 Q And what did you do at your brother's house?

12 A Hang out.

13 Q Did you drink?

14 A Yes.

15 Q What did you drink?

16 A Beer.

17 Q And how many beers did you drink?

18 A I don't know. I wasn't counting.

19 Q Were you not counting because you lost track or
20 because you just don't normally count how many beers?

21 A Just because I don't normally count how many
22 beers.

23 Q How long were you at your brother's house?

24 A Probably for -- I mean, all day and all

1 afternoon, up until the evening.

2 Q Up until what time?

3 A Around 9:00, 8:30.

4 Q So would it be fair to say that you were at your
5 brother's house between 12:00 and 8:30, for eight-
6 and-a-half hours?

7 A Yeah.

8 Q During those eight-and-a-half hours did you
9 continually drink?

10 A Yeah.

11 Q And if you went back, would you say that you had
12 two, three beers an hour?

13 A Maybe, like, two.

14 Q Two beers. So by 8:00 o'clock you had
15 approximately 16 beers in the eight-hour period?

16 A Yes.

17 Q And what type of beers were they?

18 A Budweiser and Corona.

19 Q Did you have any shots of hard liquor?

20 A (Shakes head.)

21 Q Did you do any other recreational drugs?

22 A No.

23 Q How did you get back to your apartment?

24 A My brother.

1 Q Why did your brother take you back?

2 A Because I don't -- I didn't have a car to drive.
3 I couldn't drive.

4 Q After you left your apartment, you said you were
5 gone 20 minutes, how far did you think you traveled?

6 A Just like maybe two blocks.

7 Q Do you remember exactly the route that you took?

8 A Yeah, I just got out of the gate of my
9 apartments and took a left and went down the street,
10 turned around and came back.

11 Q Do you remember falling down during any period
12 of time?

13 A No.

14 Q As you entered your apartment, you talked about
15 going into your apartment and going to the back of your
16 apartment, correct?

17 A Yes.

18 Q I'd like you to try and draw a diagram of your
19 apartment and explain to the Court how you went about
20 going from your apartment.

21 I guess we will have to use the board.

22 If you can come over here. Just start with the
23 entrance of the door.

24 A (Witness complies.)

1 Q If you could explain as you're going.

2 Is that the entrance?

3 A This is the front door (indicating). This here
4 is the living (indicating).

5 Q And what are you drawing now?

6 A That's the balcony door (indicating.)

7 This is the room (indicating). This is the
8 bathroom (indicating). This is the kitchen (indicating).

9 Q Okay. So just stand there, if you can, just
10 stand there for a few minutes.

11 You testified earlier that you walked all the
12 way back to the right bedroom, correct?

13 A Um-hum.

14 Q And you turned left, correct?

15 A Um-hum.

16 THE COURT: You have to answer with a word,
17 please.

18 THE WITNESS: Yes.

19 BY MR. O'Mara:

20 Q How loud were you screaming your boyfriend's
21 name?

22 A Josh (indicating).

23 Q So you weren't really screaming it?

24 A No.

1 Q Where were you standing when you heard the front
2 door open?

3 A I was standing right here (indicating).

4 Q So you were in the middle of the two doorways,
5 one between the bathroom and the bedroom?

6 A Yes.

7 Q If you could describe the distance from the
8 front door to where you're standing in regards to where
9 you were standing at the board to somewhere in this
10 courtroom and the distance, please.

11 A From me to the -- to that (indicating).

12 Q To the bar?

13 A Yes, to the bar is where my front door would be.

14 Q Okay. You can go ahead and sit down now. Thank
15 you very much.

16 At the time that you claim that an individual
17 walked in the door why didn't you scream?

18 A I was scared, I didn't know what to do.

19 Q There was no weapon, correct?

20 A No.

21 Q You testified that he merely said -- the
22 individual merely said suck his dick, correct?

23 A Yes.

24 Q Did he say, "Suck my dick or something is going

1 to happen to you"?

2 A No.

3 Q So after that period of time that he said, "Suck
4 my dick," you walked from what appears to be at least 10
5 to 15 feet to him, correct?

6 A (Nods head.)

7 Q Did you try to avoid him?

8 THE COURT: Hold on, please. Is that a word?

9 You have to answer with a word, please.

10 THE WITNESS: Yes.

11 THE COURT: All right. Thank you.

12 MR. O'MARA: Thank you, Judge.

13 BY MR. O'MARA:

14 Q How long did that take?

15 A Couple of seconds.

16 Q Did you ever think about just running as fast as
17 you can to try to get through him?

18 A Yeah, I thought of a lot of things.

19 Q Why didn't you go as fast as you can to try to
20 get to the door?

21 A I didn't think I could. He was standing right
22 there.

23 Q When you come into your apartment complex from
24 the parking lot can you see your apartment complex?

1 A Yeah.

2 Q Can you see the front door?

3 A No.

4 Q Can you describe for the Court, from the parking
5 garage where someone would park, what they would have to
6 do to get to your door.

7 A You park, you walk up the stairs, and you walk
8 to the back of the hallway.

9 Q So your apartment complex is on the other side
10 of --

11 A Yes.

12 Q -- of the parking lot. Okay. So there's no
13 zigzagging or going in between other apartment complexes?

14 A No.

15 Q At no time did you go into the bathroom and lock
16 the door?

17 A No.

18 Q Do you have locks on your bathroom door?

19 A Yeah, but it doesn't work.

20 Q Did you ever go into your bedroom?

21 A No.

22 Q Are there locks on that door?

23 A No.

24 Q You testified that Mr. Dunckley, after you

1 identified him, had a button for pants. Is that correct?

2 A Yeah, like all jeans, you know, button and then
3 a zipper.

4 Q So there was one button at the top and then a
5 zipper?

6 A Yes.

7 Q Okay. You also talked about this was not
8 consensual, correct?

9 A Correct.

10 Q But isn't it true that you actually bent down?

11 A Yes.

12 Q Did he force you down?

13 A No, but he demanded it.

14 Q How did he demand it?

15 A He told me to. He was in my apartment and told
16 me to.

17 Q Did he say, "Bend down"?

18 A No.

19 Q Did he say, "Get down on your knees"?

20 A No.

21 Q You testified that after you went down on him
22 you bit him, correct?

23 A Yes.

24 Q How many times did you bite him?

1 A Once.

2 Q Okay. Do you know if you broke the skin?

3 A No.

4 Q And after that how long did it take before his
5 erection actually subsided?

6 A A couple of seconds.

7 Q You testified today that you could not give a
8 description of the individual that night, correct?

9 A What was that?

10 Q I'm sorry. You testified this afternoon that
11 you could not give a description of the individual,
12 correct?

13 A I know what his face looks like, but I can't
14 really -- I just know he has brown hair and, you know --

15 Q Do you recall getting a report back from the
16 police about your blood alcohol?

17 A No.

18 Q Could you imagine that your blood alcohol was
19 .22 percent?

20 A Um-hum.

21 Q Do you think that could have skewed your
22 identification of an individual that night?

23 A No.

24 Q You testified that if you saw this person you

1 would recognize him, correct?

2 A That I would recognize him?

3 Q Yes.

4 A Yes.

5 Q But you can't give a description. And my
6 question to you: Are you just giving a description of
7 the individual that is sitting to my left or are you
8 actually 100 percent sure that this individual is the
9 person?

10 A Yes, I'm 100 percent sure. I picked him out in
11 a lineup.

12 Q What?

13 A I'm sorry.

14 Q Keep going?

15 A When Detective Broome called me to his office.

16 Q When did Detective Broome call you to his
17 office?

18 A It was about two weeks after it had happened.

19 Q How many individuals did the lineup include?

20 A It was -- it was, I think, six.

21 Q Were they all white males?

22 A Yeah.

23 Q Did they all have brown hair?

24 A Yeah.

1 Q When the police interviewed you that night did
2 they take any pictures of you?

3 A No.

4 Q Did they ask you about any bumps or bruises on
5 your head?

6 A They asked me if I was hit or anything.

7 Q And what did you tell them?

8 A No.

9 Q So now is it your testimony today that you were
10 actually hit?

11 A Yeah, I was, you know, smacked a little bit,
12 but --

13 Q You're giving a gesture of smacking right above
14 your eyes. Is that the gesture you're talking about?

15 A Yes.

16 Q Do you consider a smack and a hit different?

17 A Kind of, yeah.

18 MR. O'MARA: I have no further questions, Your
19 Honor.

20 THE COURT: Okay. Mr. Clifton, do you have any
21 redirect?

22 MR. CLIFTON: Just very little.

23 ///

24 ///

1 REDIRECT EXAMINATION

2 BY MR. CLIFTON:

3 Q Jessica, we're just about done.

4 When he demanded that you suck his dick, and
5 that's his words and that's a quote, and you put your
6 head down toward his penis, did you insert his penis into
7 your mouth?

8 A No, he did.

9 Q How did he do it?

10 A I just went down and he was holding it. And
11 that's when I bit it.

12 Q Did he grab your head?

13 A No.

14 Q So he had a hold of his penis?

15 A Um-hum.

16 Q When you said you bit it, was your mouth around
17 the head of the penis or on the side or on the shaft?

18 A The shaft.

19 Q Did your mouth go onto the penis?

20 A Yes.

21 Q When you bit, you said the erection went down,
22 correct?

23 A Yes.

24 Q All right. Did you still try to keep biting or

1 did you just bite once and get out of there?

2 A I just bit once, but it shriveled up.

3 Q He lost his erection?

4 A Yes.

5 Q Was your intent to keep biting?

6 A I tried to, but he pulled away.

7 Q Okay. So as I understand it, correct me if I'm
8 wrong, he's demanding that you suck his penis and he was
9 placing his penis into your mouth or trying to?

10 A Yes.

11 Q By the way he was manipulating himself with you
12 there?

13 A Yes.

14 Q And rather than put your mouth over the head of
15 his penis onto the entire penis, you bit the side of it?

16 A No, I put my mouth over the head and bit the
17 shaft.

18 Q So the head of the penis was inside your mouth?

19 A Yes.

20 Q And your teeth were down far enough to bite the
21 shaft of the penis?

22 A Yes.

23 Q So your teeth marks or your teeth would have
24 made contact with the entirety of the penis, top and

1 bottom, correct?

2 A Yes.

3 MR. CLIFTON: Okay. Thank you. No further.

4 MR. O'MARA: Just a follow-up question, Your
5 Honor.

6

7

RECROSS-EXAMINATION

8 BY MR. O'MARA:

9 Q You previously have testified that when you were
10 slapped on your head above your eye it was because you
11 believed he said -- let me rephrase.

12 You said that he hit you on your head so that
13 you would stop, correct?

14 A He said, "Stop, get off," like that, yeah, as I
15 was biting him.

16 Q So he actually said "stop"?

17 A Yes.

18 Q Okay. Do you recall on the night how many times
19 you told the officer you bit him?

20 A No, I don't.

21 Q Would you be surprised if you told him --

22 MR. CLIFTON: Your Honor, this is beyond the
23 scope of the redirect.

24 MR. O'MARA: It's going to the bite of the

1 redirect.

2 THE COURT: Overruled. I'll allow it.

3 BY MR. O'MARA:

4 Q In your testimony or in your statement to the
5 police officers do you recall telling the police officers
6 that you bit him four times?

7 A No.

8 Q Do you recall that when you went in to talk to
9 Officer Broome do you recall him saying there were no
10 teeth marks on this individual?

11 A Yes.

12 Q Do you recall telling him that you know for sure
13 there would be teeth marks on that?

14 A I figured there should have been.

15 Q And why do you say that?

16 A Because I know I bit pretty hard.

17 MR. O'MARA: No more questions, Your Honor.

18 THE COURT: Well, thank you very much. You can
19 step down. I appreciate your testimony.

20 MR. CLIFTON: Your Honor, I know we have one
21 witness coming in from Yerington and two coming in from
22 the Nevada State Prison.

23 Would it be possible to check to see who is
24 presently here?

1 THE COURT: I was going to advise that
2 Mr. Molina was going to bring the in-custody person in.

3 MR. CLIFTON: I guess it doesn't matter which
4 order I put them on.

5 THE COURT: I'm not trying to compel you to do
6 anything in any particular order. Do you want to check
7 and see if there's a witness outside from Yerington?

8 MR. CLIFTON: No, I don't want to waste the
9 Court's time. I'll go ahead and call Michelle. She is
10 one of the witnesses in the holding cell. How do we go
11 about getting her in here?

12 THE BAILIFF: Mr. Clifton, do you care which one
13 is first?

14 MR. CLIFTON: Michelle.

15 THE COURT: Please raise your hand the best you
16 can. Other hand.

17 (Witness Sworn)

18 THE COURT: Thank you. Please be seated.

19

20 MICHELLE A.,
21 called as a witness by the plaintiff herein,
22 being first duly sworn, was examined
23 and testified as follows:
24

DIRECT EXAMINATION

1

2 BY MR. CLIFTON:

3 Q Good afternoon, ma'am. Can you tell us your
4 first name.

5 A Michelle.

6 Q Spelled M-I-C-H-E-L-E?

7 A E-L-L-E.

8 Q And your first initial of your last name?

9 A A.

10 Q Can you give us your date of birth, please.

11 A 10-13-87 -- or '86 sorry.

12 Q '86?

13 A Um-hum.

14 Q So that would make you almost 21?

15 A Yeah.

16 Q I want to direct your attention back to 1999,
17 going back quite a ways, so you would have been 12 and
18 turn 13 in that year. Is that correct?

19 A Yeah.

20 Q 12 up to October and then turning 13, correct?

21 A I didn't know them when I was 12.

22 Q Okay. Do you know a person named, Lura,
23 L-U-R-A?

24 A That's my best friend.

1 Q And her last name starts with an "S"?

2 A Yes.

3 Q When you knew her, and you say you didn't even
4 know them, when you say, "them," are you referring to
5 someone in the courtroom?

6 A Yeah.

7 Q Is it a he or a she?

8 A He.

9 Q Do you know his name?

10 A Yes.

11 Q What is it?

12 A Brendan.

13 Q Do you know his last name?

14 A Yes.

15 Q What is that?

16 A Dunckley.

17 Q When you say you didn't know them when you were
18 12 or 13, when you said "them," who are you referring to?
19 He and who else?

20 A Morgan.

21 Q Who is Morgan?

22 A His wife.

23 Q Still to this day?

24 A I'm not sure.

1 Q All right. Fair answer. When did you first
2 meet him?

3 A Probably when I was like 13, maybe 14.

4 Q So going into the year from 1999, October, into
5 the year 2000, and the year 2001, then?

6 A Correct.

7 Q Did you meet them through Lura?

8 A Well, me and Lura met them together the same
9 night.

10 Q How old was Lura at the time?

11 A We are only a couple months different. She
12 could have been the same age, maybe a couple months
13 younger than me.

14 Q That's good enough. And Morgan and the
15 defendant, which is Brendan Dunckley, were married at the
16 time you met them?

17 A No, I don't think so.

18 Q Girlfriend/boyfriend?

19 A Yes.

20 Q But they were together?

21 A Yes.

22 Q How did it come about that you met them; do you
23 remember?

24 A Not exactly. I think that more or less we

1 started talking on the phone, and then Morgan and Brendan
2 said that they would come get us. And they came and
3 picked us up over at Lura's mom's house at the time.

4 Q Were you the same age as Brendan or Morgan?

5 A No.

6 Q Were they older than you?

7 A Yes.

8 Q Why were you talking to them on the phone?

9 What's the relationship here? Is there any?

10 A No.

11 Q Were you or Lura related by blood, marriage,
12 anything to either one of these two?

13 A No.

14 Q How did you call them? How did you become
15 friends? Do you remember?

16 A I think that when I called, I think that I got
17 the wrong number at first. I don't exactly remember, but
18 this is what I'm thinking.

19 I think that I called and I was calling for
20 somebody else, and I happened to get Morgan on the phone.
21 I was talking to Morgan, and I thought it was somebody
22 else. And her and I just started talking. And we were
23 both pregnant at the time with their son Jacob, and I was
24 pregnant with my daughter.

1 Q How old is your son now?

2 A My son? I have a daughter. She's six.

3 Q Do you have a son?

4 A No, they have a son.

5 Q I see. They're son, your daughter. You were
6 both pregnant at the same time?

7 A Yes.

8 Q And your daughter is six?

9 A Six.

10 Q Six now. All right. So we're going back to
11 2001, so you would have been 13 or 14, like you said a
12 little bit ago --

13 A Yeah.

14 Q -- if you were pregnant with her. What's her
15 birthday?

16 A September 23, 2000. Mine's October 13th.

17 Q I'm just trying to figure out the dates here.

18 So the two of you were both pregnant, and you
19 were talking to basically a complete stranger when you
20 were talking to her on the phone at first, but you struck
21 up a conversation. You guys started talking, you had
22 some things in common?

23 A Right.

24 Q But she's older than you?

1 A Yeah.

2 Q So at some point she said that she'd come over
3 and pick you guys up, and you were going to go somewhere?

4 A Yeah, just to hang out.

5 Q She was with her boyfriend/husband whatever he
6 was at the time, and that was the defendant, correct?

7 A Right.

8 Q That's yes on both of those questions?

9 A Yes.

10 Q So the four of you kind of hung out together?

11 A Yes.

12 Q Lura was your best friend, but she wasn't
13 pregnant at the time, was she?

14 A No.

15 Q She was within a couple months of your age?

16 A Right.

17 Q So you wouldn't have turned 14 until October of
18 2000, correct?

19 A Yes.

20 Q All right.

21 A Because I had my daughter when I was 13, yeah.

22 Q Okay. So this all happened before you were 14,
23 because you had your daughter?

24 A When I met them, yes, it happened when I was 13.

1 Q And you had your daughter when you were 13?

2 A Yeah.

3 Q So you were pregnant with your daughter at the
4 time, so you couldn't have been any older than 13?

5 A Right.

6 Q And the four of you guys would hang out for
7 what, couple weeks, months, years? How long would you
8 say you were friends?

9 A For the longest time. Probably about two years
10 ago I started getting into my own thing, I guess.

11 Q How much older than you was Morgan and Brendan,
12 do you know?

13 A Maybe -- I don't remember, but it was quite a
14 bit, maybe like seven to ten, maybe, years.

15 Q Years older?

16 A Um-hum.

17 Q Each of them?

18 A Yes.

19 Q Was Brendan older than Morgan?

20 A To be honest with you, I think so, yes.

21 Q Okay. So they were adults, you were kind of --
22 you and Lura were kind of kids?

23 A Yes.

24 Q But the fact that you and Morgan were both

1 pregnant was something you had in common?

2 A Right.

3 Q I need to kind of cut to the chase here and ask
4 some pointed questions. Did there ever come a time you
5 were in the same bed as Morgan and Brendan?

6 A Yes.

7 Q Why or how was that coming about?

8 A Me and Morgan were best friends for, like, the
9 longest time, and it wasn't anything out of the ordinary
10 or anything like that for me, Morgan, and Brendan to be
11 in, like, the same bedroom or even in the same bed. It
12 was okay.

13 Q Did you have your own boyfriend or the father of
14 your child as a boyfriend or anything like that?

15 A No.

16 Q All right. So while you guys were together do
17 you remember any time where there was anything sexual
18 happening between you and Brendan?

19 A Yes.

20 Q Okay. Was Lura involved in that too or was she
21 in bed with you at the same time?

22 A No, Lura wasn't there.

23 Q And can you tell us what it is you remember?

24 A Me, Morgan and Brendan, we were laying down and

1 we just got done watching a movie, and Morgan fell asleep
2 before me and Brendan did. And me and Brendan, I guess,
3 kind of started fooling around or whatever.

4 When I asked him to stop he stopped, like,
5 touching me, and that was the end of it. We never really
6 had anything after that like that.

7 Q Was this before or after your daughter was born?

8 A After.

9 Q Do you remember how much after?

10 A Probably about six months, maybe.

11 Q Okay. And the date of your daughter's birth
12 again, I'm sorry?

13 A September 23rd, 2000.

14 Q Do you know if it ever happened before you
15 turned 14 that you were with Brendan?

16 A Do I know -- can you repeat that?

17 Q Do you know if anything sexual ever happened
18 when you were with Brendan before you turned 14?

19 A Nope, never.

20 Q It didn't or you don't remember?

21 A Never anything.

22 Q Was there any other instances other than the one
23 you just described?

24 A No.

1 Q Okay. Lura may think it happened earlier than
2 you turning 14. Why are you so sure it was after you
3 were 14?

4 A Because of my daughter's birthday and my birth
5 date. I just turned 14 on October 13th. And the dates,
6 I had my daughter when I was 13, and my birthday was when
7 I was 14.

8 Q Right, but you said your daughter was six months
9 old.

10 A I don't know the exact timing. That's my
11 guesstimation.

12 Q Okay. Your daughter's six months old, you're
13 still 13 --

14 A No, I was 14.

15 Q You had your daughter when you were 13?

16 A Yeah.

17 Q Then you turned 14 right after that?

18 A Yeah.

19 Q I see. So you were 14-and-a-half from your best
20 recollection of when this happened?

21 A I'm going to say yeah.

22 Q Okay. How about Lura, do you know if she had
23 any sexual relations at all with Brendan?

24 A As far as I knew, no.

1 Q Consensually or not or otherwise?

2 A None.

3 Q You don't know of any time he forced himself on
4 her?

5 A I remember coming home, probably maybe back in
6 2005, to my mom and dad's house, and there was a cop car
7 there asking me if I knew Brendan. And as far as I knew
8 I forgot like kind of somewhat about them, because I
9 haven't been talking to them for a little while. I was
10 under a lot of drugs back then.

11 Q So this was in 2005, you were aware of some
12 situation or incident involving the police?

13 A Yes.

14 Q And that was involving Lura and Brendan?

15 A Yeah.

16 Q Going back to 1999, 2000, 2001, you're not aware
17 of any circumstances then?

18 A None.

19 Q Okay.

20 A They didn't really hang out that much as far as
21 I was concerned, because me and Morgan were, like,
22 inseparable for, like, the longest time. And it was just
23 her and I for, like forever, and Brendan would always be
24 at work. And I know that Lura wasn't coming around and

1 she was doing her own thing at that point in time.

2 Q Lura is about two or three months --

3 A Her birthday is in May and mine is in October.

4 Q So a few months, five months, older than you or
5 younger than you?

6 A Younger.

7 Q So she was born in 1987?

8 A Yeah.

9 Q And you first said you were born in 1987, and
10 then changed it to 1986. I'm wondering how you did that.

11 A I don't know why I mixed it up.

12 Q But which one is correct?

13 A '86.

14 Q Okay. All right.

15 MR. CLIFTON: I have no further questions, Your
16 Honor.

17 THE COURT: Okay. Mr. O'Mara.

18 MR. O'MARA: Yes, Your Honor.

19

20 CROSS-EXAMINATION

21 BY MR. O'MARA:

22 Q Michelle, my name is David O'Mara. I represent
23 Mr. Dunckley in this matter. If you can't hear me or you
24 can't understand me or any of my questions, please speak

1 up and I'll rephrase them as best as I can to help you
2 out.

3 You testified today that you first met Morgan,
4 Mr. Dunckley's wife or girlfriend at the time, and
5 Mr. Dunckley when you were pregnant, correct?

6 A Yeah.

7 Q How many months pregnant were you?

8 A It had to have been maybe seven, eight months,
9 maybe more, maybe a little bit less.

10 Q So if you gave birth to your child on September
11 23rd, 2000, then would it be correct to think that it
12 would be sometime in July or August of 2000 that you met
13 them?

14 A Yes, it would be.

15 Q So you didn't know Mr. Dunckley in 1999, at all?

16 A No.

17 Q And you're testifying today that he never
18 touched you inappropriately before you were of the age of
19 14?

20 A Right.

21 MR. O'MARA: I have no more questions, Your
22 Honor.

23 THE COURT: Okay. Mr. Clifton.

24 MR. CLIFTON: If I may have just a moment, Your

1 Honor.

2

3

REDIRECT EXAMINATION

4 BY MR. CLIFTON:

5 Q Do you remember being interviewed by Detective
6 Broome?

7 A Yeah.

8 Q Do you remember telling him that you were 12
9 when this happened with Brendan? Do you remember that?

10 A No.

11 Q Okay. When you were 12, he fondled your vagina
12 at night; do you remember saying that?

13 A No.

14 Q And he told you not to tell?

15 A I didn't say that. I know that I didn't say
16 that.

17 Q When you said you guys were fooling around and
18 went a little too far and told him to stop, what was it
19 he was touching?

20 A My vaginal area.

21 Q Inside or outside of the clothing?

22 A To tell you the truth, I don't really remember.
23 It could have been the inside and it could have been on
24 the outside of the clothing.

1 Q Was it with his hand, I take it?

2 A Yes.

3 Q Was there any kind of penetration?

4 A I don't think so. I don't believe so.

5 Q Was it fondling, rubbing?

6 A Yeah.

7 Q And you told him to stop and he did?

8 A Yes.

9 Q So the only issue left, I guess, is how old you
10 were at the time. And you don't recall saying you were
11 12, and you think now it was --

12 A I could have said that I was 12, but I wasn't
13 12. I could have said the years, and he could have
14 estimated it to me being 12 or something like that.

15 But I didn't meet him until I was pregnant. And
16 I got pregnant in '99, into 2000, on New Year's night. I
17 know that for a fact. So there's no way possible.

18 Q Did you tell him that you were born in 1987?
19 You think maybe the math was screwed up because of that?

20 A Maybe.

21 Q Why would you tell him you were born in 1987?

22 A To be honest with you, I've done a lot of drugs
23 in the past and --

24 Q And forgot your birthday?

1 A No, I didn't forget my birth date. But you guys
2 are making me nervous, to be honest with you guys.

3 Q I'm just kind of curious why the first thing I
4 asked you here today after your name was your date of
5 birth and you got it wrong. I'm just kind curious. I'm
6 just trying to find out.

7 A I don't have a good answer for that.

8 Q Well, thank you for being candid with us,
9 Michelle.

10 MR. CLIFTON: No further questions, Your Honor.

11 THE COURT: Mr. O'Mara.

12 MR. O'MARA: Just a few questions, Your Honor.

13

14

RECROSS-EXAMINATION

15 BY MR. O'MARA:

16 Q You just mentioned that you did a lot of drugs.
17 When did you begin your drug use?

18 A After I hung out with them.

19 Q Can you give me a date?

20 A No. Probably around maybe my 18th birthday. I
21 didn't even know them. I didn't hang around with them
22 around then.

23 Q And the District Attorney mentioned that you got
24 your date of birth wrong. When you first met

1 Mr. Dunckley, isn't it true that you told him you were 16
2 years old?

3 A Yes, I did.

4 Q Did he have any reason to believe that you
5 weren't 16 years old?

6 A No.

7 Q The District Attorney also brought up your
8 interview with Detective Broome. When did this occur?

9 A When I talked to the detective?

10 Q Correct.

11 A I don't know, like, April maybe.

12 Q April of this last year, 2007?

13 A Yeah.

14 Q So you've never reported any type of
15 inappropriate behavior?

16 A Never.

17 Q The police officer came to you?

18 A He called me. I was in prison, and he called my
19 case worker in prison.

20 Q Did he offer you a deal to come in here today
21 and testify?

22 A No, he just said to help Brendan get behind
23 bars.

24 Q Do you have some type of anger issue against

1 Mr. Dunckley?

2 A No, I don't.

3 MR. O'MARA: No other questions, Your Honor.

4 THE COURT: All right.

5 Thank you very much. You can step down. I
6 appreciate your testimony very much.

7 MR. CLIFTON: Your Honor, I know that on that
8 count, specifically Count IV, we have it alleged as the
9 entire year of 1999, but before I make any motions to
10 amend I want to wait to hear from Lura and put her on the
11 stand, just so Your Honor can kind of keep it in mind.

12 Next we might as well call Ashley.

13 MR. O'MARA: We will obviously object to any
14 motions, Your Honor.

15 MR. CLIFTON: That's fine. When I make the
16 motion, Your Honor, we'll cover that.

17 But Ashley, since we have her in the holding
18 cell, and then we can let the prisoners go back to the
19 Nevada State Prison.

20 THE COURT: Go ahead and raise your right hand
21 the best you can.

22 (Witness sworn.)

23 THE COURT: Thank you.

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ASHLEY V.,
called as a witness by the plaintiff herein,
being first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. CLIFTON:

Q Please tell us your first name.

A Ashley.

Q Spell it.

A A-S-H-L-E-Y.

Q And your first initial of your last name?

A V.

Q "V" as in Victor?

A Yes, sir.

Q Ashley, my name is Dave Clifton. I'm with the
District Attorney's office. We've never met, correct?

A Correct.

Q We've called you in here to testify on a case,
and you should have been subpoenaed and brought here from
the Nevada State Prison regarding a case involving a
Brendan Dunckley. Do you know that name?

A Yes, sir.

Q How would you know this person?

1 A I knew him when I was a younger girl.

2 Q What is your date of birth?

3 A 8-14-86.

4 Q So you're going to be 21?

5 A In August.

6 Q How did you know Mr. Dunckley; was there any
7 relationship blood-wise?

8 A No.

9 Q Was it just friendship?

10 A Yes.

11 Q Is he older or younger than you?

12 A Older.

13 Q How long would you say you've known him? Going
14 back to what age?

15 A 12.

16 Q What is it about being 12 or what is it about
17 that year, which would have been 1998, when you turned 12
18 that makes you think that's when you knew him?

19 A Me and my friend Michelle used to hang out all
20 the time at him and his wife's house.

21 Q Is Michelle the girl that just preceded you here
22 and testified?

23 A I think so.

24 Q I don't know if you two crossed in the hall

1 there or anything, but is she also a Nevada State Prison
2 inmate, to your knowledge?

3 A Yes.

4 Q Are you housed together?

5 A We're at the same camp.

6 Q She was friends with you since you were 12 or
7 even before that?

8 A Since, like, the beginning of middle school.

9 Q All right. Did you start middle school at 11 or
10 12 years old?

11 A Yeah, like 11.

12 Q Okay. How did you come to know Brendan
13 Dunckley?

14 A I don't remember how we met. I don't recall.

15 Q Do you remember Michelle having a child?

16 A Yes.

17 Q Did you also know a Lura, L-U-R-A, or still do?

18 A Yes.

19 Q Were all three of you friends?

20 A We all went to the same middle school.

21 Q When did Michelle get pregnant; do you remember
22 how old she was?

23 A I believe she was 13.

24 Q When she was 13, would that be middle school or

1 high school?

2 A Middle school.

3 Q Toward the end of the middle school years?

4 A Yeah.

5 Q You knew Mr. Dunckley before she was pregnant?

6 A Yes.

7 Q Before Michelle was pregnant?

8 A Yes.

9 Q You're sure of that?

10 A Yes.

11 Q Okay. Do you know Morgan?

12 A Yes.

13 Q What was her relationship to any of you or to
14 him?

15 A She was also our friend and his wife or his
16 fiancée, I believe.

17 Q All right. When you first met him?

18 A I think so.

19 Q And they eventually got married?

20 A Yes.

21 Q To your knowledge, did you ever stay at their
22 house?

23 A Yes.

24 Q Do you know when that first occurred, what year

1 you were in school or anything?

2 A No.

3 Q Do you remember any time that Brendan Dunckley
4 touched you in a sexual manner?

5 A Yes.

6 Q And this is while he had a girlfriend Morgan,
7 fiancée Morgan or a wife named Morgan?

8 A Yes. I don't recall if they were married yet.

9 Q Right, but what I'm saying is the whole time you
10 knew him, he either had a girlfriend, fiancée or a wife?

11 A Yes.

12 Q Same girl?

13 A Yes.

14 Q And during this time he touched you in some way?

15 A Yes.

16 Q Was it ever or did it start out consensually?

17 A Yes. I never told him no.

18 Q Okay. So it was always consensual?

19 I need a yes or no out loud.

20 A Yes.

21 THE COURT: We might explain it. She's
22 transcribing what we say, so she can only take down
23 words. It's hard to do gestures or nods.

24 In normal conversations you can use those

1 expressions, but she really needs a word.

2 I guess I was a little negligent. Maybe I
3 should have explained this better to the prior witnesses.

4 If you could answer with a word, I would really
5 appreciate it.

6 THE WITNESS: Yes, sir.

7 MR. CLIFTON: Thank you, Your Honor.

8 BY MR. CLIFTON:

9 Q Tell us where you were and to the best of your
10 recollection the date or the time period that it
11 happened.

12 A I can't give a date. I don't really remember.
13 I remember one time we were in the back of a car. He was
14 getting ready to drop me off at my mom and dad's house.

15 Q Was there anyone else in the car?

16 A No.

17 Q Just you and him?

18 A Yes.

19 Q He was driving. You were in which seat?

20 A Passenger.

21 Q What kind of car?

22 A Taurus, Ford Taurus.

23 Q Why was he dropping you off there?

24 A Because I had spent the night at his house.

1 Q With his girlfriend, fiancée or wife?

2 A Yes.

3 Q Were there any other people at the house?

4 A I don't remember.

5 Q Were there times when you Michelle and/or Lura
6 would stay over at the same time?

7 A Yes.

8 Q Were there times you would stay over there
9 without them?

10 A I don't remember.

11 Q And he is younger or older than you?

12 A He is older.

13 Q How much?

14 A I don't know.

15 Q Could it be ten years?

16 A Could be.

17 Q Was this the first time in the car that the two
18 of you had any romantic involvement, sexual involvement
19 at all?

20 A That was the first and only time we had
21 intercourse.

22 Q Intercourse. Were there times where it might
23 have started before the car situation, like at the
24 Atlantis?

1 A Yeah.

2 Q Let's start with the first one. When's the
3 first time you kissed him, if you can recall?

4 A I don't recall the first time.

5 Q Okay. How old were you, would you say, when any
6 of these happened?

7 A Probably 12.

8 Q In middle school?

9 A Yes.

10 Q And is that a guess or a pretty good
11 recollection of some of the things that were going on in
12 school that you --

13 A Pretty good recollection.

14 Q Can you attribute it to things; either your
15 birthday or things that happened in school or things you
16 were doing that gives you an idea of the date?

17 A Hum-um.

18 Q Which was the first one, the Atlantis or the car
19 or what?

20 A At the Atlantis.

21 Q Was there anything before that?

22 A No.

23 Q At the Atlantis in the elevator?

24 A Yes.

1 Q Who else was in the elevator?

2 A Just him and I.

3 Q Tell us what happened.

4 A I had mentioned that I had never been in the
5 elevator, and we went up in the elevator together. And
6 as we were coming back down he put his hands in my pants,
7 and -- you know. I never said no, though.

8 Q Okay. I'm not worried so much about that right
9 now. I'm just trying to get a feeling about what
10 happened, and then we'll talk about how it happened.

11 A Okay.

12 Q Was this the Atlantis here in Reno, Washoe
13 County, Nevada?

14 A Yes.

15 Q So you're going down the elevator, to the best
16 of your recollection?

17 A We had gone up, and then we were on our way back
18 down.

19 Q The elevator is going down, and just the two of
20 you were in there, and he puts his hand down the front of
21 your pants?

22 A Yes.

23 Q The front of your pants or the back?

24 A The front.

1 Q Vaginal area?

2 A Yes.

3 Q Under your panties or over or were you wearing
4 any?

5 A Under.

6 Q So under everything. Skin to skin?

7 A Yes.

8 Q When he did that were you kissing?

9 A No.

10 Q Did he just do it like right when the door shut
11 or did he just do it as you were going down?

12 A As we were going down.

13 Q You didn't see it coming? You didn't know he
14 was going to do it?

15 A No.

16 Q I know you're saying you didn't voice an
17 objection and you're maintaining it was consensual, but
18 he just reached over and put his hand down your pants?

19 A Yes.

20 Q Didn't say he was going to do it, didn't ask if
21 he could do it; anything like that?

22 A No.

23 Q When he does that does he make any penetration
24 to your vagina?

1 A No.

2 Q Does he rub?

3 A Yes.

4 Q With his hand?

5 A Yes.

6 Q And you don't tell him to stop?

7 A No.

8 Q And you believe you were in 7th grade at the
9 time?

10 A 8th grade.

11 Q And you were 12 or 13 now?

12 A I was 12.

13 Q But definitely less than 14?

14 A Yes.

15 Q You turned 12 on August 14, 1998, so it would
16 have been within how much time of that, would you say?

17 A I don't know.

18 Q Within a year?

19 A I'm sorry, I don't understand what you're asking
20 me.

21 Q If we start at August 14, 1986, when you were
22 born, and you turn 12 on August 14, 1998, would it have
23 been within that next year that this happened, while you
24 were 12?

1 A Yeah.

2 Q So before August 14th of 1999, it happened in
3 that year, correct?

4 A Yes.

5 Q Why were you in the Atlantis elevator without
6 Morgan or the two of you together?

7 A I had just made a statement that I've never been
8 in there. It was him, I, Michelle, and Morgan, and we
9 were all at the Atlantis. I don't remember why we were
10 there and what we were doing.

11 Q What happened to Lura and Michelle?

12 A I don't think Lura was there.

13 Q Michelle, what happened to her?

14 A Her and Morgan stayed downstairs while we went
15 in the elevator.

16 Q So Morgan wouldn't have known, you didn't tell
17 her?

18 A No.

19 Q Brendan didn't tell her?

20 A No.

21 Q Did anything else happen in the elevator?

22 A No.

23 Q Just put his hands down your pants and fondled
24 or rubbed, and you get down and the elevator opens, and

1 that was the end of it?

2 A Yes.

3 Q And nobody tells anybody what happened?

4 A No.

5 Q Going now to this next time where he drops you
6 off at your parents. That's off Longley Lane, south
7 Reno?

8 A Yes, by Mira Loma.

9 Q In the apartments there or in a house?

10 A It's apartments.

11 Q He drops you off, just the two of you in the
12 car. What happens there?

13 A We parked at the cul-de-sac before we went into
14 the apartments.

15 Q I see.

16 A And we both got into the back.

17 Q Was it at night?

18 A No, it was in the morning.

19 Q Was it dark or light out?

20 A Light.

21 Q How old were you now?

22 A I think about the same age.

23 Q So between August 14, 1998, and August 14, 1999?

24 A Yes.

1 Q So your 12 years old, to the best of your
2 knowledge?

3 A Yes.

4 Q Michelle hasn't had her baby yet?

5 A Are you asking me?

6 Q Yes.

7 A No.

8 Q She has not had her baby yet; is that a correct
9 statement?

10 A I don't believe so. I can't really remember too
11 well.

12 Q Okay. Are you older than Michelle or younger?

13 A I'm older.

14 Q All right. And what happened in the back of the
15 car?

16 A We had intercourse.

17 Q But this was not against your will is your
18 testimony, correct?

19 A Correct.

20 Q Okay. And that's the only time you two had
21 intercourse, correct?

22 A Correct.

23 Q And nobody told Morgan, I take it?

24 A No.

1 Q Was there any other times that the two of you
2 had had any type of sexual relations at all?

3 A No.

4 Q Would you recognize him if you saw him?

5 A Yes.

6 Q Is he here in the courtroom?

7 A Yes.

8 Q Where in relation to me?

9 A Over there (indicating.) Where is he?

10 Q Yes, in relation to me. My right, my left,
11 front --

12 A To your left.

13 Q Left. Person next to me or the one over from
14 that?

15 A One over from that.

16 MR. CLIFTON: Your Honor, if the record could
17 reflect identification of defendant Dunckley again.

18 THE COURT: The record will so reflect.

19 MR. CLIFTON: Thank you.

20 No further questions.

21 THE COURT: Mr. O'Mara.

22 MR. O'MARA: Thank you.

23 ///

24 ///

1 CROSS-EXAMINATION

2 BY MR. O'MARA:

3 Q Good afternoon, Ashley. My name is David
4 O'Mara. I'm Mr. Dunckley's attorney. I'm going to ask
5 you a bunch of questions today. If you can't hear me or
6 don't understand the question, please let me know. I'll
7 try to speak up or at least rephrase my questions so we
8 can get a proper record.

9 A Okay.

10 Q You testified today that you were housed at the
11 same camp as Michelle; is that correct?

12 A Correct.

13 Q How long have you been housed at the same camp?

14 A Only for about two weeks.

15 Q Have you discussed this case with Michelle in
16 that two-week period?

17 A No.

18 Q Have you been detained with Michelle recently?

19 A I don't understand what you're asking me.

20 Q How long have you been in prison?

21 A Since November.

22 Q November 2000?

23 A No.

24 Q November 2007, I'm sorry.

1 A 2006.

2 Q Any time between November 2006, to today's date
3 besides the two weeks, were you housed with Michelle?

4 A No.

5 Q You testified that you don't remember how you
6 met Mr. Dunckley; is that correct?

7 A Correct.

8 Q Would it be fair to say that you and Michelle
9 met Mr. Dunckley at the same time?

10 A I don't remember.

11 Q Would it be plausible --

12 A Yeah.

13 Q -- in that you both met them at the same time?

14 A Yes.

15 Q You testified that you, Lura, and Michelle all
16 went to the same school; is that correct?

17 A Correct.

18 Q What school did you go to?

19 A Dilworth Middle School.

20 Q Have you kept in contact with this Lura?

21 A I haven't, no.

22 Q When was the last time you had contact with
23 Lura?

24 A I think I was maybe about 14.

1 Q Did you have contact with Lura at the time you
2 claim these incidents happened?

3 A I don't understand. I'm sorry.

4 Q Did you have contact with Lura during the time
5 when these incidents happened?

6 A Like were we all together?

7 Q Correct.

8 A Not at the time, but those are the days we were
9 still hanging out. I don't understand.

10 Q So you were still hanging out with Lura at the
11 time you claim these incidents happened?

12 A Yes.

13 Q Going back to the time period in which you claim
14 that these events happened; you cannot give us a specific
15 date, correct?

16 A Correct.

17 Q Can you give us a specific month?

18 A No.

19 Q During your elevator ride, how far up did you go
20 on the elevator?

21 A I don't know specifically how far up we had
22 gone.

23 Q Do you remember which elevator you went to?

24 A The only thing I remember is that it was the one

1 that was all glass that you can see through.

2 Q So if I asked you to go to the board and
3 diagram --

4 A I couldn't.

5 Q You couldn't do it. How long did the elevator
6 ride last?

7 A Not more than a couple minutes.

8 Q Okay. And in these dates you claim that these
9 incidents happened between 1998 and 1999, correct?

10 A Correct.

11 Q How sure are you of those dates?

12 A Pretty sure.

13 Q Can you give me a percentage; 100 percent sure,
14 would it be 75?

15 A Like, maybe 80 percent.

16 Q And at this time that these claimed incidents
17 occurred was Michelle pregnant?

18 A Not that I recall.

19 Q Could she have already had the baby?

20 A No.

21 Q If you were told Michelle earlier today claimed
22 that the first time she met Mr. Dunckley was when she was
23 pregnant, would that be a true statement?

24 A I don't know. I don't recall.

1 Q Michelle testified earlier that she would have
2 met Mr. Dunckley for the first time seven or eight months
3 while she was pregnant. Do you recall that as being
4 correct?

5 A No.

6 Q Do you know the date of birth of her child?

7 A No.

8 Q Do you know the year of the birth of her child?

9 A I think it's '99 -- I'm not exactly sure -- or
10 2000.

11 Q What were you wearing on the day which you took
12 the elevator ride?

13 A I don't recall.

14 Q Were you wearing a skirt?

15 A No.

16 Q Were you wearing a blouse?

17 A I don't know exactly what I was wearing.

18 Q Do you recall if you had buttons?

19 A No.

20 Q A zipper?

21 A (Shakes head.)

22 Q Were they baggie pants?

23 A I really don't remember.

24 Q So you don't know if they were tight?

1 A No.

2 Q You testified that you were driven home in a
3 Ford Taurus the first time that an incident occurred.

4 A Yes.

5 Q Was that Mr. Dunckley's Ford Taurus?

6 A I don't know exactly whose it was.

7 Q Could you describe what the Ford Taurus looked
8 like?

9 A I think it was blue, but I can't recall.

10 Q You testified today that Michelle was at the
11 Atlantis, correct?

12 A Yes.

13 Q So if Michelle testified that she had not met
14 Brendan before 2000, do you think you may be incorrect on
15 the dates?

16 A No.

17 Q So it's either you're right and she's wrong or
18 she's right and your wrong?

19 MR. CLIFTON: Objection, Your Honor. That's
20 something I think goes beyond the scope of what you're
21 allowed to ask one witness about what another witness is
22 correct or wrong on or lying about.

23 That's new Nevada Supreme Court case law.

24 MR. O'MARA: I'm unaware of the case law.

1 MR. CLIFTON: You can't ask one witness if
2 another witness is lying, and I think that's what he's
3 getting at.

4 THE COURT: Well, I think there's a discrepancy
5 in the testimony. To the extent he's trying to say
6 someone is lying, I don't know if that is where he's
7 headed.

8 I'll ask you to rephrase the question.

9 BY MR. O'MARA:

10 Q I'm trying to figure out the dates in which this
11 occurred.

12 If an individual told you they had met this
13 person in 2000, would they be correct?

14 A Yeah. I don't know. All I know is that when I
15 met him I was, like, 12 years old.

16 Q But you're not sure?

17 A Of what?

18 Q When you met him?

19 A I'm not sure of how I met him.

20 Q But you're sure of how you met him?

21 A I'm not sure how I met him. I'm sure of how old
22 I was when I met him.

23 Q So if someone says you met him for the first
24 time in 2000, they would be incorrect?

1 A Yes.

2 Q When did you first notify the police department
3 in regard to this incident?

4 A I never did.

5 Q How did this incident come about?

6 A What incident? Why I'm here today?

7 Q Correct.

8 A I got a call while I was in camp incarcerated, I
9 guess, pertaining to another case that's going on or
10 whatever.

11 Q And who contacted you?

12 A A Detective Tom Broome, I believe.

13 Q And what did he tell you?

14 A He just asked me some questions about what I
15 could remember or if I could remember anything. Kind of
16 like the same questions you guys are asking me now.

17 Q Was this at the camp?

18 A Yes, it was a telephone call.

19 Q So he was not at the camp?

20 A No.

21 Q Do you know if this conversation was recorded?

22 A It was recorded.

23 Q When you first met Mr. Dunckley did you tell him
24 that you were 16 years old?

1 A I don't think so.

2 Q When you talked about getting in a car when
3 going to Longley Lane and Mira Loma apartments where
4 another incident occurred, do you know what type of car
5 that was?

6 A That I got into?

7 Q Yes.

8 A I'm almost positive it was a Ford Taurus.

9 Q It was the same blue Taurus?

10 A It was either silver or blue. I can't remember.

11 Q You testified that you had intercourse with
12 Mr. Dunckley. Can you explain what occurred in the back
13 of this vehicle?

14 A We got into the back seat and he set in the
15 back. He pulled down his pants and he put me on top of
16 him and helped me pretty much, helped me have sex with
17 him.

18 Q Was this your first time having sex?

19 A No.

20 Q Did you ever tell him that this wasn't your
21 first time?

22 A Did I ever tell him that it was?

23 Q That it wasn't your first time?

24 A No.

1 Q Did you notify the police department that you
2 had sexual intercourse with Mr. Dunckley?

3 A No.

4 Q Did this incident come up only when Detective
5 Broome called you?

6 A Yes.

7 MR. O'MARA: I have no other questions, Your
8 Honor.

9 THE COURT: Mr. Clifton, any redirect?

10 MR. CLIFTON: I think just one question.

11

12 REDIRECT EXAMINATION

13 BY MR. CLIFTON:

14 Q Ashley, I'm sorry, but we have to make this very
15 specific.

16 In the back seat of the car when you were on top
17 of him, you said he helped you -- and you called it --
18 have sex, have intercourse. Are we talking his penis in
19 your vagina?

20 A Yes.

21 Q When you say he helped you, does that mean he
22 was able to insert his penis in your vagina?

23 A He was holding my hips and guiding me.

24 Q Through the act of sexual intercourse?

1 A Yes.

2 MR. CLIFTON: Thank you. No further.

3 MR. O'MARA: I don't have any other questions,
4 Your Honor.

5 THE COURT: All right. Thank you very much.
6 You can step down. I appreciate your testimony.

7 MR. CLIFTON: Your Honor, if I may, a couple
8 amendments now to make, so we don't get them confused
9 with later possible amendments.

10 On Count I, II, and III, you can see that the
11 charges are charged alternately. And to be consistent
12 with her date of birth, which is what I tried to
13 concentrate on, focus on with her testimony, I would move
14 to change the dates on all three of these counts to the
15 14th day of August 1998, which is when she turned 12, and
16 I'd like to go to the 14th day of August 2000, rather
17 than 1999, which is when she turned 14.

18 And, Your Honor, I'd like to make it the 13th
19 day rather than the 14th day on the second one.

20 THE COURT: You're at line 16?

21 MR. CLIFTON: Yeah. So it would be the 14th day
22 of August 1998.

23 THE COURT: 13th or 14?

24 MR. CLIFTON: This one is the 14th.

1 THE COURT: The 14th day of August.

2 MR. CLIFTON: August 1998.

3 THE COURT: So January to August on line 17?

4 MR. CLIFTON: Yes. And then it should read,

5 "And the 13th day of August 2000." So between those two
6 dates, 14th day of August 1998, to the 13th day of August
7 2000, which would be the day before she turned 14.

8 And that would be consistent with the lewdness
9 charge, which is the alternative Count II.

10 MR. O'MARA: Your Honor, is the District
11 Attorney moving to amend this?

12 MR. CLIFTON: Yes, but I'm not quite done. I'm
13 moving to amend all three.

14 THE COURT: He's moving to amend the complaint.

15 MR. CLIFTON: 173.095 --

16 THE COURT: Mr. Clifton, just a minute. He's
17 moving to amend the complaint at line 16 on Page 1,
18 striking the word first or the letters, "1st through the
19 14th." And then it says, "day of," and then on line 17
20 he's changing January to August. And then he's changing
21 the word 31st to 13th. And then December he's changing
22 to August, and he's changing the year from 1998 to 2000.

23 MR. CLIFTON: Correct.

24 MR. O'MARA: We obviously object to this, Your

1 Honor. This complaint is completely vague and doesn't
2 give any notice to Mr. Dunckley as to what the charges
3 are he's being charged with. They can't come back out
4 and say that within a 10-year period of time this
5 incident happened. There has to be a standard of notice
6 in the complaint that allows Mr. Dunckley to defend
7 himself.

8 This is so far out, he doesn't have the proper
9 notice to defend himself.

10 MR. CLIFTON: And NRS 173.095 allows, with leave
11 of Court, for the State to amend a complaint, information
12 or indictment -- a complaint or information I should
13 say -- up until the time of verdict.

14 We have had many cases where an amendment is
15 made to a date, even at trial, based upon the evidence.
16 To conform to the evidence, Your Honor --

17 THE COURT: Okay. Okay. I'm going to overrule
18 the objection.

19 MR. CLIFTON: Thank you.

20 Lastly, just for the record, I wanted to mention
21 that we are dealing with a child here when this happened.
22 So the courts are much more lenient with that.

23 With respect to Count II, the dates would be the
24 same on lines 4 and 5, the same changes that we just

1 made. That would be the State's motion.

2 In addition, line 8 --

3 THE COURT: Just a minute. Give me just a
4 minute. I have to write very carefully.

5 All right. Line 14, I've changed the word 1st
6 to 14th. Line 5, I've changed January to August, 31st to
7 13th, and December to August, and the year 1998 to 2000.

8 MR. CLIFTON: And additionally, Your Honor, on
9 line 8, it has Ashley's birth date incorrect. It should
10 be August 14th, not March 14th of 1986.

11 So I'd make the amendment to change March to
12 August.

13 THE COURT: Do you want to do that also on Count
14 I at line 20?

15 MR. CLIFTON: Oh, I didn't even realize we had
16 it on Count I. Yes. Thank you.

17 THE COURT: Then on Page 2 at line 21, same
18 amendments?

19 MR. CLIFTON: Yes. And line 26 for her birth
20 date.

21 THE COURT: Okay. I have made those amendments.

22 MR. CLIFTON: On Page 3, Your Honor, at the very
23 top on line 2, the fifth word is "at." If we could just
24 strike that word so that it reads, "Ashley V., in a

1 parking lot."

2 THE COURT: All right. I've stricken the word
3 "at."

4 MR. CLIFTON: And that's all I have based upon
5 her testimony, Your Honor. And if there's no objection
6 is that "at" being deleted, I take it?

7 MR. O'MARA: I don't have an objection to the
8 "at," but I still maintain my objection to the others.

9 THE COURT: So noted. Thank you.

10 MR. CLIFTON: I would like to call Tom Broome to
11 the stand, please.

12 THE COURT: Good afternoon. There's a door
13 handle that will let you into the witness stand there.
14 When you step in you may feel a little movement, but it's
15 a leveling device that works by itself.

16 (Witness Sworn)

17 TOM KEITH BROOME,
18 called as a witness by the plaintiff herein,
19 being first duly sworn, was examined
20 and testified as follows:

21
22 DIRECT EXAMINATION

23 BY MR. CLIFTON:

24 Q Please state your name.

1 A Tom Keith Broome.

2 Q Spell your last.

3 A B-R-O-O-M-E.

4 Q Your occupation, please.

5 A I'm a detective with the sex crimes unit for the

6 Reno Police Department.

7 Q How long have you been with Reno Police?

8 A Just short of 27 years.

9 Q How long as a detective?

10 A In this particular unit about seven-and-a-half

11 years.

12 Q How about total years?

13 A About half my career.

14 Q Okay. And in this particular unit did you have

15 occasion to become involved in the investigation of a

16 Brendan Dunckley, D-U-N-C-K-L-E-Y?

17 A Yes, sir, I did.

18 Q I want to direct your attention -- let's start

19 with the most recent incident of March 10th, 2007,

20 involving a Jessica H. Are you familiar with this

21 investigation?

22 A Yes, sir.

23 Q Did you know Mr. Dunckley even before this

24 investigation based upon other prior possible

1 investigations?

2 A Yes, sir, I did.

3 Q All right. In this one, with Jessica H., when
4 were you first called into it?

5 On March 10th, in other words what was happening
6 when you got involved?

7 A The patrol sergeant called me. We have two
8 on-call sex crimes detectives every week. And I was the
9 primary on-call detective. So we usually get calls
10 either giving us a heads up or asking advice or for
11 whatever reason, we decide whether or not we come out and
12 start an investigation right then or take a look at it at
13 a later time.

14 Q Well, this happened in the evening hours of
15 March 10th. Would it be safe to say you got involved on
16 that date; do you remember?

17 A Sure.

18 Q Did you have occasion to see Jessica at the
19 scene of her apartment?

20 A No, sir.

21 Q Did you have occasion to see the defendant any
22 time that night?

23 A No, sir.

24 Q Did you get briefed by the police officers,

1 patrol officers, on what she claimed had occurred?

2 A I did.

3 Q Let me just jump right ahead to -- well, let's
4 start with her, even before we get to his interviews.

5 You did have occasion at some point to interview
6 her, correct?

7 A I did.

8 Q Did she explain what happened at her apartment
9 that night?

10 A Yes, she did.

11 Q Did she indicate in any way, shape or form that
12 it was consensual or there was any consensual sexual
13 activity between her and the defendant?

14 A No, sir.

15 Q Is that "no"?

16 A No.

17 Q And the defendant I'm referring to is
18 Mr. Dunckley, you're aware of that?

19 A Yes, sir.

20 Q Did she indicate she knew him from any past
21 occasions?

22 A No, she said she didn't.

23 Q Did she indicate that she believed she had
24 bitten his penis?

1 A She said that, yes, sir.

2 Q Okay. When was it, would you say, that you had
3 occasion to interview him in relation to the time of the
4 event?

5 A About 10 days later.

6 Q Do you know his date of birth?

7 A I believe it's July 4th of 1976.

8 Q So he'll be 31 in two days?

9 A If I'm correct, yes, sir.

10 Q Okay. Are you familiar with Michelle, Lura,
11 Ashley, the names of some of these people in
12 Mr. Dunckley's life?

13 A I am.

14 Q And they're all significantly younger than him,
15 approximately ten years?

16 A Yes.

17 Q Okay. On this case, let's say approximately
18 March 20th, that's based on your recollection when you
19 interviewed him, was it at his home, at the station, at
20 his work or what?

21 A My first interview with him was at his home on
22 the 20th.

23 Q Was it there or was it over the phone?

24 A It was there in person.

1 Q Was he consensual to being interviewed?

2 A Yes.

3 Q Did you indicate to him what this interview was
4 about?

5 A I did.

6 Q And the allegation that was being made by
7 Jessica?

8 A Yes, sir.

9 Q Go ahead and, I guess, just jump to it and tell
10 us what his first explanation was as far as what occurred
11 that night with her.

12 A His first explanation was, as he originally
13 reported, that it was -- that there was no sex act of any
14 kind.

15 Q When you say when he first reported, you're
16 talking about the patrol officers on scene that night?

17 A That's correct.

18 Q And that was because she had chased him or given
19 chase to him outside of her apartment, two people had
20 tackled him or jumped him?

21 A He was detained, yes, sir.

22 Q The police came and he was still there?

23 A Yes.

24 Q But no arrest was made?

1 A Yes.

2 Q She had been drinking, that was clear?

3 A Yes.

4 Q You know what he has told the police, you'd been
5 briefed on that, correct?

6 A Yes.

7 Q And he gives a similar statement now to you?

8 A Yes.

9 Q In this first statement he claims there was no
10 sex act at all?

11 A That's correct.

12 Q Did he indicate why he happened to be at her
13 apartment?

14 A That he was just trying to help her. He'd seen
15 her staggering down the road. He was just trying to make
16 sure she got home okay.

17 Q He was not in custody with you even on this
18 interview, correct?

19 A That's correct.

20 Q At this time you made this clear to him?

21 A Sure. I was in his home and he invited me in.

22 Q And he was not arrested after the interview on
23 that date?

24 A That's correct.

1 Q So he was free to stop the interview at any
2 time?

3 A Sure.

4 Q He indicated no sexual act whatsoever. Did he
5 indicate he had to help her in any way, shape or form?

6 A Yes.

7 Q To do what or why?

8 A Help her up the stairs into her apartment, and
9 that she had passed out and had fallen down, and he was
10 rendering medical assistance to her.

11 Q Did that include rubbing her chest? He called
12 it sternum, I should be fair.

13 A That's correct.

14 Q Rubbing her sternum?

15 A Yes, sir.

16 Q Did he indicate that she came to?

17 A He did.

18 Q And then she passed out again or went
19 unconscious seemingly again?

20 A That's correct.

21 Q Then he had to rub her chest back to
22 consciousness again?

23 A I'm not sure. There was two chest rubs, but she
24 did wake up.

1 Q Woke up a second time, and then what happened?

2 A She just went crazy -- according to him -- that
3 she just went crazy and started screaming at him and
4 started chasing him down the stairs. Said that "you
5 raped me."

6 Q Anything about that interview that's noteworthy
7 or that we need to cover?

8 A We had started in his living room. And I told
9 him that -- I asked him if he remembered that we took
10 swabs of his penis that night, and he said he did. He
11 indicated that he was very uncomfortable talking there,
12 because his wife was just in the other room. I asked him
13 if he wanted to go out on the front steps. He said yeah,
14 so we did.

15 Walked out on the front steps, at that point is
16 when he told me that everything was kind of the same,
17 except that when she woke up she unzipped his pants, took
18 his penis out, put it in her mouth before he knew what
19 was happening.

20 Q And this was after you told him about some type
21 of DNA evidence?

22 A I reminded him that we had swabbed his penis and
23 he was fully aware of that. That happened -- the initial
24 patrol guys did that.

1 Q Did he say anything about why he didn't say
2 anything of this to the police, because his wife wasn't
3 there at that time, right, on March 10th?

4 A She might have been in the area.

5 Q Did he indicate why he didn't tell the police
6 the correct version, the truth, what he's saying now is
7 the truth?

8 A He said several times it was a bad judgment
9 call. I don't believe he wanted his wife to know.

10 Q But he admitted he lied to the patrol officers?

11 A Yes.

12 Q And he admitted he lied to you the first time in
13 giving you the events?

14 A It was clear he lied to me, because I was the
15 one there that he had lied to.

16 Q So now he's saying that in her state of
17 intoxication and semiconsciousness she unzips his pants,
18 pulls his penis out, and puts it in her mouth?

19 A Yes, sir.

20 Q You didn't arrest him though, correct?

21 A I did not.

22 Q You went back to the station?

23 A I asked him if he would meet me the following
24 day for an interview in our office, again. And I

1 happened to be on call that week and was on my way to
2 another sexual assault.

3 Q And did there come a point in time when he met
4 with you?

5 A I met with him at about 10:00 o'clock the
6 following day at the sex crimes office.

7 Q Did he drive himself there?

8 A He did.

9 Q Did you make it clear he was not in custody?

10 A I did.

11 Q Did you make it clear he was free to leave at
12 any time?

13 A Yes, sir.

14 Q Were any of these interviews taped?

15 A All of them were.

16 Q Audio? Visual?

17 A The ones in the office are audio and video, the
18 one at his house was just audio.

19 Q On this audio and videotape in your office did
20 he give another version of events?

21 A It was pretty similar to what we had talked
22 about the day before.

23 Q Do you remember at any time during these two
24 interviews him saying that she -- the reason that the DNA

1 or the penile swab might show positive had something to
2 do with her hand down his pants? Not oral copulation,
3 but her hand down his pants?

4 A He did say that at some point, yes, sir. I'm
5 not sure if that was in the initial interview or the
6 other one. I reminded him we were talking about saliva,
7 we were not talking about any other sort of transfer of
8 DNA but saliva.

9 Q That's what I'm referring to. You told him
10 about a saliva test that either did or could come out
11 positive regarding the victim's saliva on his penis; is
12 that correct?

13 A Yes, sir.

14 Q And his answer was, "Well that could be because
15 she put her hand down my pants," correct?

16 A Correct.

17 Q Then you reminded him what?

18 A That we were talking specifically about her
19 saliva on his penis.

20 Q So that couldn't be explained by her hand, then,
21 correct?

22 A Yes, sir.

23 Q Is that what you were getting at?

24 A Yes.

1 Q So we have no sex, her hand she forcibly put
2 down his pants, and thirdly she pulled out his penis and
3 put it in her mouth. Those three different scenarios?

4 A And kind of an addition to that one: When he
5 came to the office he said that when she woke up she
6 wanted to thank him for helping her up the stairs.

7 So that was in addition to the interview from
8 the day before that that's why she did that.

9 Q Why she did --

10 A Why she put his penis in her mouth was to thank
11 him.

12 Q The oral copulation?

13 A Correct.

14 Q Was the arrest of him made at that time?

15 A He was arrested at the end of that interview,
16 yes, sir.

17 Q For?

18 A Sexual assault.

19 Q On?

20 A On Jessica H.

21 Q And this was at Sky Mountain, I believe the
22 apartments off --

23 A 1670 Sky Mountain, I believe.

24 Q Good enough. So that was the March 10th, 2007,

1 incident. Can you explain to the judge how you connected
2 some of these previous cases to Mr. Dunckley?

3 A Well, as we talked about before, I was aware of
4 Mr. Dunckley from a previous investigation in 2005. Now,
5 when I got called the night of March 10th, when this
6 occurred I was not told it was Brendan Dunckley involved.
7 I didn't learn that until I came to work on the 12th
8 after days off. So I initially didn't know it was him.

9 When I saw that case, and of course I was the
10 investigator on the '05 case, I saw some similarities in
11 the two cases.

12 Q Including drunken or intoxicated victim?

13 A Intoxicated victim, the age of the victim, the
14 bizarreness in the stories, the fact that he made the
15 victims somewhat the aggressors and him somewhat of a
16 victim in both cases.

17 Q The 2005 case, what's the victim's name in that
18 case?

19 A Lura.

20 Q L-U-R-A?

21 A Correct.

22 Q And she's friends with Michelle?

23 A She is friends with Michelle.

24 Q Now Michelle has already testified here today

1 and Lura has not yet. Lura then, in 2005, would have
2 been approximately the same age you're saying Jessica was
3 in 2007. Is that what you were saying, they're similar
4 ages?

5 A That's correct.

6 Q But Lura actually goes back, with respect to
7 Mr. Dunckley, to way before 2005, correct?

8 A That's correct, as does Michelle, I believe.

9 Q But in 2005, the case you were investigating was
10 an actual sexual assault, correct?

11 A It was a reported sexual assault, yes, sir.

12 Q By Lura?

13 A Correct.

14 Q In other words, sex against her will?

15 A Yes, sir.

16 Q Similar to Jessica?

17 A Right.

18 Q Because Jessica was reported?

19 A Correct.

20 Q In further investigation or in your previous
21 knowledge of Mr. Dunckley in these cases, did you know of
22 an instance with Lura even before 2005?

23 A Yes.

24 Q Okay. And did that include Mr. Dunckley and

1 some type of sexual acts or relations with Lura while she
2 was under 14?

3 A Yes, sir.

4 Q And did it also include Michelle?

5 A It did.

6 Q Did you interview Michelle?

7 A On the phone.

8 Q Okay. Would this be in 2007, now?

9 A Yes, sir.

10 Q So when you took over that investigation from
11 the earlier cases in 2007, you called Michelle where?

12 A At -- I don't recall which facility, but the
13 Nevada Department of Corrections. I believe it was in
14 Las Vegas.

15 Q When you talked to her by the phone was any of
16 that recorded, do you know?

17 A I don't recall right now.

18 Q Okay. That's fine. But when you spoke to
19 Michelle did you find out that something happened when
20 she was 12 or 13 with Brendan Dunckley?

21 A I did.

22 Q Now she came in here today and said she's pretty
23 sure she was older than that. Did you attempt to tie
24 down the dates or age in any way? Did she mention she

1 was 12 or 13 or how did this go?

2 She said she had a baby when she was 13, a
3 daughter. Did she indicate to you whether it was before
4 she had the child or after, anything like that?

5 A I just don't remember exactly what she --

6 Q All right. You did a five-page report. You
7 have done several, but one being a five-page report
8 dealing with Michelle. Are you aware of this report?

9 A Yes, sir.

10 Q And it's just a short portion that's on
11 Michelle. Page 3 of 5 of your report. I want to give
12 you a date on this report, but I don't know if you've
13 done more than one on this date, and I don't want to get
14 it confused.

15 But it's the report that you have, "Phone
16 interview with Lura." You talked to Ashley and you
17 talked to Michelle. Are you familiar with this
18 supplemental report?

19 A Yes, sir.

20 Q Go ahead and review a little bit of Michelle, on
21 Page 3, and also onto Page 4. It's only about two
22 paragraphs.

23 A (Witness complies.)

24 MR. CLIFTON: Your Honor, I apologize. I should

1 have asked to approach him with his report to refresh his
2 recollection. That's my intent in doing this when he
3 said he couldn't remember, if that's all right with the
4 Court.

5 THE COURT: All right.

6 THE WITNESS: Yes, sir.

7 BY MR. CLIFTON:

8 Q Does that help refresh your recollection a
9 little bit about the interview with Michelle? You said a
10 minute ago you couldn't quite remember some of the
11 details.

12 A Yes.

13 Q All right. Let me ask you a few questions on
14 that. Does she indicate how old she was when this sexual
15 conduct happened with Mr. Dunckley?

16 A She talks about two different times, actually.
17 One time when she thought that she was older, 16 or 17,
18 and then an incident when she was 12.

19 Q And the time that she was 12, did that involve
20 sleeping with him and his girlfriend or wife named
21 Morgan?

22 A Yes, sir.

23 Q What did she say he did to her while she was
24 sleeping over at their house?

1 A He reached over Morgan and fondled her vagina in
2 the bed.

3 Q Reached over Morgan an fondled whose vagina?

4 A I'm sorry, fondled Michelle's vagina.

5 Q While she was 12?

6 A Yes, sir.

7 Q Did she, Michelle, indicate she was aware of
8 Ashley also being sexually assaulted -- that's the words
9 used in your report -- by Dunckley?

10 A Yes.

11 Q And she was the one that told you about Ashley?

12 A She was.

13 Q And then you went and interviewed Ashley?

14 A Same way, via telephone.

15 Q And you found out Ashley was how old when she
16 had some type of sexual contact with the defendant?

17 A She was 12 or 13 also.

18 Q And Mr. Dunckley is the defendant here in the
19 courtroom today?

20 A He is.

21 Q Did you use photographic arrays or photo lineups
22 or anything like that with any of these witnesses in
23 dealing with the defendant identity? Would that include
24 Jessica?

1 A Yes, sir.

2 Q Was she able to pick out Mr. Dunckley in that
3 photo array/lineup?

4 A She was.

5 Q How many people were in that array?

6 A I vary them. I don't always use six. Sometimes
7 I use eight. I don't recall how many was in this, but I
8 usually don't stick to a specific number.

9 Q But either way, you talked to Mr. Dunckley and
10 he admitted he had contact with this person at that
11 location that appeared to be Jessica that he was talking
12 about, correct?

13 A Oh, sure.

14 Q So there's no question now that we're talking
15 about the right person that Jessica was with that night
16 at her apartment?

17 A That's correct.

18 Q Okay. Thank you.

19 MR. CLIFTON: No further questions.

20 THE COURT: Mr. O'Mara.

21 MR. O'MARA: Thank you.

22 ///

23 ///

24 ///

1 CROSS-EXAMINATION

2 BY MR. O'MARA:

3 Q Detective Broome, my name is David O'Mara, and I
4 represent Mr. Dunckley. If you can't hear me or you
5 don't understand a question, please speak up so we can
6 get a proper recording of the court record.

7 A Sure.

8 Q You talked about Mr. Dunckley stating that the
9 saliva could have been on his penis from a hand; is that
10 correct?

11 A Yes.

12 Q Could it have been a misinterpretation between
13 Jessica's hand and Mr. Dunckley's hand?

14 A No.

15 Q Did Mr. Dunckley ever inform you that he had to
16 do a finger sweep of Jessica in order to stop her from
17 choking?

18 A No. I have heard that story, though.

19 Q When did you hear that?

20 A Last time I was here I heard that story.

21 Q So at no time during your investigation or your
22 interviews with Mr. Dunckley he never mentioned that he
23 did a finger sweep of Jessica?

24 A He told another Reno police officer that. He

1 never told me that, no, sir.

2 Q All right. Great. If we can go to Michelle and
3 the questions we just went through and how you just
4 reviewed your incident report, number 0534027706; do you
5 have it in front of you?

6 A I don't.

7 Q Do you recall why Michelle was over at Brendan
8 and Morgan's house?

9 A Not specifically. I got the impression they
10 were all --

11 Q Let me rephrase my question, because there's two
12 sections in here.

13 In your statement it talks about Michelle
14 sleeping over when she was 12, and then it later goes on
15 and says the reason why she was over there. Do you
16 recall why?

17 A Specifically that time, no, sir.

18 Q If it said she said that Brendan and Morgan were
19 babysitting her at the time, would that fresh your
20 memory?

21 A That's what I was going to say when you stopped
22 me is that all these girls were friends, more with Morgan
23 at the time. So they spent a lot of time together at
24 that time of their life. So, yeah.

1 Q So Michelle could have had her baby being at
2 Brendan and Morgan's to be babysat?

3 A She could have, yes, sir.

4 Q Do you know when Michelle had her baby?

5 A I don't.

6 Q Did she ever talk about her baby in the
7 interview?

8 A No. My interview was very short, and they were
9 trying to pull her away while I was talking to her, the
10 correction people.

11 Q Did you ever go into Michelle's past?

12 A Not in specifics, no.

13 Q Did you ever go into her drug habits?

14 A I knew why she was incarcerated, if that helps.
15 I knew she had a rough childhood, if that helps.

16 Q If you were told that she had a baby in 2000,
17 would your numbers be correct now about the age of 12?

18 A Without having the dates of birth in front of
19 me, I --

20 Q Let's see. Michelle was born on October of
21 1986. Do you recall that birth date?

22 A I don't, but I certainly believe you.

23 Q And her baby was born on September 23rd of 2000.
24 So if she had a baby in 2000, and she was born in 1986,

1 she couldn't have been 12 years old, correct?

2 A That's correct.

3 Q Did you look into when her baby was born?

4 A No, I didn't.

5 Q Are you aware that -- obviously you're not
6 aware. Would it surprise you if Michelle testified today
7 that she never said that Mr. Dunckley told her never to
8 tell anyone?

9 A Would it surprise, me?

10 Q Yeah.

11 A Somewhat, I guess, yes, sir.

12 Q In regards to -- let's go back to Jessica. In
13 regards to the incident in which she claimed happened,
14 did she ever acknowledge how long the incident occurred?

15 A I'm not sure specifically what part of the
16 incident.

17 Q Did she ever talk about the incident in the
18 apartment between the alleged -- her and the defendant
19 here?

20 A Yes, sir. Are you talking about the part about
21 the fellatio?

22 Q In between the period of time when she entered
23 the apartment to the end of this alleged incident where
24 she ran out of the apartment.

1 A Just that it was a short time, yes, sir.

2 Q But she didn't give you any 5, 10 minutes?

3 A I don't believe so, and I don't know that she
4 could have.

5 Q Did she describe what happened when she entered
6 the apartment originally?

7 A Yes.

8 Q What did she say?

9 A That she opened the door, walked to the back
10 part of the apartment, called for her boyfriend, was
11 looking for him, and when she turned around Brendan was
12 standing between her and the door.

13 Q And then what happened?

14 A And he told her to "suck his dick," and she said
15 that she had no way out. She said he was between her and
16 the door and she was scared.

17 Q What did she do after he allegedly said, "Suck
18 my dick"?

19 A She did what she was told to do.

20 Q Did you measure the distance between the back
21 room and the door?

22 A No.

23 Q Do you have any recollection of how far the back
24 room and the front door is?

1 A No, I don't.

2 Q Do you know of any report that measured the back
3 door?

4 A No, sir.

5 Q Do you know of any police officer that has been
6 inside of the apartment?

7 A Sure.

8 Q Is there any report that sets forth the distance
9 between the back room and the front door?

10 A Could be an FIS report that I don't have.

11 Q If you mean FIS report, what is that?

12 A The lab people, the county crime lab people. If
13 they were called they would have prepared something like
14 that.

15 Q And when Jessica informed you of the alleged
16 incident did she mention how many times she bit the
17 defendant?

18 A If she did, I don't recall how many times.

19 MR. O'MARA: May I have a few minutes, Your
20 Honor?

21 THE COURT: Certainly.

22 MR. O'MARA: Thank you.

23 BY MR. O'MARA:

24 Q In your review of other detectives' or officers'

1 reports, did any of the other officers in their reports
2 mention how many times she allegedly bit the defendant?

3 A If they did, I don't recall that.

4 MR. O'MARA: I have no other questions, Your
5 Honor.

6 THE COURT: Okay. Mr. Clifton.

7 MR. CLIFTON: No additional.

8 THE COURT: Okay. Thank you very much.

9 MR. CLIFTON: Your Honor, the State's last
10 witness is Lura. She lives in Yerington. And apparently
11 she had car trouble getting out of Yerington or is having
12 trouble finding a car ride out of Yerington, I don't know
13 which. So she has not been able to make it here.

14 I guess my first motion or option would be to
15 ask, since it's this late of an hour anyway, to continue
16 the rest of the prelim to a date that would allow us time
17 to drive her here, get her a ride here, whatever it
18 takes.

19 I know this is the second time she's been
20 subpoenaed for court. She is cooperative. She's
21 available. We know where she lives. She answers the
22 phone. We've talked to her two or three times today.

23 (Deputy District Attorney Sworn)

24 THE COURT: Is Lura subpoenaed?

1 MR. CLIFTON: Yes, she was, Your Honor. She was
2 subpoenaed for the May preliminary hearing and she was
3 subpoenaed again for today. I have not checked to see if
4 they were oral-service subpoenas or if they were
5 physically served upon her. But in either event, under
6 the oral service law she has been cooperative. She was
7 notified of today's date. She has always told us she
8 would be here. We expected her to be here.

9 And at the time of the prelim at 1:30 today, we
10 tried starting to call her from 1:30 to 2:30, and were
11 told she's having car trouble, she's trying to find a
12 ride, things like that. I've only been able to talk to
13 my witness advocate during breaks just now trying to find
14 out if she's here. She couldn't make it. So I don't
15 know the exact reason there.

16 But I do know she's a necessary witness on
17 several counts, I think it's two counts dealing with her
18 and Michelle on Count IV, and then her alone on Count V.
19 So it's just those two counts. But we certainly would
20 like to have her here.

21 THE COURT: Also on Count VII.

22 MR. CLIFTON: Yes, Count VII.

23 At this point, Your Honor, I haven't heard
24 anything yet about violence or injury or threats, even

1 from Jessica, so I don't know if we're going to be able
2 to mandate Count VII. And I'm not going to be asking
3 Your Honor to bind over on Count VII, even if Lura
4 testifies it was forced and threatened. And I'm sure she
5 will testify the sexual assault on her was forced.

6 This sexual coercion charge was based on all the
7 witnesses, and we have put three of the four on, so I am
8 satisfied, Your Honor, that we will not be going forward
9 on Count VII. But before I let Your Honor dispose of
10 that or make any kind of motion, I should wait and listen
11 to her testimony, because I can already see there's a
12 disparity between Michelle and Lura from what I see in
13 the police reports.

14 But that count was supposed to be for all of the
15 witnesses together mutually. And so far it's not looking
16 like there were threats involved, not to say there wasn't
17 sexual assaults, lewdness or other charges that are
18 charged here.

19 So I would ask that you allow us to go to a
20 separate date, maybe more than tomorrow, like after the
21 July 4th date to find out what it's going to take to get
22 her here.

23 I think Yerington is about a 90-mile drive, an
24 hour, hour-and-a-half.

1 THE COURT: About an hour-and-a-half, I think.

2 MR. CLIFTON: We could certainly provide a ride
3 and get her here, but doing it tomorrow might be a little
4 tight. So my motion, I guess, for continuance based upon
5 Hill/Bustos is that she is a necessary witness; it's not
6 for purposes of delay, of course; and we've done
7 everything we could, including subpoena her to get her
8 here today, and now it looks like we have to physically
9 transport her, so that will take a little more doing.

10 MR. O'MARA: Your Honor, we object to allowing a
11 continuance at this time. This was set out 45 days in
12 order to get discovery on this case. Whether or not they
13 subpoenaed her multiple times, she was required to be
14 here today, she has chosen not to be here today. This
15 hearing started at 1:30. It's almost four hours later.
16 She should have been in her car way before the 1:30
17 hearing before this time.

18 It isn't a good faith response by the DA to say
19 we can do this next week. This is the time set for the
20 preliminary hearing. This is the time that they're
21 supposed to put on their evidence for probable cause.
22 They have not done so, and they should not be entitled to
23 a continuance.

24 THE COURT: Mr. Clifton, additional comments you

1 want to make?

2 MR. CLIFTON: No, Your Honor.

3 THE COURT: Well, looking at the file, it has
4 been quite a period of time. May 2nd was the first time.
5 Stipulate to continue. Conflict group hadn't received
6 the case yet. Then there was another May 16 hearing.
7 Stipulate to continue 30 days at least.

8 Now we're here today. So I don't know.

9 I'm going to deny the motion to continue.

10 MR. CLIFTON: All right. Your Honor, we have no
11 further witnesses. As far as argument, we'd ask Your
12 Honor to bind over based upon the amended changes to
13 Count I, II, and III, and Count VI. With everything I
14 said with regard to Count VII, I'll leave it up to Your
15 Honor as to whether you heard any evidence to bind over
16 on that.

17 Michelle, Your Honor, it would be possible to
18 bind over on Count IV, since it's charged as "and/or"
19 with Michelle. That's the other thing I'll leave up to
20 Your Honor. Of course, we did not hear any testimony
21 with regard to Count V.

22 Thank you.

23 THE COURT: All right. Mr. O'Mara.

24 MR. O'MARA: Thank you, Your Honor.

1 In regards to Count IV with Michelle, it is
2 apparent that there is no -- they have failed to prove
3 any of the elements in this case. Michelle has testified
4 today that she was not forced. She was over the age of
5 14 when any type of actions occurred. She was never
6 touched inappropriately by Mr. Dunckley.

7 Her testimony also shows it was after she was
8 pregnant, which is clearly not within the date of which
9 the complaint of 1999 is. She has testified she did not
10 meet Mr. Dunckley until at least 2000, July or August of
11 2000. Thus they have not satisfied in showing that there
12 is a reasonable probable cause to bind over on Count IV.

13 In regards to Count I, II, and III, in regards
14 to Ashley. Again, Ashley could not give any date, she
15 could not give any time in which she met Mr. Dunckley.
16 She could not give any information in regards to how she
17 met Mr. Dunckley. She could not give any information as
18 to any of the elements in this crime in regards to a
19 sexual assault on a child in Count I. She is unsure of
20 when she met Mr. Dunckley, but would concede that it is
21 possible that she met Michelle on the same date, which
22 would then put it back to 2000, as well.

23 She is now older than her, which would have made
24 her probably older than 14. There's no evidence to show

1 what her age was. Thus they have not shown that this was
2 upon a child in this manner.

3 Lewdness with a child under the age of 14 in
4 Count II, same problems in regards to any type of date
5 that is given on when this alleged incident occurs.
6 Therefore Count II should also be dismissed.

7 Count III, statutory sexual seduction, we have
8 no information in regards to when this occurred as well.
9 Thus we cannot determine when the age that she was during
10 this period of time.

11 In regards to Count VI, the sexual assault in
12 regards to Jessica. Jessica testified today that she
13 could not give a description of the individual. She
14 could only do it today or when given pictures. And thus
15 they have failed to show that the defendant on my left is
16 the actual person to alleged to have done these
17 incidents.

18 And as to Count VII, as the DA has already
19 stated, there was no threats, there was no coercion,
20 there was no violence or injury in regards to these
21 cases, and he has already submitted that he probably
22 doesn't have a case in that respect. And Count VII
23 should also be dismissed.

24 THE COURT: All right. Thank you. I find that

1 there's probable cause to believe that the defendant
2 committed the crime of sexual assault on a child as
3 alleged in Count I; lewdness with a child as alleged in
4 Count II; statutory sexual seduction as alleged in Count
5 III; and sexual assault as alleged in Count VI were
6 committed and the defendant committed them.

7 I did not find and I dismiss Counts IV, V, and
8 VII.

9 Thank you very much.

10 MR. O'MARA: Thank you very much, Your Honor.

11 MR. CLIFTON: Thank you.

12 MR. O'MARA: Have a great evening.

13 THE COURT: You too. Thank you.

14 (Proceedings Concluded)

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1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)

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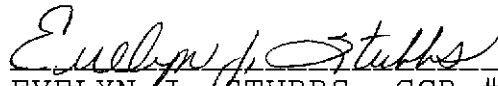
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I, EVELYN J. STUBBS, a Certified Court Reporter, do hereby certify that I reported the proceedings in the within entitled cause, and that I was present on Monday, July 2, 2007, at the hour of 2:47 P.M. of said day, and reported the proceedings had and testimony given therein in the Preliminary Hearing of the case of THE STATE OF NEVADA, Plaintiff, vs. BRENDAN DUNCKLEY, Defendant, Case No. RCR2007-033884.

That the foregoing transcript, consisting of pages numbered 1 to 123, inclusive, is a full, true and correct transcript of my said stenotype notes, so taken in the said Preliminary Hearing, and is a full, true and correct record of the proceedings had at said time and place to the best of my knowledge, skill and ability.

DATED: At Reno, Nevada, this 18th day of July, 2007.


EVELYN J. STUBBS, CCR #356

DA # 373085

RPD RP07-009446, RPD RP05-034027

FILED

IN THE JUSTICE COURT OF RENO TOWNSHIP

IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

THE STATE OF NEVADA,

M. Grimes

Plaintiff,

RCR 2007-033884

v.

DEPT: R64

Second

BRENDAN DUNCKLEY,

Defendant.

AMENDED
CRIMINAL COMPLAINT

KELLI ANNE VILORIA of the County of Washoe, State of Nevada, verifies and declares upon information and belief and under penalty of perjury, that BRENDAN DUNCKLEY, the defendant above-named, has committed the crimes of:

COUNT I. SEXUAL ASSAULT ON A CHILD, a violation of NRS 200.366, a felony, (F1000) in the manner following, to wit:

That the said defendant on or between the ^{14th} 1st day of ~~January~~ ^{August} 1998, and the ^{13th} 31st day of ~~December~~ ^{August} 2000, at Reno Township, within the County of Washoe, State of Nevada, did willfully and unlawfully subject ASHLEY V., a female child under the age of fourteen years, having a date of birth of ^{August} March 14, 1986, to sexual penetration, against the victim's will or under conditions in which the defendant knew or should have known that the victim was mentally or physically incapable of resisting or understanding the nature of the defendant's conduct, to wit, sexual intercourse, in a parking lot at or near Longley Lane, Reno, Washoe County, Nevada;

or in the alternative,

COUNT II. LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN

YEARS, a violation of NRS 201.230, a felony, (F650) in the manner following, to wit:

That the said defendant on or between the 14th day of August, 1998, and the 13th day of August 2000, at Reno Township, within the County of Washoe, State of Nevada, did willfully, unlawfully, and lewdly commit a lewd or lascivious act upon or with the body of ASHLEY V., having a date of birth of August 14, 1986, a female child under the age of fourteen years at the time that the said act was committed, in that the said defendant engaged the victim in sexual intercourse at or near Longley Lane, Reno, Washoe County, Nevada, and/or put his hand down her pants to fondle her genital area in an elevator at the Atlantis Hotel and Casino, 3800 South Virginia Street, Reno, Washoe County, Nevada, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or the child;

or in the alternative,

COUNT III. STATUTORY SEXUAL SEDUCTION, a violation of NRS

200.364 and NRS 200.368, a felony, (F1010) in the manner following, to wit:

That the said defendant on or between the 14th day of August, 1998, and the 13th day of August 2000, at Reno Township, within the County of Washoe, State of Nevada, did willfully and unlawfully, being over 21 years of age, commit an act of statutory sexual seduction with the person of ASHLEY V., having a date of birth of August 14, 1986,, who was then and there under the age of 16 years,

1 in that the said defendant engaged in an act of sexual intercourse
2 with the said ASHLEY V. ~~W~~ in a parking lot at or near Longley Lane,
3 Reno, Washoe County, Nevada.

4 COUNT IV. LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN
5 YEARS, a violation of NRS 201.230, a felony, (F650) in the manner
6 following, to wit:

7 That the said defendant on or between the 1st day of
8 January, 1999, and the 31st day of December, 1999, at Reno Township,
9 within the County of Washoe, State of Nevada, did willfully,
10 unlawfully, and lewdly commit lewd or lascivious acts upon or with
11 the bodies of LURA S. and/or MICHELLE A., female children under the
12 age of fourteen years at the time that the said acts were committed,
13 in that the said defendant did touch LURA S. with his hands and tried
14 to place them into her pants and/or said defendant did simulate
15 sexual intercourse on the body of MICHELLE A. with the intent of
16 arousing, appealing to, or gratifying the lust, passions, or sexual
17 desires of himself or the children.

18 COUNT V. SEXUAL ASSAULT, a violation of NRS 200.366, a
19 felony, (F1000) in the manner following, to wit:

20 That the said defendant on or about the 20th day of August,
21 2005, at Reno Township, within the County of Washoe, State of Nevada,
22 did willfully, and unlawfully subject LURA S. to sexual penetration
23 against the victim's will or under the conditions in which the
24 defendant knew or should have known that the victim was mentally or
25 physically incapable of resisting or understanding the nature of the
26 defendant's conduct, in that the defendant caused the victim to

1 submit to sexual intercourse at 4050 Gardella Avenue, Washoe County,
2 Nevada.

3 COUNT VI. SEXUAL ASSAULT, a violation of NRS 200.366, a
4 felony, (F1000) in the manner following, to wit:

5 That the said defendant on or about the 10th day of March,
6 2007, at Reno Township, within the County of Washoe, State of Nevada,
7 did willfully and unlawfully subject JESSICA H. to sexual
8 penetration, against the victim's will and/or under conditions in
9 which the defendant knew or should have known that the victim was
10 mentally or physically incapable of resisting or understanding the
11 nature of the defendant's conduct, to wit, fellatio at 1675 Sky
12 Mountain Drive, ^{Via 527} ~~#287~~, Reno, Washoe County, Nevada.

13 COUNT VII. SEXUALLY MOTIVATED COERCION, a violation of NRS
14 207.190 and NRS 207.193, a felony, (F250) in the manner following, to
15 wit:

16 That the said defendant on or between the 1st day of
17 January, 1998, and the 10th day of March, 2007, at Reno Township,
18 within the County of Washoe, State of Nevada, did willfully and
19 unlawfully, with the intent to compel another to do or abstain from
20 doing an act which the other person has a right to do or abstain from
21 doing, use violence or inflict injury upon the person, or any member
22 of his/her family, or upon his/her property, or threaten such
23 violence or injury, to wit: said defendant did compel, induce or
24 require ASHLEY V. and/or LURA S. and/or MICHELLE A. and/or JESSICA H.
25 to engage in defendant's serial sexually inappropriate and/or ongoing
26 course of conduct wherein defendant forced and/or took advantage of

1 said victims when they were not able to abstain and/or stop him from
2 engaging in sexually inappropriate acts with them and that said
3 defendant did said conduct through the use of force and/or violence,
4 said conduct all occurring in Washoe County, Nevada.

5 DATED this 16 day of April, 2007

6
7 H. Duona

8
9 AFFIRMATION PURSUANT TO NRS 239B.030

10 The undersigned does hereby affirm that the preceding
11 document does not contain the social security number of any person.

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13 H. Duona

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23 PCN RPD0726517C
24 PCN RPD0726524C
25 Custody:
26 Bailed: X
Warrant:
04046446

District Court Dept: 4
District Attorney: VILORIA
Defense Attorney:
Bail _____
Restitution:

ORIGINAL 144
3/1/07
KJC

ARREST REPORT AND
DECLARATION OF PROBABLE CAUSE

RPD 0726517 C

ARS _____ RMS _____ BT _____

CASE # 05-34027

COURT OF JURISDICTION

RENO JUSTICE

PHOTO #

R 019047

PRINT CLEARLY

ARRESTEE'S (Last, First, Middle) NAME DUNCLEY, BRENDAN ABR -2 A8:53 AKA/ALIAS

RESIDENCE (Street, City, State, Zip) ADDRESS 4458 HIGHLANDS DR. RENO NV

RACE White Indian Black Asian Unknown
SEX Male Female
ETHNICITY Hispanic Non-Hispanic Unknown
DOB Grimes 4/76 POB CARMEL NY

OCCUPATION & BUS ADDRESS BOOTER ESSENTIAL PARTNER HOME PHONE 787-1961

DRIV LIC # 0001025012 STATE NV ARRESTEE'S VEH Stored Left at Scene Not Applicable Impounded Held in Cth Per 379-7657

NEXT OF KIN MORGAN DUNCLEY SCARS, MARKS, TATTOOS BIRTHMARK LEFT EYE

ARREST DATE _____ TIME _____ LOCATION _____

OFFENSE DATE 8/20/05 TIME 2130 LOCATION 4050 GARDELLA AV RENO

NRS/ORD #	NOC	BAIL	WARRANT # & DATE	CHARGE	F-Felony, G-Gross Misd, M-Misd F-G-M
<u>200,366</u>	<u>0114</u>	<u>15,000</u>		<u>1 SEXUAL ASSAULT</u>	<u>F</u>
				<u>2</u>	
				<u>3</u>	
				<u>4</u>	
				<u>5</u>	
				<u>8</u>	

ARRESTING OFFICER(S) AND ID # BROOME 1509 TRANSPORTING OFFICER(S) AND ID #

PRIVATE PERSON MAKING THE ARREST (Citizen Arrest) REVIEWING SUPERVISOR AND ID # Chief J. Lewis, Sec. 1454

The undersigned, TK BROOME, a police officer, of RENO POLICE, hereby declares under penalty of perjury, that the above-named defendant has been arrested on probable cause and is subject to detention for the above-listed offense(s). Either personally or upon information and belief this officer learned the following facts and circumstances which support the arrest and detention:

1509
MARTIN 07

- SEE SUPPLEMENT -

[Handwritten signatures and notes]

RELS TO _____ DATE _____ BY _____
DISSEMINATION IS RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION TO NON-CRIMINAL AGENCIES IS PROHIBITED.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for trial (if charge is a misdemeanor).

Page 1 of 3 DECLARANT _____ I.D.# 1509

REVIEWED FOR PROBABLE CAUSE (PC) PC FOUND PC NOT FOUND DATE 3/31/07 TIME 3:33 PM MAGISTRATE [Signature]

DEFENDANT ORDERED RELEASED, DATE 3/31/07 TIME 3:33 PM MAGISTRATE [Signature]

S-308 (REVISED 3/06) Def. to be sworn court date & superv by Det. Sew. JS

On August 20, 2005, Lura a then 18 year old adult female reported that she and a friend were walking through the apartment complex at 4050 Gardella Ave. in Reno, at approximately 2100 hours, when they were approached by defendant Dunckley. Lura was acquainted with the defendant and his wife, however had not seen them for several years. Defendant Dunckley was working at the Gardella apartment complex in parking enforcement and asked Lura if she wanted to go to the other side of the complex to put a boot on a car. The victim said that she had to be back in ten minutes. Lura reported that the defendant drove her to a dirt field next to the apartments and began talking to her about where she works now. Lura said the defendant just grabbed her by the throat with his right hand and the hair with his left hand. She fought the defendant away, at which time the defendant exited the driver's side of his vehicle walked to the passenger side and opened the door. Lura reported that the defendant pulled her from the vehicle and pushed her face down on the hood of the vehicle, pulled her pants and underwear down and forced penile/vaginal intercourse from behind the victim, to ejaculation. The victim was then driven back to her friend's apartment and dropped off by the defendant. The victim entered her friends apartment crying and after a short time disclosed what had happened to her.

During the investigation the Defendant insisted the sexual encounter was consensual and initiated by the victim. The case was closed in 2005 due to some problems in confirming portions of the victim's version of events; the victim who became extremely depressed was somewhat uncooperative at the time.

In March of 2007 Detective Broome, who investigated the 2005 Sexual Assault involving Lura became aware of another sexual assault allegation involving defendant Dunckley and another female victim. Initially the defendant denied any sexual contact. In subsequent interviews the defendant admitted to sexual activity, however insisted it was consensual. There were other similarities in the two cases which yielded additional investigative leads in the 2005 Sexual Assault. Detective Broome was able to talk to two other females who reported that they were also inappropriately sexually touched by the defendant prior to 2005. One of the females was 12 years old at the time and described how she was overpowered by the defendant in an elevator at the Atlantis Casino and sexually fondled by the defendant. Another female now 20 years old who was uncooperative in 2005 now supports some

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC)

DECLARANT

ID#

1509

PC FOUND

PC NOT FOUND

DATE

MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE:

MAGISTRATE

of Lura's disclosures. Lura reported that when she was staying at the defendant and his wife's house with a girlfriend, when she was 13 or 14 years old, she woke to find the defendant fondling her vaginal area. It was this incident that broke off relations with the defendant and his family. Michelle a now 20 year old female supports this disclosure as she was in bed with Lura when this occurred. Lura who was re-contacted in March of 2007 is now cooperative and maintains that she was sexually assaulted by the defendant in 2005 and there was nothing consensual about the encounter.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC)

DECLARANT

ID# 1509

PC FOUND

PC NOT FOUND

DATE _____

MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE: _____

MAGISTRATE

DA # 373085

RPD RP07-009446

IN THE JUSTICE COURT OF RENO TOWNSHIP

IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

FILED
7 APR -5 P1:55

* * *

THE STATE OF NEVADA,

M. Grimes
Plaintiff,

RCR 2007-033884

v.

DEPT: 4

BRENDAN DUNCKLEY,

Defendant.

CRIMINAL COMPLAINT

STEVEN M. BARKER of the County of Washoe, State of Nevada, verifies and declares upon information and belief and under penalty of perjury, that BRENDAN DUNCKLEY, the defendant above-named, has committed the crime of:

SEXUAL ASSAULT, a violation of NRS 200.366, a felony, (F1000) in the manner following, to wit:

That the said defendant on or about the 10th day of March, 2007, at Reno Township, within the County of Washoe, State of Nevada, did willfully and unlawfully subject JESSICA H. to sexual penetration, against the victim's will and/or under conditions in which the defendant knew or should have known that the victim was

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1 mentally or physically incapable of resisting or understanding the
2 nature of the defendant's conduct, to wit, fellatio at 1675 Sky
3 Mountain Drive, #287, Reno, Washoe County, Nevada.

4
5 DATED this 5 day of April, 2007

6
7 Steven M. Barker

8 AFFIRMATION PURSUANT TO NRS 239B.030

9 The undersigned does hereby affirm that the preceding
10 document does not contain the social security number of any person.

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12 Steven M. Barker

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24 PCN RPD0726524C
25 Custody:
26 Bailed: X
Warrant:
04046446

District Court Dept: 4
District Attorney: BARKER
Defense Attorney:
Bail 3/22 \$18,500 Action
Restitution:

ARREST REPORT AND DECLARATION OF PROBABLE CAUSE

ARS _____ RMS _____ ET _____

RPD 0726524 C

COURT OF JURISDICTION _____

CASE # 07-9446

RENO JUSTICE

PHOTO # _____

2619047

PRINT CLEARLY

ARRESTEE'S (Last, First, Middle) NAME DUNKLEY, BRENDAN MAR 23 A9:02 AKA/ALIAS

RESIDENCE (Street, City, State, Zip) ADDRESS 4458 HILL PLAINS DR. Reno NV

RACE: [X] White, [] Black, [] Unknown; SEX: [X] Male, [] Female; ETHNICITY: [] Hispanic, [X] Non-Hispanic, [] Unknown; AGE 30, HT 5-8, WT 178, HAIR Brn, EYES BZL; SSN [REDACTED]; POB ARMEL NY

OCCUPATION & BUS ADDRESS ESSENTIAL PARKING BOOTER HOME PHONE 787-1961

DRIV LIC # 0001025012 STATE NV ARRESTEE'S VEH [] Stored, [] Left at Scene, [X] NOT Applicable, [] Impounded, [] Held to Oth Per BUS PHONE 379-7657

NEXT OF KIN MORLAN DUNKLEY SCARS, MARKS, TATTOOS BIRTHMARK LEFT EYE

ARREST DATE 3/22/07 TIME 1015 LOCATION 350 S. CENTER

OFFENSE DATE 3/20/07 TIME 1900 LOCATION 1675 SKY MOUNTAIN DR # 287

Table with 5 columns: NRS/ORD #, NOC, BAIL, WARRANT # & DATE, CHARGE. Row 1: 200,366, 0114, 15,000, 1 SEXUAL ABUSE, F. Row 2: 205,060, 8988, 3,500, 2 BURGLARY (SEXUALLY MOTIVATED), F.

ARRESTING OFFICER(S) AND ID # BROOME 1509 TRANSPORTING OFFICER(S) AND ID # ALLEN

PRIVATE PERSON MAKING THE ARREST (Citizen Arrest) REVIEWING SUPERVISOR [Signature], Sec. 1454

The undersigned, T.K. Broome, a police officer, of Reno Police, hereby declares under penalty of perjury, that the above-named defendant has been arrested on probable cause and is subject to detention for the above-listed offense(s).

- SEE SUPPLEMENT -

RELS TO _____ DATE 3/22 BY [Signature] DISSEMINATION IS RESTRICTED TO CRIMINAL JUSTICE AGENCIES ONLY. SECONDARY DISSEMINATION TO NON-CRIMINAL AGENCIES IS PROHIBITED.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for trial (if charge is a misdemeanor).

Page 1 of 2 DECLARANT [Signature] I.D.# 1509

REVIEWED FOR PROBABLE CAUSE (PC) PC FOUND [X] PC NOT FOUND [] DATE 3/23/07 TIME 2:15 pm [Signature], MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE _____ V2, 1458

On March 10, 2007 at approximately 1900 hours R.P.D. officers responded to the apartment complex at 1645 Sky Mountain Drive in Reno regarding multiple calls reporting a woman screaming. Upon arrival officers met with Jessica, a 23 year old adult female who was very intoxicated. Jessica reported that she left her apartment at 1645 Sky Mountain # 287 as she and her boyfriend were arguing and went for a walk. A male in a van approached and asked her to get in she refused and returned to her apartment. After entering her apartment she turned around to find a male standing behind her, who ordered her to perform fellatio on him. The victim complied, but bit the male on the penis. The male turned and ran outside the apartment with Jessica in pursuit yelling.

The male, now identified as defendant Dunckley was detained by neighbors and interviewed by the responding officers. Dunckley reported that he saw the victim staggering in the neighborhood and helped her to her apartment where she passed out. Dunckley rubbed the victim's sternum to wake her. When the victim did wake up she began screaming at him and trying to hit him. Dunckley said that he had his wife on the phone during this altercation and she could confirm his story. The officers spoke to Dunckley's wife who said that she was talking to her husband about the drunk female and did hear a commotion. Dunckley denied any sexual contact. Dunckley was cooperative and allowed the officers to obtain penile swabs. Dunckley was subsequently released.

On March 21, 2007 Dunckley was interviewed at his home where he changed the events of March 10, 2007 and reported that when he woke the victim after passing out she immediately came on to him, removing his penis from his pants and began performing fellatio. Dunckley stated that he was talking to his wife on the phone before this and after this but not during the sex act. Dunckley was requested to meet Detective Broome in the Sex Crimes Office for a formal interview on March 22, 2007 at 1000 hours.

During that interview Dunckley admitted that he did offer the victim a ride home prior to the Sexual Assault and that after the victim passed out and after he woke her she preformed fellatio on him as thanks for helping her into the apartment. Dunckley admitted that he lied to the police and to his wife and called his wife before and after

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor)

REVIEWED FOR PROBABLE CAUSE (PC) DECLARANT [Signature] ID# 1509

PC FOUND PC NOT FOUND

DATE _____ MAGISTRATE _____

DEFENDANT ORDERED RELEASED, DATE: _____ MAGISTRATE _____

the assault and was not talking to his wife during the fellatio. Dunckley also said that the victim was so intoxicated she did not know what she was doing.

WHEREFORE, Declarant requests that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charge is a felony or gross misdemeanor) or for a trial (if charge is a misdemeanor).

REVIEWED FOR PROBABLE CAUSE (PC)

DECLARANT

ID# 1509

PC FOUND

PC NOT FOUND

DATE _____

MAGISTRATE

DEFENDANT ORDERED RELEASED, DATE: _____

MAGISTRATE

Prelim

5/2/07
@ 2:30

IN THE JUSTICE COURT OF RENO TOWNSHIP,
COUNTY OF WASHOE, STATE OF NEVADA

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THE STATE OF NEVADA,

Plaintiff,

APPLICATION FOR
APPOINTMENT OF
PUBLIC DEFENDER

Against

Brendan Dinkley Defendant.

RCR 07. 3388A(4)

I 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.

Brendan Dinkley
DEFENDANT

WITNESSED: 4/20 2007.

M. Rybka
COURT SERVICES OFFICER

ORDER

The Court has reviewed Defendant's answers to Financial Inquiry To Determine Eligibility For Washoe County Public Defender and Application For Appointment Of Public Defender given and executed under penalty of perjury.

Application denied. The Court finds the Defendant is not indigent.

Comment:

The Court finds that the Defendant is without means to employ an attorney or otherwise determines that representation by the Washoe County Public Defender is required. Reimbursement may be ordered by the Justice Court or the District Court at a later time.

[Signature] The Washoe County Public Defender is appointed to represent Defendant.

[Signature] THE COURT BELIEVES SOME REIMBURSEMENT SHOULD BE REQUIRED AT A LATER TIME.

_____ The Washoe County Public Defender is appointed to represent Defendant on the following condition(s):

DATED: 4/23/ 2007

[Signature]
JUSTICE OF THE PEACE

Defendant notified and agrees to condition(s).

Date

CSO Initials

Washoe County Pretrial Services Assessment Report

Case Filing

Filed Name DUNCKLEY, BRENDAN
--

Arrest

Booked Name DUNCKLEY, BRENDAN	Arresting Agency RENO POLICE DEPT	Booking Number 07-06701	Arrest Date 03/30/2007
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Case Number	NOC	Type	Description	Counts	Court	Bail Amt/Type
05-34027	00114	F	SEXUAL ASSAULT- NO SUBSTANTIAL BODI	1	RJC	15,000 B

Defendant Information

Sex M	Race WHITE	Birthdate 07/04/1976	Age 30	Height 5' 05"	Weight 150	SS Number On File
Address 4458 HIGHPLAINS DR RENO, NV 89523			Residence County: 07 Yr 06 Mo		Born CARMEL, NY,	
Telephone (775) 787-1961		Time at Current Address 01 Yr 00 Mo		Primary Language ENGLISH		
Lives With MORGAN DUNCKLEY		Relationship WIFE		ID Number	Type	Expiration Date
Marital Status MARRIED		How Long		Military Service NONE		Discharge
Employment/Support Status Employed		How Long 00/07				
Employer ESSENTIAL PARKING		Employer Telephone (775) 379-7657				

Defendant Justice Identifier Codes/Criminal History

FBI Number	SID Number							
Arrests	Violent Fels	Felonies	Violent Misd	Misdemeanors	MMSD	Traffic	DUI	Pending

Comments

DEF HAS BEEN IN THE AREA FOR 7.6 YRS AND AT CURRENT ADDRESS FOR 1 YR
 DEF HAS BEEN AT CURRENT EMPLOYMENT FOR 7 MONTHS
 DEF DENIES SUBSTANCE ABUSE
 DEF HAS CRIM HISTORY
 NOTHING WAS VERIFIED
 O.R. DENIED

Assessment Status

	Assessment FELONY NR	Initials WWOLFF
--	--------------------------------	---------------------------

WASHOE COUNTY PUBLIC DEFENDER
CASE CONFLICT NOTIFICATION

Case Number: RCR07-033884
PD Number: 98628

DATE: April 26, 2007

Case Name: State of Nevada v. BRENDAN DUNCKLEY

Public Defender Client: MICHELLE ANTHONY & ASHLEY VANDERBY

Conflict Attorney:

Conflict Client: BRENDAN DUNCKLEY

David O'Mara

Felony

Charges: SEXUAL ASSAULT; LEWDNESS WITH A CHILD UNDER 14; STATUTORY
SEXUAL SEDUCTION; COERCION

Reno Justice Court: D/4

05/16 @ 2:30

PRELIMINARY HEARING, set for the ~~2ND MAY, 2007 at 2:30 PM~~



Reason for Conflict: **Victims**

Approved: *J. Marshall 5-1-07*

Received: _____ Date: _____

cc: Conflict Attorney
File
hmb

ORIGINAL

CR07-1728 DC-990001284-119
STATE VS. BRENDAN DUNCKLEY (6 Pages
District Court 07/20/2007 10:42 AM
Washoe County 3696
hnr

1 CODE 3696

FILED

JUL 20 2007

RONALD A. LONGTIN, JR., CLERK

By: *M. Stone*
DEPUTY

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

8 *****

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

Case No. CR07-1728

12 BRENDAN DUNCKLEY,

Dept. No. 4

13 Defendant.

14 PRETRIAL ORDER

15 Good cause appearing and in the interests of justice, the Court hereby notices
16 all counsel of the following supplemental requirements of trial in Department IV, to
17 those found in Nevada Revised Statutes.

18 **I. PRETRIAL MOTIONS**

19 A. Counsel will file a stipulation with regard to Discovery and submit it to the
20 Court for Order. If a stipulation cannot be reached between counsel, a motion for
21 discovery shall be filed within fifteen (15) days of the date of this Order. Opposing
22 counsel shall have ten (10) days to respond. The moving party must formally submit
23 the matter to the Court for the Court to consider the motion. If counsel wish an oral
24 hearing on the matter they shall set such hearing after the time for filing an opposition
25

1 has ended or an opposition has actually been filed.

2 B. All motions by any party must be in writing. Any motion which should be
3 addressed prior to trial, including but not limited to motions to dismiss, motions to
4 suppress evidence, motions in limine, motions to sever, motions for continuance,
5 motions regarding jury selection, and motions regarding prior bad acts or other acts
6 evidence shall be filed, personally served upon opposing counsel no later than
7 September 17, 2007, answers shall be filed and personally served on opposing
8 counsel no later than September 28, 2007, reply shall be filed and personally served
9 on opposing counsel no later than October 5, 2007. The parties are to formally
10 submit all motions they want decided on the record and a hearing is set for those
11 motions counsel specifically request be heard in Open Court for October 19, 2007, at
12 9:00 a.m.

13 C. Except upon a showing of good cause and unforeseen circumstances, the
14 Court will not entertain any pretrial motions, including motions in limine filed or orally
15 presented after this deadline.

16 II. TRIAL STATEMENT

17 A. A trial statement on behalf of each party shall be delivered to Department
18 Four of the Second Judicial District Court no later than 5:00 p.m. on Thursday of the
19 week prior to trial, where it shall be held confidential until such time as the Trial
20 commences. Upon commencement of the Trial, the Trial Statement shall be filed and
21 served on opposing counsel.

22 B. The trial statement will address

23 1. Any practical matters which should be addressed prior to trial (e.g.,
24 suggestions or special requests as to the order of witnesses or evidence, view of the
25

26

1 supporting the modification.

2 D. Failure to comply with any of the above directions may subject the
noncomplying party and/or its attorneys, to sanctions.

3 E. Instructions will be settled at the close of the evidence. Jury instructions
4 offered during the trial will be considered by the Court only in the event that the Court
deems the instruction appropriate in view of unanticipated matters occurring during
5 trial.

6 IV. MISCELLANEOUS

7 A. This case has been set for a **jury trial of five (5) days, to commence**
8 **on March 24, 2008, at 10:00 a.m.** A **Motion to Confirm Hearing** has been set for
9 **March 13, 2008, at 9:00 a.m.** The Court expects that all counsel will cooperate to
10 conclude the case within the time set. Trial counsel are strongly encouraged to meet
11 and confer regarding the order of witnesses, stipulated exhibits and any other matters
12 which will expedite trial of the case.

14 B. The Court will allow notes to be taken by jurors during the trial unless a
15 party objecting to this procedure includes such objection in their trial statement.

16 C. All exhibits will be marked in one numbered series (Exhibit 1, 2, 3, etc.),
17 no matter which side is offering the particular exhibit. Once trial exhibits are marked
18 by the Clerk, they shall remain in the custody of the Clerk. When marking the exhibits
19 with the Clerk, counsel must advise the Clerk of all exhibits which may be admitted
20 without objection. In any case which involves fifteen or more document exhibit pages,
21 the exhibits shall be placed in a loose-leaf binder behind a tab noting the number of
22 each exhibit. The binder shall be clearly marked on the front and side with the case
23 caption and number, but no identification as to the party producing the binder. All
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CERTIFICATE OF MAILING

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT, JUDGE CONNIE J. STEINHEIMER, and that on this 20 day of July, 2007, I deposited for mailing in the Washoe County mailing bins a true copy of the

Pre-Trial Order to:

Kelli Vioria, Esq.
Deputy District Attorney
Via Inter-Office Mail

David O'Mara, Esq.
Attorney at Law
311 E. Liberty Street
Reno, Nevada 89501
Via U.S. Postal Service

Maureen Stone

CR07-1728 DC-9900001296-417
STATE VS. BRENDAN DUNCKLEY (6 Pages
District Court 07/24/2007 04:11 PM
Washoe County BAIL
IFLORES
DOC

Code BAIL

ORIGINAL

FILED

JUL 24 2007

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

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

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THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

vs.

Dept. No. 4

BRENDAN DUNCKLEY,

Defendant.

BAILBOND POSTED

WARNING: THIS DOCUMENT CONTAINS A COLORED BACKGROUND AND MICRO PRINT PROTECTION

Accredited
Specialty and Casualty Insurance Co., Inc.

400 SOUTH PARK AVENUE
SUITE 320
WINTER PARK, FL 32789-4320

POWER OF ATTORNEY

POWER NO.

A25-00325487

POWER AMOUNT \$

25,000.00

KNOW ALL MEN BY THESE PRESENTS that ACCREDITED SURETY AND CASUALTY CO., INC., a corporation duly organized and existing under the laws of the state of Florida and by the authority of the resolution adopted by the Board of Directors at a meeting duly called and held on April 14, 1999, which said resolution has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint the named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a **ball bond only**. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal or Immigration Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power, and can only be used once.
The obligation of the company shall not exceed the sum of **TWENTY-FIVE THOUSAND DOLLARS** and provided this Power-of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, ACCREDITED SURETY AND CASUALTY CO., INC., has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 22 DAY of MARCH 2007 YEAR

Bond Amount \$ 18500

Defendant Brendan Dunckley

Charges SEXUAL ASSAULT / Prohibited sexual contact

Court Justice 4-5-07 @ 8am

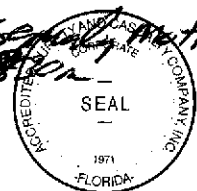
Case No. 079446

City Reno State NV

If rewrite, original No. _____

Executing Agent [Signature]

NAME



VOID IF NOT ISSUED BY: **06/13/2008**
FOR STATE USE ONLY
NOT VALID IF USED IN FEDERAL COURT

B/C 07 6025

COPY FOR COURT

RV# X627-000611
CW7-1728



ACCREDITED SURETY AND CASUALTY CO., INC.
PO Box 2067
Winter Park, FL 32790
(407) 841-8500 FAX (407) 841-4219

415102 @ 9:30
✓ REC07033884
Action Annie's, Inc.
dba Action Bail Bonds
5295 Sun Valley Blvd., #1
Sun Valley, NV 89433
(775) 322-7997

Bond
7/2/07
Per. 4

(PLACE BAIL AGENT'S ADDRESS STAMP HERE)

Justice COURT
Municipal, Justice, Judicial District

City of Reno County of Washoe
(City, Township, County)

STATE OF NEVADA

State of Nevada

Plaintiff

vs.

BAIL BOND No. A25-0325487

(POWER OF ATTORNEY WITH THIS NUMBER MUST BE ATTACHED)
(BOND NOT VALID IF MORE THAN ONE (1) POWER OF ATTORNEY HAS BEEN ATTACHED)

Brendan Dunkley
Defendant

An order having been made on the 22 day of MARCH, 2007

by Justice of the Peace
(Municipal Judge, Justice of the Peace, District Judge)

City of Reno County of Washoe, State of Nevada,
(of the City of, Township of, In and for the County of)

that the defendant be held to answer (or for examination) upon a charge of SEXUAL ASSAULT

Burglary, Sexually Motivated

upon which he/she has been duly admitted
to bail in the sum of Eighteen thousand Five hundred dollars.

Now we, ACCREDITED SURETY AND CASUALTY CO., INC., a Florida corporation, as Surety, duly authorized to transact business as Surety in the State of Nevada, hereby undertake that the above named defendant will appear and answer the charge above mentioned, in whatever court it may be prosecuted, and shall at all times render him himself amendable to the orders and the process of the Court, and if convicted, shall appear for judgement and render him himself in execution thereof, or if he she fails to perform any of these conditions, that we will pay to the State of Nevada the sum of \$ 18500

ACCREDITED SURETY AND CASUALTY CO., INC

By Rory Blair
Attorney-in-Fact

Dunkley, Brennan

Defendant notified to appear:

Date 4-5-07 @ 9:30 A.M. P.M.

approved by me this 23rd

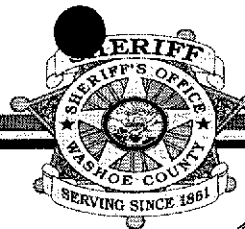
day of March, 2007
Patricia G. Lynch
Municipal Judge, District Judge, Justice of the Peace

City, Township

NOTE: This is an Appearance Bond and cannot be construed as a guarantee for failure to provide payments, back alimony payments, FINES, or Wage Law claims, nor can it be as a Bond on Appeal

CR 67-1728
V2 168 WASHOE COUNTY
SHERIFF

Dedicated Service in Partnership with our Community



Michael Haley
Sheriff

Washoe County Detention Facility

\$ 18,500 B1B
RJC

POSTED ON: 3/22/2007 @ 6:09:02PM
INMATE NAME: DUNCKLEY,BRENDAN WC INK 0001 BOOKING NUMBER:0706025
DOB: 7/4/1976 DRIVER'S LICENSE: 0001025012 OLS STATE: NV

BAIL RECEIPT # B067643 ARRESTING AGENCY /CASE #: RPD 070009446 DUNCKLEY,BRENDAN
NOC: 00114 CHARGE LITERAL: SEXUAL ASSAULT Level: FELONY PCN: RPD0726524
COURT: RJC COURT CASE #:
ONE SOUTH SIERRA ST, RENO, NV 89520

COURT DATE/TIME: 4/5/2007 @ 09:30

WARRANT #: WARRANT AGENCY:

BAIL AMOUNT: \$ 15,000.00

POSTED BY: ACTION BAIL BONDS
ADDRESS:

COURT BOND FEE: \$ 40- INT:

MICHAEL HALEY, SHERIFF CLERK: [Signature] W1910

BAIL RECEIPT # B067644 ARRESTING AGENCY /CASE #: RPD 070009446 DUNCKLEY,BRENDAN
NOC: 08988 CHARGE LITERAL: BURGLARY (SEXUALLY M Level: FELONY PCN: RPD0726524
COURT: RJC COURT CASE #:
ONE SOUTH SIERRA ST, RENO, NV 89520

COURT DATE/TIME: 4/5/2007 @ 09:30

WARRANT #: WARRANT AGENCY:

BAIL AMOUNT: \$ 3,500.00

POSTED BY: ACTION BAIL BONDS
ADDRESS:

COURT BOND FEE: \$ see #1 INT:

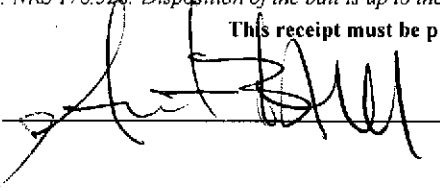
MICHAEL HALEY, SHERIFF CLERK: [Signature] W1910

TOTAL BAIL POSTED: \$ 18,500.00

NOTICE: NRS 178.528: Disposition of the bail is up to the court in which this case is terminated

This receipt must be presented to the court for any refund

SIGNED:

A handwritten signature in black ink, appearing to be 'A. H. H.', written over a horizontal line.

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

<p>STATE OF NEVADA</p> <p align="center">VS.</p> <p>BRENDAN DUNCKLEY RPD0726524C RPD0726517C</p>	<p>PLAINTIFF</p> <p>DEFENDANT</p>	<p>COMPLAINT OF Kelli Anne Vioria</p> <p>DA'S NO. 373085</p> <p>ATTORNEY FOR PLAINTIFF DISTRICT ATTORNEY: Kelli Anne Vioria</p> <p>ATTORNEY FOR DEFENDENT:</p> <p align="center">DAVID O'MARA, ESQ. PUBLIC DEFENDER</p> <p>AGENCY NO: RPD RP07-009446 RPD RP05-034027</p>
<p>CHARGING: SEXUAL ASSAULT, a violation of NRS 200.366, a felony.</p>		
<p>DATE 2007</p>	<p align="center">PROCEEDINGS</p>	
<p>Mar. 22</p>	<p>Bail bond deposited in the amount of \$18,500.00 (ACTION)</p>	
<p>Mar. 23</p>	<p>Probable Cause Affidavit reviewed by Judge. Probable Cause not found.</p>	
<p>Mar. 31</p>	<p>Bail Bond deposited in the amount of \$15,000.00. (ACTION)(2ND BAIL BOND)</p>	
<p>Apr. 5</p>	<p>Complaint filed and Defendant bailed.</p>	
<p>Apr. 16</p>	<p>AMENDED CRIMINAL COMPLAINT FILED ADDING AGENCY #: RPD RP05-034027; AMENDING THE DA TO: KELLI ANNE VILORIA; AMENDING COUNT I TO READ: SEXUAL ASSAULT ON A CHILD, a violation of NRS 200.366, a felony; ADDING COUNT II: LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS, a violation of NRS 201.230, a felony; ADDING COUNT III: STATUTORY SEXUAL SEDUCTION, a violation of NRS 200.364 and NRS 200.368, a felony; ADDING COUNT IV: LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS, a violation of NRS 201.230, a felony; ADDING COUNT V: SEXUAL ASSAULT, a violation of NRS 200.366, a felony; ADDING COUNT VI: SEXUAL ASSAULT, a violation of NRS 200.366, a felony; ADDING COUNT VII: SEXUALLY MOTIVATED COERCION, a violation of NRS 207.190 and NRS 207.193, a felony; AND ADDING FCN: RPD0726517C.</p>	
<p>Apr. 20</p>	<p>Defendant appeared before Pro Tem Judge Jenny Hubach was duly arraigned, advised of rights and informed of Complaint. Preliminary Examination set for May 2, 2007 at 2:30 P.M. Bail continued in full force and effect.</p> <p>Defendant requested appointment of the Washoe County Public Defender. Washoe County Public Defender appointed, however the Court believes some reimbursement should be required at a later time.</p>	
<p>May 2</p>	<p>Upon stipulation of counsel, the Preliminary Examination is continued to May 16, 2007, at 2:30 P.M. Bail continued in full force and effect.</p>	
<p>May 7</p>	<p>Conflict Attorney David O'Mara appointed to represent Defendant BRENDAN DUNCKLEY.</p>	

(OVER)

May 16

Upon stipulation of Counsel, the Preliminary Examination is continued to July 2, 2007, at 1:30 P.M. Bail continued in full force and effect.

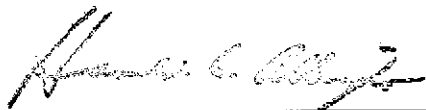
July 2

Defendant appeared together with attorney David O'Mara, Esq. before the Honorable Harold Albright and the State was represented by David Clifton. Preliminary Examination proceeded. Complaint AMENDED BY INTERLINEATION to conform to evidence. Defendant WAIVED right to testify and call witnesses.

The Court found probable cause to believe the offenses set forth in the Criminal Complaint Counts I, II, III and VI were committed and probable cause Defendant participated as principal in such offenses. Defendant was bound over to answer in the Second Judicial District Court of the State of Nevada.

The Court found INSUFFICIENT probable cause to believe the offenses set forth in the Criminal Complaint Counts IV, V and VII were committed and/or INSUFFICIENT probable cause Defendant participated as principal in such offenses. Criminal Complaint Counts IV, V and VII were DISMISSED. Bail continued in full force and effect.

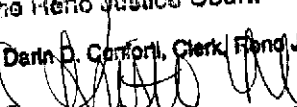
SO ORDERED.



JUSTICE OF THE PEACE
DEPARTMENT NO. 4

hereby certify that the document to which this certificate is affixed is a full, true and correct copy of the original document found in the records or files of the Reno Justice Court.

Darin D. Canyon, Clerk, Reno Justice Court

By: 
Deputy Clerk of the Court

I further certify that this is a copy of a 2 page Original and that each page of this copy is a true and correct copy of the corresponding Original document found in the records or files of the Reno Justice Court.

Darin D. Canyon, Clerk, Reno Justice Court

By: 
Deputy Clerk of the Court

FILED

CR07-1728 DC-9900001296-418
STATE VS. BRENDAN DUNCKLEY (3 Pages
District Court 07/24/2007 04:13 PM
Washoe County BAIL
IFLORES
DOC

Code BAIL

ORIGINAL

JUL 24 2007

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

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

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THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

vs.

Dept. No. 4

BRENDAN DUNCKLEY,

Defendant.

BAILBOND POSTED

WARNING: THIS DOCUMENT CONTAINS A COLORED BACKGROUND AND MICRO PRINT PROTECTION



400 SOUTH PARK AVENUE
SUITE 320
WINTER PARK, FL 32789-4320

POWER OF ATTORNEY

POWER NO.

A25-00325488

POWER AMOUNT \$

25,000.00

KNOW ALL MEN BY THESE PRESENTS that ACCREDITED SURETY AND CASUALTY CO., INC., a corporation duly organized and existing under the laws of the state of Florida and by the authority of the resolution adopted by the Board of Directors at a meeting duly called and held on April 14, 1999, which said resolution has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint the named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitation, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal or Immigration Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power, and can only be used once.
The obligation of the company shall not exceed the sum of **TWENTY-FIVE THOUSAND DOLLARS** and provided this Power-of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, ACCREDITED SURETY AND CASUALTY CO., INC., has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 31st DAY of March MONTH, 2007 YEAR

Bond Amount \$ 15000
Defendant Brendan Dunkley
Charges SEXUAL ASSAULT
Court Justice 4-22-07 @ 9:30
Case No. 05-34087
City Reno State NV
If rewrite, original No. _____
Executing Agent Ron Blair
NAME



By Deborah Jallad
Deborah Jallad, President

VOID IF NOT ISSUED BY: **06/13/2008**
FOR STATE USE ONLY
NOT VALID IF USED IN FEDERAL COURT

COPY FOR COURT

BK 076701

RCR07-000682
CR07-1728

CR07-1728
4

4/20/07 @ 9:30
Annie's, Inc.

dba Action Bail Bonds
5295 Sun Valley Blvd., #1
Sun Valley, NV 89433
(775) 322-7997

Bond
7/2/07
Def 4

RCR07-03384



ACCREDITED SURETY AND CASUALTY CO., INC.
PO Box 2067
Winter Park, FL 32790
(407) 841-8500 FAX (407) 841-4219

(PLACE BAIL AGENT'S ADDRESS STAMP HERE)

Justice

COURT

Municipal, Justice, Judicial District

City of Reno County of Washoe

(City, Township, County)

STATE OF NEVADA

State of Nevada

Plaintiff

vs.

BAIL BOND No. A25-00325488

(POWER OF ATTORNEY WITH THIS NUMBER MUST BE ATTACHED)
(BOND NOT VALID IF MORE THAN ONE (1) POWER OF ATTORNEY HAS BEEN ATTACHED)

Brendan Dunkley

Defendant

An order having been made on the 31 day of March, 2007

by Justice of the Peace

(Municipal Judge, Justice of the Peace, District Judge)

City of Reno County of Washoe, State of Nevada,

(of the City, Township of, In and for the County of)

that the defendant be held to answer (or for examination) upon a charge of SEXUAL ASSAULT

upon which she has been duly admitted to bail in the sum of Fifteen thousand dollars.

Now we, ACCREDITED SURETY AND CASUALTY CO., INC., a Florida corporation,, as Surety, duly authorized to transact business as Surety in the State of Nevada, hereby undertake that the above named defendant will appear and answer the charge above mentioned, in whatever court it may be prosecuted, and shall at all times render himself amendable to the orders and the process of the Court, and if convicted, shall appear for judgement and render himself in execution thereof, or if she fails to perform any of these conditions, that we will pay to the State of Nevada the sum of \$15000

ACCREDITED SURETY AND CASUALTY CO., INC

By Ron Blair Attorney-In-Fact

Defendant notified to appear:

Date 4/20/07 @ 9:30 A.M.

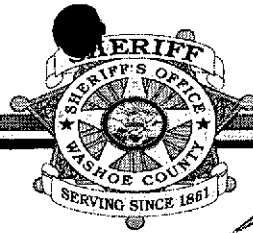
approved by me this 2nd

day of April, 2007

Edmond [Signature]

City, Township

Dunkley, Brenda



Michael Haley
Sheriff

Dedicated Service in Partnership with our Community

15000
RJC
Bond

Washoe County Detention Facility

POSTED ON: 3/31/2007 @ 1:16:16PM
INMATE NAME: DUNCKLEY, BRENDAN **WC H04 A01** **BOOKING NUMBER:** 0706701
DOB: 7/4/1976 **DRIVER'S LICENSE:** 0001025012 **OLS STATE:** NV

BAIL RECEIPT # B067936 **ARRESTING AGENCY /CASE #:** RPD 050034027 **DUNCKLEY, BRENDAN**
NOC: 00114 **CHARGE LITERAL:** SEXUAL ASSAULT **Level:** FELONY **PCN:** RPD0726517
COURT: RJC **COURT CASE #:**
ONE SOUTH SIERRA ST, RENO, NV 89520

COURT DATE/TIME: 4/20/2007 @ 09:30

WARRANT #: **WARRANT AGENCY:**

BAIL AMOUNT: \$ 15,000.00

POSTED BY: ACTION BAIL BONDS
ADDRESS:

COURT BOND FEE: \$ 40 **INT:** AM

MICHAEL HALEY, SHERIFF **CLERK:** UM **W2602**

TOTAL BAIL POSTED: \$ 15,000.00

NOTICE: NRS 178.528: Disposition of the bail is up to the court in which this case is terminated
This receipt must be presented to the court for any refund

SIGNED: Morgan Dunckley

Code No. 4185

FILED

2007 AUG 16 AM 8:05

RONALD J. LONGTIN, JR.

BY *[Signature]*
DEPUTY

ORIGINAL

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE CONNIE STEINHEIMER, DISTRICT JUDGE

-o0o-

STATE OF NEVADA,)	
)	
Plaintiff,)	Case No. CR07-1728
)	
vs.)	Dept. No. 4
)	
BRENDAN DUNCKLEY,)	
)	
Defendant.)	
)	

TRANSCRIPT OF PROCEEDINGS

ARRAIGNMENT

July 17, 2007

RENO, NEVADA

Reported By: STEPHANI L. LODER, CCR No. 862

CR07-1728
 DC-9900001477-126
 STATE VS. BRENDAN DUNCKLEY (7 Pages
 District Court 08/16/2007 08:05 AM
 Washoe County
 4185
 JAMES
 POC

APPEARANCES:

For the Plaintiff: KELLI ANNE VILORIA
Deputy District Attorney
Reno, Nevada

For the Defendant: DAVID C. O'MARA
Law Office of William O'Mara
Reno, Nevada

Parole and Probation: LUPE GARRISON

1 RENO, NEVADA, TUESDAY, JULY 17, 2007, 9:11 A.M.

2 -oOo-

3
4 THE COURT: Thank you. Please be seated.

5 Brendan Dunckley.

6 MS. VILORIA: Good morning, Your Honor. Kelli
7 Anne Viloria on behalf of the State.

8 MR. O'MARA: Good morning, Your Honor. I'm David
9 O'Mara on behalf of Mr. Dunckley, who is present in court
10 today.

11 THE COURT: Good morning. This is the time set
12 for arraignment on Information filed July 12th, 2007.

13 Mr. Dunckley, I'm going to hand a copy of the
14 Information to your attorney. I'd ask that you review it
15 with him.

16 MR. O'MARA: Thank you very much, Your Honor.

17 THE COURT: You're welcome.

18 MR. O'MARA: Thank you, Your Honor. Mr. Dunckley
19 has reviewed the Information, and his name is spelled
20 correctly on line 12, page one.

21 Mr. Dunckley will be pleading not guilty to all
22 four counts this morning.

23 THE COURT: Okay. Waive the reading at this
24 time?

1 MR. O'MARA: We waive the reading, Your Honor.

2 THE COURT: Does your client waive the right to
3 have a trial within 60 days?

4 MR. O'MARA: Yes, we do, Your Honor. He waived
5 the right to 60 days, and counsel have agreed on a date to
6 have this trial on March 24th.

7 MS. VILORIA: Of 2008, Your Honor.

8 MR. O'MARA: Of 2008.

9 THE COURT: Mr. Dunckley, do you understand
10 what's going on here today?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Do you have any questions about
13 what's happening?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Are you comfortable with the
16 representation you've had so far from Mr. O'Mara?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: How do you plead to the Information?

19 THE DEFENDANT: Not guilty, Your Honor.

20 THE COURT: Do you understand you have a right to
21 have a trial within 60 days of today's date; if you waive
22 that right, you cannot later complain about continuances
23 that are required by the Court's calendar or any other
24 circumstances?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you waive that right?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay. We'll set this matter for
5 trial. How long of a trial?

6 MS. VILORIA: It will be five days, Your Honor.
7 I met with your clerk. We've agreed on a date of
8 March 24th of 2008.

9 THE CLERK: That is correct, at 10:00 a.m., with
10 a motion to confirm, March 13th at 9:00 a.m.

11 MS. VILORIA: And, Your Honor, we will be having
12 a motions hearing in this case. I don't know if the Court
13 wants to set those now or do it by your briefing schedule
14 as you normally do, but we will be both having motions
15 filed in this case.

16 THE COURT: We will set a briefing schedule.
17 Pretrial motions must be filed no later than
18 September 17th. Answers to any motions must be filed no
19 later than September 28th. Replies, if any, must be filed
20 no later than October 5th. We'll set the hearing date the
21 week of October 15th, or thereabouts.

22 THE CLERK: How long do you think you'll need for
23 the pretrial motion?

24 MS. VILORIA: On the State's part, the State may

1 need an hour to two hours at the most. I think an hour
2 would be sufficient for my part of it.

3 MR. O'MARA: We would only need an hour.
4 30 minutes, probably.

5 THE CLERK: October 19th at 9:00 a.m.

6 MS. VILORIA: Thank you.

7 THE COURT: Are you okay on that, Mr. O'Mara?

8 MR. O'MARA: That would be great, Your Honor.
9 Thank you.

10 THE COURT: You're welcome.

11 MS. VILORIA: Thank you, Your Honor.

12 THE COURT: You're welcome.

13 MR. O'MARA: Did you say 9:00 a.m.?

14 THE CLERK: I did.

15 (Proceedings concluded.)

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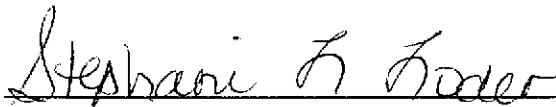
STATE OF NEVADA)
)
COUNTY OF WASHOE)

I, STEPHANI L. LODER, Certified Shorthand Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the above-entitled Court and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 13th day of August, 2007.


STEPHANI L. LODER, CCR No. 862

CR07-1728 DC-9900001701-056
STATE VS. BRENDAN DUNKLEY (D 1 Page
District Court 09/26/2007 09:29 AM
Washoe County 1250
RCOLLIER

CODE: 1250

ORIGINAL

FILED

SEP 26 2007

RONALD A. LONGSTON, JR., CLERK

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,

vs.

BRENDAN DUNKLEY,

Defendant.

Case No. CR07-1728

Dept. No. 4

APPLICATION FOR SETTING

TYPE OF ACTION:

CRIMINAL

MATTER TO BE HEARD:

MOTION TO CONFIRM TRIAL

DATE OF APPLICATION:

September 26, 2007

COUNSEL FOR PLAINTIFF:

DAVID CLIFTON

COUNSEL FOR DEFENDANT(S):

DAVID O'MARA

Setting at 9:00 p.m. on the 18th of March, 2007.

This vacates the 9:00 a.m. Motion to Confirm hearing on 3/13/07

CR07-1728 DC-9900001775-122
STATE VS. BRENDAN DUNKLEY (D 1 Page)
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ORIGINAL

CODE: 1250

FILED

OCT 08 2007

RONALD A. LONGTIN, JR., CLERK
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,

vs.

BRENDAN DUNKLEY,
Defendant.

Case No. CR07-1728
Dept. No. 4

APPLICATION FOR SETTING

TYPE OF ACTION: CRIMINAL
MATTER TO BE HEARD: MOTION TO CONFIRM TRIAL
DATE OF APPLICATION: October 8, 2007
COUNSEL FOR PLAINTIFF: KELLI VILORIA
COUNSEL FOR DEFENDANT(S): DAVID O'MARA

Setting at 9:00 a.m. on the 4th of March, 2007.

This vacates the 9:00 p.m. Motion to Confirm Trial Hearing on 3/18/07

ORIGINAL

CR07-1728 DC-990001861-037
STATE VS. BRENDAN DUNKLEY (3 Pages
District Court 10/19/2007 09:25 AM
Washoe County 3980
nrc

1 THE O'MARA LAW FIRM, P.C.
WILLIAM M. O'MARA, ESQ.
2 Nevada Bar No. 00837
BRIAN O. O'MARA, ESQ.
3 Nevada Bar No. 08214
DAVID C. O'MARA, ESQ.
4 Nevada Bar No. 08599
311 East Liberty Street
5 Reno, Nevada 89501
Telephone: 775-323-1321
6 775-323-4082 (fax)

FILED

OCT 19 2007

HOWARD W. CONYERS, CLERK
By: *[Signature]*
DEPUTY CLERK

7 Attorneys for Defendant

8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 * * *

11 STATE OF NEVADA,

12 Plaintiff(s),

13 vs.

14 BRENDAN DUNKLEY,

15 Defendant(s).

) Case No. CR07-1728

) Dept No. 4

16
17
18 STIPULATION AND ORDER VACATING HEARING

19 COMES NOW Plaintiff, by and through its counsel, KELLI VILORIA, ESQ., Deputy
20 District Attorney, and Defendant, BRENDAN DUNKLEY, by and through his counsel, DAVID C.
21 O'MARA, ESQ., of THE O'MARA LAW FIRM, P.C., and herewith stipulate to vacate the hearing
22 currently scheduled for Friday, October 19, 2007.

23 DATED: October 16, 2007.

24 RICHARD A. GAMMICK
25 WASHOE COUNTY DISTRICT ATTORNEY

THE O'MARA LAW FIRM, P.C.

26
27 BY: *[Signature]*
KELLI VILORIA, ESQ.

BY: *[Signature]*
DAVID C. O'MARA, ESQ.

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ORDER

Based upon the Stipulation entered into by and between the parties, through their respective counsel, and good cause appearing therefor,

IT IS HEREBY ORDERED that the hearing currently scheduled for Friday, October 19, 2007, be, and the same hereby is, VACATED.

DATED: October 18, 2007.

Connie J. Steinhauser
DISTRICT JUDGE

ORIGINAL

CR07-1728
STATE VS BRENDAN DUNCKLEY
District Court
Washoe County
DC-9900002508-081
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Richard A. Gammick
#001510
P.O. Box 30083
Reno, NV 89520-3083
(775) 328-3200
Attorney for Plaintiff

FILED
2008 FEB -4 PM 3:20
HOWARD W. CONYERS
BY [Signature]
DEPUTY

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.
12 BRENDAN DUNCKLEY,
13 Defendant.

Case No. CR07-1728
Dept. No. 4

14
15 MOTION TO ALLOW LEAVE TO FILE A BELATED NOTICE OF INTENT TO SEEK
16 ADMISSION OF OTHER BAD ACT EVIDENCE FOR REBUTTAL PURPOSES

17 COMES NOW, the State of Nevada, by and through RICHARD A.
18 GAMMICK, District Attorney of Washoe County, and KELLI ANNE VILORIA,
19 Deputy District Attorney, and respectfully seeks leave to allow the
20 State to file its NOTICE OF INTENT TO SEEK ADMISSION OF OTHER BAD ACT
21 EVIDENCE FOR REBUTTAL PURPOSES. This motion is based upon the Points
22 and Authorities contained herein.

23 POINTS & AUTHORITIES

24 I. STATEMENT OF FACTS OF INSTANT CASE

25 On March 10, 2007, Defendant, BRENDAN DUNCKLEY, (hereinafter
26 Defendant) observed a woman, Jessica H., staggering along the side of

1 the road in the northwest area of Reno. Defendant claimed Jessica H.
2 was so drunk she was "smacked into a wall and smacked into a car."
3 He offered to assist her into her apartment because he did not want
4 her to get hurt. While doing so, he claims to have been on his
5 cellular telephone with his wife to tell her that he was going to
6 help the girl because he "didn't need any accusations." The girl
7 continued to stagger home, and Defendant followed her. According to
8 defendant, he stayed on the phone with his wife the whole time. Once
9 at the woman's home, Defendant escorted her up the stairs because she
10 could barely walk. They went inside and Defendant hung up the phone
11 to be able to get the girl off the ground so that she would not choke
12 on her vomit.

13 The next thing Jessica H. remembers is being on the ground and
14 told by Defendant to "suck my dick." Defendant then shoved his erect
15 penis into her mouth. Jessica H. bit Defendant's penis, causing him
16 to recoil, and her to scream she'd been raped. Jessica H.'s
17 neighbors came running. Defendant, who had called his wife back,
18 was cornered at the scene and telling his wife that he'd been set up.

19 Defendant was extremely cooperative with police, denying,
20 initially any sexual contact with the victim and claiming to have
21 been on the cell phone with his wife throughout the whole time and
22 that nothing of that nature occurred. Defendant even willingly
23 allowed his penis to be photographed (which was flaccid and showed no
24 signs of injury) and provided law enforcement with a swab of his
25 penis for DNA analysis. However, following a further investigation,
26 and a subsequent interview at Defendant's home, Defendant changed his

1 story. When asked whether the victim's saliva would be found on
2 Defendant's penis, Defendant became uncomfortable, changed his story,
3 asked to leave the room and speak outside the presence of his wife,
4 said Jessica had "come on" to him. On March 22, 2007, at 10:00 a.m.,
5 Defendant came in for a formal interview, then admitted the act had
6 occurred, but it was consensual. Defendant, for the first time,
7 acknowledged he had hung up with his wife for approximately two
8 minutes, at which time, the incident occurred.

9 In an unusual twist, that same day, on March 22, 2007, at 10:00
10 p.m., Defendant had contact with a Reno Police Officer on an
11 unrelated incident. Unsolicited, Defendant told the officer about
12 Jessica H.'s accusation and that he had put his finger in her mouth
13 to stop her from choking on her tongue and then urinated, which
14 involved touching his penis immediately after, which may have caused
15 her saliva to be deposited on his penis.

16 Forensic Analysts at the Washoe County Crime Laboratory found no
17 DNA foreign to Defendant on his penis. There was no sexual assault
18 exam performed.

19 II. STATEMENT OF FACTS OF OTHER ACTS CASE

20 On August 20, 2005, Defendant ran into an old friend, Lura S.
21 Defendant and his wife had known Lura S. since she was a little girl.
22 By all accounts, those who knew her, considered her a "special needs"
23 or developmentally disabled girl who has epilepsy. That day,
24 Defendant obtained Lura S.'s phone number so that they could keep in
25 touch.
26

1 The next day, Defendant called Lura S. and ran into her with
2 some of her friends. They were drinking alcohol and Lura S. was very
3 intoxicated. She agreed to go with Defendant to his work. Defendant
4 boots vehicles for a living. While at a vehicle, at a lot in the
5 northwest area of Reno, Defendant grabbed Lura S. by the throat and
6 hair, scared her, and had Lura S. perform fellatio on him. Defendant
7 grabbed Lura S. from the car, pulled her out, pushed her face down on
8 the hood of the car, and then subjected her to sexual intercourse
9 from behind. Defendant then drove Lura S. back to her apartment,
10 which she entered crying and disclosed what had occurred.

11 During the investigation, conducted by Reno Police Detective Tom
12 Broome, Defendant admitted the conduct, but claimed it was
13 consensual. A short time later, Lura S. was admitted to a mental
14 hospital and became unable to continue any cooperation with law
15 enforcement. The case was closed at that time.

16 In March of 2007, Reno Police Detective Tom Broome remembered
17 Defendant from the Lura S. case. Detective Broome contacted Lura S.
18 to see if she was in a better position to assist with the opening of
19 the case. At that time, Lura S. agreed. However, just prior to the
20 preliminary hearing, Lura S. had a change of mind, and became unable
21 to participate with the case again.

22 On Monday, February 04, 2008, at 11:41 a.m., the State learned
23 that Lura S. is stable, and now willing and able to testify, if
24 needed, in this case.

25
26 **III. ARGUMENT**

1 THE STATE HAS SHOWN GOOD CAUSE AND UNFORESEEN CIRCUMSTANCES
2 TO ALLOW IT TO BELATEDLY FILE ITS NOTICE OF INTENT TO SEEK
3 ADMISSION OF OTHER BAD ACT EVIDENCE FOR REBUTTAL PURPOSES

4 The State has good cause and unforeseen circumstance to allow
5 the Court to grant leave to file this and it's NOTICE OF INTENT TO
6 SEEK ADMISSION OF OTHER BAD ACT EVIDENCE FOR REBUTTAL PURPOSES. In
7 the Court's PRETRIAL ORDER dated July 23, 2007, the Court set a
8 deadline of September 17, 2007 for the filing of all motions. As of
9 that date, the State had not been able to secure cooperation with the
10 witness in the prior bad act case, Lura S. Lura S. was so upset and
11 concerned about not wanting to appear that she willfully did not
12 appear, though subpoenaed to the preliminary hearing. This precluded
13 the State from proceeding in that hearing on her case.

14 Lura S. is known to all to be fragile, mentally unstable,
15 terrified of Defendant, has moved away from Reno due to her case, has
16 been treated for medical and mental illness and was not willing, or
17 comfortable, to testify in this case. As such, the State could not,
18 in good faith, file any motion relating to her because the State
19 could not guarantee, and in fact, it was unlikely that she would
20 appear. Not wanting to risk wasting this Court's or the Defendant's
21 time, the State refrained from filing any motions relating to Lura S.

22 However, on Monday, February 04, 2008, at 11:41 a.m., the
23 State's prosecutor spoke with Lura S. and learned that Lura S.,
24 though tearful and still scared, is now willing to testify. The
25 State immediately filed this and the related other bad acts motion.
26 According to Lura S., though she does not wish to bring all of this

1 up or to relive her experience with Defendant, she feels compelled to
2 now provide her assistance to ensure there are no other victims. She
3 now understands that doing nothing only guarantees nothing will be
4 done. Therefore, under these unique circumstances, the Court should
5 grant the State leave to file these motions.

6
7 **IV. CONCLUSION**

8 The State has shown good cause to belatedly file its NOTICE
9 OF INTENT TO SEEK ADMISSION OF OTHER BAD ACT EVIDENCE FOR REBUTTAL
10 PURPOSES as the State has only just learned that the witness for the
11 other bad acts is stable and can testify.

12 AFFIRMATION PURSUANT TO NRS 239B.030

13 The undersigned does hereby affirm that the preceding
14 document does not contain the social security number of any person.

15 Dated this 4th day of February, 2008.

16 RICHARD A. GAMMICK
17 District Attorney
18 Washoe County, Nevada

19
20 By Kelli Anne Vilorio
21 KELLI ANNE VILORIA
22 5872
23 Deputy District Attorney
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CERTIFICATE OF MAILING

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

David O'Mara
311 E. Liberty St.
Reno, NV 89501

DATED this 4th day of February, 2008.

P. O'Block

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BRENDAN DUNCKLEY 12 Pages
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CR07-1728
STATE VS. BRENDAN DUNCKLEY
District Court
Washoe County
DOC

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2008 FEB 7 4 PM 3:21

HOWARD W. CONYERS
BY DEPUTY

CODE 2010
Richard A. Gammick
#001510
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Reno, NV 89520-3083
(775) 328-3200
Attorney for Plaintiff

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

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

v.

Dept. No. 4

BRENDAN DUNCKLEY,

Defendant.

NOTICE OF INTENT TO SEEK ADMISSION OF OTHER ACTS EVIDENCE FOR
PURPOSES OF REBUTTAL

COMES NOW, the State of Nevada, by and through RICHARD A. GAMMICK, District Attorney of Washoe County, and KELLI ANNE VILORIA, Deputy District Attorney, and respectfully would like to place defendant, BRENDAN DUNCKLEY on notice that the State has evidence that he has engaged in other act conduct related to the charge in this case and, that if such evidence becomes relevant, the State would seek its admission in a rebuttal case. This notice is based upon the Points and Authorities contained herein.

POINTS & AUTHORITIES

I. STATEMENT OF FACTS OF INSTANT CASE

1 On March 10, 2007, Defendant, BRENDAN DUNCKLEY, (hereinafter
2 Defendant) observed a woman, Jessica H., staggering along the side of
3 the road in the northwest area of Reno. Defendant claimed Jessica H.
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8 help the girl because he "didn't need any accusations." The girl
9 continued to stagger home, and Defendant followed her. According to
10 defendant, he stayed on the phone with his wife the whole time. Once
11 at the woman's home, Defendant escorted her up the stairs because she
12 could barely walk. They went inside and Defendant hung up the phone
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16 told by Defendant to "suck my dick." Defendant then shoved his erect
17 penis into her mouth. Jessica H. bit Defendant's penis, causing him
18 to recoil, and her to scream she'd been raped. Jessica H.'s
19 neighbors came running. Defendant, who had called his wife back,
20 was cornered at the scene and telling his wife that he'd been set up.

21 Defendant was extremely cooperative with police, denying,
22 initially any sexual contact with the victim and claiming to have
23 been on the cell phone with his wife throughout the whole time and
24 that nothing of that nature occurred. Defendant even willingly
25 allowed his penis to be photographed (which was flaccid and showed no
26 signs of injury) and provided law enforcement with a swab of his

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12 p.m., Defendant had contact with a Reno Police Officer on an
13 unrelated incident. Unsolicited, Defendant told the officer about
14 Jessica H.'s accusation and that he had put his finger in her mouth
15 to stop her from choking on her tongue and then urinated, which
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24 By all accounts, those who knew her, considered her a "special needs"
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26

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2 touch.

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14 Broome, Defendant admitted the conduct, but claimed it was
15 consensual. A short time later, Lura S. was admitted to a mental
16 hospital and became unable to continue any cooperation with law
17 enforcement. The case was closed at that time.

18 In March of 2007, Reno Police Detective Tom Broome remembered
19 Defendant from the Lura S. case. Detective Broome contacted Lura S.
20 to see if she was in a better position to assist with the re-opening
21 of the case. At that time, Lura S. agreed. However, just prior to
22 the preliminary hearing, Lura S. had a change of mind, and became
23 unable to participate with the case again.

24 On Monday, February 04, 2008, the State learned that Lura S. is
25 now willing and able to testify, if needed, in this case.

26

1 **III. ARGUMENT**

2 DEFENDANT'S REMARKABLY SIMILAR CONDUCT IS
3 ADMISSIBLE PURSUANT TO NRS 48.045(1) TO REBUT
4 DEFENSE CLAIMS AND/OR PURSUANT TO NRS 48.045(2)
5 FOR OTHER PURPOSES TO CIRCUMSTANTIALLY ESTABLISH
6 IN REBUTTAL, THE DEFENDANT'S MOTIVE, IMPEACHMENT,
7 OPPORTUNITY, INTENT, PREPARATION, PLAN,
8 KNOWLEDGE, IDENTITY, MODUS OPERANDI.

9 Nevada law expressly permits evidence of uncharged conduct
10 to be admitted "to rebut evidence of a character trait offered by an
11 accused." NRS 48.045(1)(a). Such evidence is also admissible for
12 "...limited purposes other than showing a defendant's bad character
13 so long as certain procedural requirements are satisfied and certain
14 substantive criteria met." Tavares v. State, 17 NAO 61 (September 17,
15 2001); see also Braunstein v. State, 118 Nev. 68, 40 P.3d 413 (2002).
16 This evidence is also ruled admissible in cases involving sexual
17 conduct as long as the evidence is not offered to establish bad
18 character or a specific emotional propensity for sexual aberration.
19 Braunstein at 417.

20 Admissible other act evidence is outlined in NRS 48.045.
21 Specifically, that statute states:

22 Evidence of other crimes, wrongs or acts is not
23 admissible to prove the character of a person in
24 order to show that he acted in conformity
25 therewith. It may, however, be admissible for
26 **other purposes**, such as proof of **motive**,
 opportunity, intent, preparation, plan,
 knowledge, identity, or absence of mistake or
 accident. (emphasis added.)

 Though the use of uncharged bad acts is heavily disfavored
by the Nevada Supreme Court, the Court has held that it is

1 appropriate for the Court to admit such evidence as long as the State
2 "...establishes, at a hearing outside the presence of the jury that:
3 (1) the incident is relevant to the crime charged; (2) the act is
4 proven by clear and convincing evidence; and (3) the probative value
5 of the evidence is not substantially outweighed by the danger of
6 unfair prejudice." Id.; see also Braunstein; see also NRS 48.035;
7 see also Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064-65
8 (1997), citing Walker v. State, 112 Nev. 819, 824, 921 P.2d 923, 926
9 (1996).¹ See also Rosky v. State, 111 P.3d 690 (May 2005) and
10 Ledbetter v. State, 129 P.3d 671 (March 2006).

11 It is also well established that such evidence is highly
12 probative when offered to prove motive, since "...motive generally
13 applies to establish the identity of the criminal, or to prove malice
14 or specific intent." Richmond v. State, 59 P.3d 1249, 1255 (2002).
15 The same is true when admitting evidence that supports a common plan
16 or scheme as long as it shows "...an integral part of an overarching
17 plan explicitly conceived and executed by the defendant." Id. "The
18 test is not whether the other offense has certain elements in common
19 with the crime charged, but whether it tends to establishes a
20 preconceived plan which resulted in the commission of the crime."
21 Id.; see also Ledbetter at 677.

22
23
24 ¹ Procedurally, "[a] prosecutor seeking the motion must do so in the pursuit of
25 justice and as a servant of the law." Tavares. To protect the defendant's rights,
26 the Nevada Supreme Court now also requires the State to request the Court to give a
limiting instruction at the time the evidence is proffered. Id.; see also Rosky
and Ledbetter.

1 Such evidence is also admissible to prove a distinct modus
2 operandi by the accused. Williams v. State 95 Nev. 830 (1979); see
3 also United States v. Baldarrama, 566 F.2d 560 (5th Cir. 1978);
4 People v. Hasten, 69 Cal.2d 233, 70 Cal. Rptr. 419, 444 P.2d 91
5 (1968) and People v. Rodriguez 68 Cal.App.3d 874, 137 Cal.Rptr. 594
6 (1977). Modus Operandi evidence is "...generally proper where a
7 positive identification of the perpetrator has not been made , and
8 the offered evidence establishes a crime so clear as to establish the
9 identity of the person on trial." Ledbetter at 677. The Court must
10 simply determine whether there is sufficient similarity between the
11 charged and uncharged crimes to allow evidence of modus operandi
12 include: (1) the time lapse between the two crimes and (2) the
13 geographic distance between the crimes. United States v. Farber, 630
14 F.2d 569 (8th. Cir. 1980); Walker v. State, 588 S.W.2d 920, 924
15 (Tex.App. 1982); Messenger v. State, 638 S.W. 2d 883 (Tex.App. 1982).
16 This evidence is especially relevant when identity is at issue.
17 Ledbetter at 677.

18 In this case, and only if it becomes necessary and under
19 NRS 48.045(1), the State will seek to admit this evidence to rebut
20 the defendant's placing of his character, his lack of motive, his
21 lack of criminal intent, his lack of criminal design in issue.
22 Naturally, before seeking admission of any of this evidence, the
23 State will prove these acts by clear and convincing evidence.

24 Here, DEFENDANT's conduct with Lura S. mirrors his conduct with
25 Jessica H. and, when made relevant, may be admissible to show
26 defendant's motive, modus operandi, common scheme or plan, identity

1 and intent. Though sexual in nature, and arguably prejudicial, it is
2 admissible, as it is relevant to prove the charged conduct here and
3 any prejudicial effect will be, by far, outweighed by the probative
4 value of the evidence.

5 Looking closely, the conduct is identical. First of all, the
6 incidents involve females, who were either intoxicated or mentally
7 disabled, and a cooperative suspect sex who claimed the sexual
8 conduct that occurred was consensual. Both incidents include
9 defendant being sexually forward, inviting the women to his world, to
10 initiating physical sexual contact, and when rebuffed, or refused,
11 agreeing to go along with the women's rejection, only to truly have
12 something else on his mind. In both incidents, defendant had a plan
13 to have sexual relations regardless of their ability to consent. The
14 only difference between the two cases is that he actually knew Lura
15 S., and only observed a drunken Jessica H. on the street. Either
16 way, it shows defendant's state of mind, his knowledge that the
17 conduct is inappropriate, his modus and his criminal intent. This
18 makes the evidence of defendant's conduct with Lura S. relevant for
19 every single reason listed above if and when Defendant raises the
20 issues in court.

21 *Motive & Intent*

22 Here, by the very entry of a "not guilty" plea, defendant
23 has placed his motive and intent at issue in this case. However, in
24 light of the Nevada Supreme Court's strong distaste for other acts
25 evidence, the State believes that this evidence will only become
26 relevant should Defendant open the door to it.. The evidence that

1 defendant committed, and/or suggested, almost an identical act with a
2 similar victim is highly relevant, at the very least to rebut
3 defendant's claims that this was consensual conduct by Jessica H.
4 and/or to establish that the defendant was aware his conduct was
5 illegal and intended to commit a criminal act.

6 *Common Scheme or Plan &/or Modus Operandi*

7 In addition, the other act evidence is relevant to show
8 defendant's common scheme or plan to show that he picks on low-
9 functioning victims, that he believes he can talk his way out of
10 criminal culpability, that he uses his wife as an alibi-type witness
11 to support his consent defense, knowing he fully intended to do with
12 these women whatever he sexually pleased. Defendant's choice of
13 connecting to the women, for a seemingly innocent purpose, then
14 choosing to have sex with them, when they are not in a position to
15 put up a fight, clearly depicts his criminal design.

16 The evidence also depicts defendant's distinct modus operandi in
17 how he committed this crime. A look at the other acts evidence
18 reveals that there is more than sufficient similarity between the
19 charged and uncharged crimes. There is a marginal time lapse between
20 the conduct, all occurring consistently with a low-to-non functioning
21 female, within a relatively close time, in the same part of time, and
22 involve the use of a victim who is under the influence intoxicating
23 liquor and/or, in the case of Lura S., mental disease.

24 *Other Purposes: Impeachment and Rebuttal (NRS 48.045(1))*

25 Moreover, and for all the reasons stated above, the other act
26 evidence is admissible to impeach and/or rebut the defense.

1 Defendant will undoubtedly attempt to cast dispersion on the victim's
2 character while trying to cast doubt on her credibility. As this
3 court is aware, sex crimes pose unique difficulties when the evidence
4 is largely of a testimonial nature. Thus, credibility of the victim
5 is extremely important. Surely, knowing the Defendant has committed
6 non-consensual sexual conduct will certainly be especially helpful in
7 assist the jury in assessing whether or not what this victim says is
8 true.

9 As with all evidence presented against a defendant in a criminal
10 case, the State acknowledges Defendant's other act evidence may seem
11 prejudicial. However, at worst, and under the analyses offered
12 above, the danger of any prejudice is minimal compared to its
13 probative value and will be cured by a limiting jury instruction
14 given with the admission of the evidence.

15 Accordingly, once the evidence becomes relevant and the State
16 fulfills its necessary and substantive requirements, the Court should
17 admit this other acts evidence.

18 CONCLUSION

19 The evidence relating to the defendant's other acts conduct
20 may become relevant to rebut the defense character claims, relevant
21 to prove DEFENDANT's motive, opportunity, intent, preparation, plan,
22 knowledge, identity, modus operandi and other purposes relevant for
23 the reasons listed above. Following a Petrocelli hearing in this
24 matter, the State will respectfully request this Honorable Court to
25 permit it to introduce the defendant's other acts evidence either if
26 and when it becomes relevant, or for purposes of rebuttal.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 11th day of February, 2008.

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By Kelli Anne Vilorio
KELLI ANNE VILORIA
5872
Deputy District Attorney

03140783

CERTIFICATE OF MAILING

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

David O'Mara
311 E. Liberty St.
Reno, NV 89501

DATED this 4th day of February, 2008.

ROBLOX

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DA # 373085

2008 FEB 25 AM 10:57
HOWARD V. CONYERS
BY [Signature]
DEPUTY

CR07-172B DC-9900002638-018
STATE VS. BRENDAN DUNCKLEY (4 Pages
District Court 02/25/2008 10:57 AM
Washoe County 3889
ncc

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

* * *

THE STATE OF NEVADA,
Plaintiff,
v.
Brendan Dunckley Defendant.

Case No. CK07-1728
Dept. No. 4

REQUEST, STIPULATION AND ORDER RE PRE-PRELIMINARY HEARING AND PRE-TRIAL RECIPROCAL DISCOVERY (FELONY AND GROSS MISDEMEANOR CASES)

I. DEFENDANT'S REQUEST FOR PRE-PRELIMINARY HEARING DISCOVERY

Pursuant to NRS 171.1965, the Defendant requests copies of any and all of the following items which come into the possession or custody of the prosecuting attorney not less than two (2) judicial days before the scheduled preliminary hearing: written or recorded statements or confessions made by the Defendant; written or recorded statements made by a witness or witnesses; reports of statements or confessions; results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the case; and books, papers, documents or tangible objects that the

1 prosecuting attorney intends to introduce into evidence during the
2 State's case in chief at the preliminary hearing.

3 II. DEFENDANT'S REQUEST FOR PRE-TRIAL DISCOVERY

4 Pursuant to NRS 174.235 through 174.295 the Defendant
5 requests copies of any and all of the following items within the
6 custody of the State, the existence of which is known, or by the
7 exercise of due diligence may become known, to the prosecuting
8 attorney: written or recorded statements or confessions made of the
9 Defendant; written or recorded statements made by a witness the
10 prosecuting attorney intends to call during the case in chief of the
11 State; results or reports of physical or mental examinations,
12 scientific tests or scientific experiments made in connection with
13 the particular case; and books, papers, documents or tangible objects
14 that the prosecuting attorney intends to introduce during the case in
15 chief of the State.

16 III. STATE'S REQUEST FOR PRE-TRIAL DISCOVERY

17 Pursuant to NRS 174.235 through 174.295 the State requests
18 copies of any and all of the following items within the possession,
19 custody or control of the Defendant, the existence of which is known,
20 or by the exercise of due diligence may become known, to the
21 Defendant: written or recorded statements made by a witness the
22 Defendant intends to call during the case in chief of the Defendant;
23 results or reports of physical or mental examinations, scientific
24 tests or scientific experiments that the Defendant intends to
25 introduce into evidence during the case in chief of the Defendant;
26 and books, papers, documents or tangible objects that the Defendant

1 intends to introduce into evidence during the case in chief of the
2 Defendant.

3 IV. WAIVER OF TIME REQUIREMENTS

4 By the execution of the instant request and stipulation,
5 both the State and the Defendant expressly waive the requirement that
6 the parties requests for pre-trial discovery must be made within
7 thirty (30) days of the District Court arraignment, pursuant to NRS
8 174.285. The parties stipulate and agree that said requests are
9 timely and satisfactorily made by the execution of the instant
10 request and stipulation.

11 V. ADDITIONAL STIPULATIONS

12 The parties agree to comply with the witness notification
13 provisions, including the expert witness notification provisions, of
14 Chapters 173 and 174 of the Nevada Revised Statutes.

15 The State agrees to provide the Defendant with all
16 exculpatory materials pursuant to Brady v. Maryland, 373 U.S. 83
17 (1963), and the provisions of this Request, Stipulation, and Order
18 are not intended to affect any obligation placed on the prosecuting
19 attorney by the Constitution of this state or the Constitution of the
20 United States to disclose exculpatory evidence, or other materials
21 required by law, to the defendant.

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The State and the Defendant shall have a continuing duty to disclose copies of all discovery items noted supra.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

H. Brown
DEPUTY DISTRICT ATTORNEY

2/10/08
DATE

David Collins
DEFENSE ATTORNEY

1/8/08
DATE

Good cause appearing, the above stipulations are hereby ratified and approved. The parties shall comply with the terms of this document.

IT IS SO ORDERED.

Conrad J. Steinheimer
DISTRICT JUDGE

2/8/08
DATE

ORIGINAL

DA # 373085

RPD RP07-009446, RPD RP05-034027

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

FILED

2008 FEB 28 PM 3:13

HOWARD H. CONTERS

BY *[Signature]*
DEPUTY

CR07-1728
STATE VS. BRENDAN DUNCKLEY (4 Pages
District Court 02/28/2008 03:13 PM
Washoe County
DC-9900002644-153
MULTI TRACK

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. CR07-1728

11 v.

Dept. No. 4

12 BRENDAN DUNCKLEY,

13 Defendant.

14
15 AMENDED INFORMATION

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

20 COUNT I. LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN
21 YEARS, a violation of NRS 201.230, a felony, (F650) in the manner
22 following:

23 That the said defendant on or between the 14th day of
24 August A.D. A.D., 1998, and the 13th day of August A.D. A.D., 2000,
25 or thereabout, and before the filing of this Information, at and
26 within the County of Washoe, State of Nevada, did willfully,

1 unlawfully, and lewdly commit a lewd or lascivious act upon or with
2 the body of ASHLEY V., having a date of birth of August 14, 1986, a
3 female child under the age of fourteen years at the time that the
4 said act was committed, in that the said defendant engaged the victim
5 in sexual intercourse at or near Longley Lane, Reno, Washoe County,
6 Nevada, and/or put his hand down her pants to fondle her genital area
7 in an elevator at the Atlantis Hotel and Casino, 3800 South Virginia
8 Street, Reno, Washoe County, Nevada, with the intent of arousing,
9 appealing to, or gratifying the lust, passions, or sexual desires of
10 himself or the child.

11 COUNT II. ATTEMPTED SEXUAL ASSAULT, a violation of NRS
12 193.330, being an attempt to violate NRS 200.366, a felony, (F1000) in
13 the manner following:

14 That the said defendant on the 10th day of March A.D.,
15 2008, or thereabout, and before the filing of this Information, at
16 and within the County of Washoe, State of Nevada, did willfully, and
17 unlawfully attempt to subject JESSICA H. to sexual penetration
18 against the victim's and/or under conditions in which the defendant
19 knew or should have known that the victim was mentally or physically
20 incapable of resisting or understanding the nature of the defendant's
21 conduct, to wit, fellatio at 1675 Sky Mountain Drive, #827, Reno,
22 Washoe County, Nevada.

23 ///


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26 ///

1 All of which is contrary to the form of the Statute in such
2 case made and provided, and against the peace and dignity of the
3 State of Nevada.

4
5 RICHARD A. GAMMICK
6 District Attorney
7 Washoe County, Nevada

8 By 
9 KELLI ANNE VILORIA
10 5872
11 Deputy District Attorney
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1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within
3 Information:

4
5 RENO POLICE DEPARTMENT

6 DETECTIVE T.K. BROOME
7 OFFICER SCOTT HEGLAR


8 ASHLEY V., Silver Springs Conservation Camp

9 JESSICA RAE H.

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 The party executing this document hereby affirms that this
document submitted for recording does not contain the social security
number of any person or persons pursuant to NRS 239B.230.

RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

By 
KELLI ANNE VILORIA
5872
Deputy District Attorney

PCN RPD0726517C
PCN RPD0726524C

07068446

ORIGINAL

FILED

MAR 03 2008

HOWARD W. CONYERS, CLERK
By: *[Signature]*
DEPUTY CLERK

CODE 4025
Richard A. Gammick
#001510
P.O. Box 30083
Reno, NV 89520-3083
(775) 328-3200
Attorney for Plaintiff

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

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

v.

Dept. No. 4

BRENDAN DUNCKLEY,

Defendant.

REQUEST FOR CONTINUANCE, STIPULATION AND ORDER

IT IS HEREBY STIPULATED, by and between the parties herein,
Defendant, BRENDAN DUNCKLEY, by and through his attorney, DAVID C.
O'MARA, and the Washoe County District Attorney, by and through KELLI
ANNE VILORIA, Washoe County Deputy District Attorney, and stipulate
that the HEARING TO CONFIRM TRIAL DATE currently set for MARCH 4,
2008, at 9:00 A.M. be vacated and rescheduled to MARCH 6, 2008, at
9:00 A.M.

Said continuance is necessary and not made for the purpose of
delay.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document

CR07-1728
STATE VS. BRENDAN DUNCKLEY (2 Pages
District Court 03/03/2008 04:53 PM
Washoe County 4025
TPI:RVEF

1 does not contain the social security number of any person.

2 DATED this 28 day of FEBRUARY, 2008.

3 RICHARD A. GAMMICK
4 District Attorney

5 By [Signature]
6 KELLI ANNE VILORIA
Deputy District Attorney

By [Signature]
DAVID C. O'MARA
Attorney for Defendant

8 ORDER

9 Good cause appearing, and in the interests of justice,

10 IT IS HEREBY ORDERED that the HEARING TO CONFIRM TRIAL DATE
11 currently scheduled for MARCH 4, 2008, at 9:00 A.M. be vacated and
12 rescheduled to MARCH 6, 2008, at 9:00 A.M.

13 DATED this 3 day of March, 2008.

14 [Signature]
15 DISTRICT JUDGE

ORIGINAL

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

FILED

MAR 06 2008

HOWARD M. CONYERS, CLERK
By: *[Signature]*
DEPUTY CLERK

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

* * *

THE STATE OF NEVADA,

Plaintiff,

Case No. CR07-1728

v.

Dept. No. 4

BRENDAN DUNCKLEY,

Defendant.

GUILTY PLEA MEMORANDUM

1. I, BRENDAN DUNCKLEY, understand that I am charged with the offense(s) of: COUNT I. LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS, a violation of NRS 201.230, a felony; or in the alternative, COUNT II. ATTEMPTED SEXUAL ASSAULT, a violation of NRS 193.330, being an attempt to violate NRS 200.366, a felony.

2. I desire to enter a plea of guilty to the offense(s) of COUNT I. LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS, a violation of NRS 201.230, a felony; ~~or in the alternative,~~ COUNT II. ATTEMPTED SEXUAL ASSAULT, a violation of NRS 193.330, being an attempt to violate NRS 200.366, a felony, as more fully alleged in the charge(s) filed against me.

CR07-1728
STATE VS. BRENDAN DUNCKLEY (7 Pages
District Court 03/06/2008 09:00 AM
Washoe County 1785
MTRABERT
DNC

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

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

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

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

10 D. I waive my right to subpoena witnesses for trial on my
11 behalf.

12 4. I understand the charge(s) against me and that the
13 elements of the offense(s) which the State would have to prove beyond
14 a reasonable doubt at trial are that on or between August 14, 1998,
15 and August 13, 2000, or thereabout, in the County of Washoe, State of
16 Nevada, I did, as to Count I. willfully, unlawfully, and lewdly
17 commit a lewd or lascivious act upon or with the body of ASHLEY V.,
18 having a date of birth of August 14, 1986, a female child under the
19 age of fourteen years at the time that the said act was committed, in
20 that I engaged the victim in sexual intercourse at or near Longley
21 Lane, Reno, Washoe County, Nevada, and/or put my hand down her pants
22 to fondle her genital area in an elevator at the Atlantis Hotel and
23 Casino, 3800 South Virginia Street, Reno, Washoe County, Nevada, with
24 the intent of arousing, appealing to, or gratifying the lust,
25 passions, or sexual desires of myself or the child.

26 ///

1 I further understand the charge(s) against me and that the
2 elements of the offense(s) which the State would have to prove beyond
3 a reasonable doubt at trial are that on March 10, 2007, or
4 thereabout, in the County of Washoe, State of Nevada, I did, as to
5 Count II. willfully, and unlawfully attempt to subject JESSICA H. to
6 sexual penetration against the victim's and/or under conditions in
7 which I knew or should have known that the victim was mentally or
8 physically incapable of resisting or understanding the nature of the
9 my conduct, to wit, fellatio at 1675 Sky Mountain Drive, #827, Reno,
10 Washoe County, Nevada..

11 5. I understand that I admit the facts which support all
12 the elements of the offenses by pleading guilty. I admit that the
13 State possesses sufficient evidence which would result in my
14 conviction. I have considered and discussed all possible defenses
15 and defense strategies with my counsel. I understand that I have the
16 right to appeal from adverse rulings on pretrial motions only if the
17 State and the Court consent to my right to appeal. In the absence of
18 such an agreement, I understand that any substantive or procedural
19 pretrial issue or issues which could have been raised at trial are
20 waived by my plea.

21 6. I understand that the consequences of my plea of guilty
22 as to Count I. are that I may be imprisoned for a period of life in
23 the Nevada State Department of Corrections with parole eligibility
24 after ten years, and that I am not eligible for probation unless a
25 psychosexual evaluation is completed pursuant to NRS 176.139 which
26 certifies that I do not represent a high risk to reoffend based upon

1 a currently accepted standard of assessment and unless a psychiatric
2 or psychological evaluation is completed pursuant to NRS 176A.110
3 which certifies that I do not represent a high risk to reoffend based
4 upon a currently accepted standard of assessment. I may also be
5 fined up to \$10,000.00. I further understand that I will be required
6 to be on lifetime supervision pursuant to NRS 176.0931.

7 I further understand that the consequences of my plea of
8 guilty as to Count II. are that I may be imprisoned for a period of
9 two to twenty years in the Nevada State Department of Corrections and
10 that I am not eligible for probation unless a psychosexual evaluation
11 is completed pursuant to NRS 176.139 which certifies that I do not
12 represent a high risk to reoffend based upon a currently accepted
13 standard of assessment and unless a psychiatric or psychological
14 evaluation is completed pursuant to NRS 176A.110 which certifies that
15 I do not represent a high risk to reoffend based upon a currently
16 accepted standard of assessment. I further understand that I will be
17 required to be on lifetime supervision pursuant to NRS 176.0931. The
18 sentence on each count may be concurrent or consecutive to each
19 other.

20 7. In exchange for my plea of guilty, the State, my
21 counsel and I have agreed to recommend the following: The State will
22 be free to argue for an appropriate sentence. The State will not
23 file additional criminal charges resulting from the arrest in this
24 case, and/or will refrain from pursuing additional and/or
25 transactionally related offenses <sup>including all counts filed and dismissed in RJC Case No. 2007-
26 plea to Count I as a legal fiction, pursuant to plea negotiations,</sup> I understand that I am entering my ^{03884.}

Handwritten notes:
KAV
including all counts filed and dismissed in RJC Case No. 2007-
03884.

1 to allow me to avoid the more serious charge of sexual assault in the
2 original Count I, and to allow me the opportunity to qualify for probation, which would
3 otherwise be unavailable. (S) KTV (S)

4 8. I understand that, even though the State and I have
5 reached this plea agreement, the State is reserving the right to
6 present arguments, facts, and/or witnesses at sentencing in support
7 of the plea agreement.

8 9. I also agree that I will make full restitution in this
9 matter, as determined by the Court. Where applicable, I additionally
10 understand and agree that I will be responsible for the repayment of
11 any costs incurred by the State or County in securing my return to
12 this jurisdiction.

13 10. I understand that the State, at their discretion, is
14 entitled to either withdraw from this agreement and proceed with the
15 prosecution of the original charges or be free to argue for an
16 appropriate sentence at the time of sentencing if I fail to appear at
17 any scheduled proceeding in this matter OR if prior to the date of my
18 sentencing I am arrested in any jurisdiction for a violation of law
19 OR if I have misrepresented my prior criminal history. I represent
20 that I do have a prior criminal record. I understand and agree that
21 the occurrence of any of these acts constitutes a material breach of
22 my plea agreement with the State. I further understand and agree
23 that by the execution of this agreement, I am waiving any right I may
24 have to remand this matter to Justice Court should I later withdraw
25 my plea.

26 11. I understand and agree that pursuant to the terms of
the plea agreement stated herein, any counts which are to be

1 dismissed and any other cases charged or uncharged which are either
2 to be dismissed or not pursued by the State, may be considered by the
3 court at the time of my sentencing.

4 12. I understand that the Court is not bound by the
5 agreement of the parties and that the matter of sentencing is to be
6 determined solely by the Court. I have discussed the charge(s), the
7 facts and the possible defenses with my attorney. All of the
8 foregoing rights, waiver of rights, elements, possible penalties, and
9 consequences, have been carefully explained to me by my attorney. I
10 am satisfied with my counsel's advice and representation leading to
11 this resolution of my case. I am aware that if I am not satisfied
12 with my counsel I should advise the Court at this time. I believe
13 that entering my plea is in my best interest and that going to trial
14 is not in my best interest.

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

18 14. I offer my plea freely, voluntarily, knowingly and
19 with full understanding of all matters set forth in the Amended
20 Information and in this Plea Memorandum. I understand everything
21 contained within this Memorandum.

22 15. My plea of guilty is voluntary and is not the result
23 of any threats, coercion or promises of leniency.

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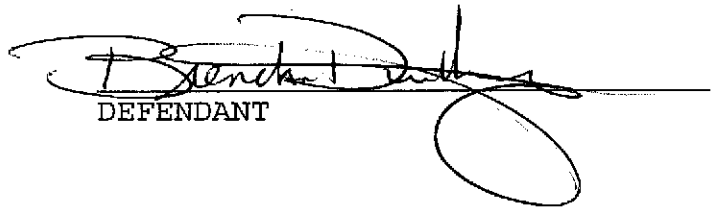
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1 16. I am signing this Plea Memorandum voluntarily with
2 advice of counsel, under no duress, coercion, or promises of
3 leniency.

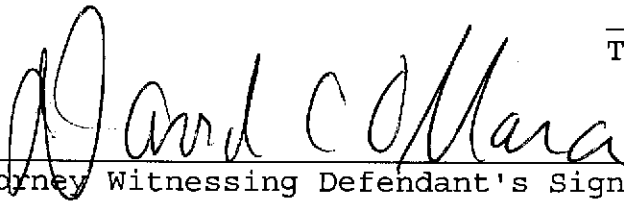
4 AFFIRMATION PURSUANT TO NRS 239B.030


5 The undersigned does hereby affirm that the preceding
6 document does not contain the social security number of any person.

7 DATED this 6th day of March, 2008.

8
9 
10 DEFENDANT

11 _____
12 TRANSLATOR/INTERPRETER

13 
14 Attorney Witnessing Defendant's Signature

15 
16 Prosecuting Attorney

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07068446

1 Code No. 4185

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 THE HONORABLE CONNIE J. STEINHEIMER, CHIEF DISTRICT JUDGE

8 -o0o-

9	STATE OF NEVADA,)	
)	
10	Plaintiff,)	Case No. CR07-1728
)	
11	vs.)	Dept. No. 4
)	
12	BRENDAN DUNCKLEY,)	
)	
13	Defendant.)	
)	

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TRANSCRIPT OF PROCEEDINGS
MOTION TO CONFIRM TRIAL
THURSDAY, MARCH 6, 2008
RENO, NEVADA

Reported By: BECKY VAN AUKEN, CCR No. 418

APPEARANCES:

For the Plaintiff:

KELLI A. VILORIA
Deputy District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant:

O'MARA LAW FIRM
BY: DAVID C. O'MARA, ESQ.
311 E. Liberty Street
Reno, Nevada 89501

Parole and Probation:

LAURA PAPPAS

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1 RENO, NEVADA, THURSDAY, MARCH 6, 2008, 9:03 A.M.

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6 THE COURT: Brendan Dunckley.

7 MS. VILORIA: Kelli Viloria on behalf of the
8 State.

9 MR. O' MARA: Good morning. David O' Mara on
10 behalf of Mr. Dunckley. He's present in court today.

11 THE COURT: There's an amended Information in
12 this file. It's also the time for a motion to confirm.

13 Do you want to go forward on the amended
14 Information?

15 MR. O' MARA: No, Your Honor. We have reached an
16 agreement -- oh, yes, Your Honor.

17 THE COURT: Okay. Then I'll hand you a copy of
18 the Amended Information. You can review it with your
19 client.

20 MR. O' MARA: Thank you, Your Honor.

21 We have received a copy of the Amended
22 Information. Mr. Dunckley's name is correctly spelled on
23 line 12. It states, Count I, lewdness with a child under
24 the age of 14 years, a violation of NRS 201.230, and

1 attempted sexual assault, a violation of NRS 193.330. We
2 waive the formal reading of this amended Information.

3 THE COURT: Are you ready to go forward and enter
4 a plea?

5 MR. O' MARA: Yes, Your Honor. I have provided
6 you with the original of the Guilty Plea Memorandum that
7 was signed. Mr. Dunckley desires to enter a plea of
8 guilty to the offense of lewdness with a child under the
9 age of 14 years, a violation of NRS 201.230, a felony, and
10 Count II, attempted sexual assault, a violation of
11 NRS 193.330, being an attempt to violate NRS 200.366, a
12 felony.

13 Mr. Dunckley understands that the consequences of
14 his plea of guilt to Count I is that he may be
15 imprisoned for a period of life in the Nevada Department
16 of Corrections with parole eligibility after ten years and
17 that he is not eligible for probation unless he satisfies
18 NRS 176.139, which certifies that he is not a high risk to
19 reoffend based upon current standards, and a psychiatric
20 or psychological evaluation to be completed pursuant to
21 NRS 176A.110. He also could be subject to a \$10,000 fine,
22 and he understands that he'll be under lifetime
23 supervision.

24 He also understands the consequences of his plea

1 of guilty to Count II, which is set forth in the Guilty
2 Plea Memorandum, that he would be -- could be imprisoned
3 for a period of 2 to 20 years in the Nevada State Prison,
4 and he's also not eligible for probation unless he
5 satisfies the same psychosexual and psychological
6 evaluations as set forth in Count I.

7 In exchange for his plea of guilty, Your Honor,
8 the State and counsel and Mr. Dunckley have agreed to
9 recommend the following:

10 The State will be free to argue for an
11 appropriate sentence. The State will not file additional
12 criminal charges resulting from the arrest in this case
13 and/or will refrain from pursuing additional and/or
14 transactionally-related offenses, including all counts
15 filed and dismissed in Reno Justice Court, Case
16 No. 2007-033884.

17 He understands that in entering his plea to
18 Count I, it is a legal fiction, pursuant to the plea
19 negotiations, to allow him to avoid the more serious
20 charge of sexual assault in the original Count I, and this
21 also allows him the opportunity to qualify for probation,
22 which would otherwise be unavailable.

23 THE COURT: Is that a complete statement of the
24 negotiations?

1 MS. VILORIA: It is, Judge. Thank you.

2 THE COURT: Mr. Dunckley, do you understand these
3 plea negotiations?

4 THE DEFENDANT: Yes, Your Honor, I do.

5 THE COURT: Do you have any questions about them?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Are you comfortable with the
8 representation you've received from counsel so far?

9 THE DEFENDANT: Yes, Your Honor, I am.

10 THE COURT: Did you read the Guilty Plea
11 Memorandum?

12 THE DEFENDANT: Yes, Your Honor, I have.

13 THE COURT: Did you understand it?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you have any questions about the
16 document?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Do you have any questions about the
19 modifications to the typed document?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: And did you initial all of those
22 changes?

23 THE DEFENDANT: Yes, ma'am, I did.

24 THE COURT: Did you sign the document?

1 THE DEFENDANT: Yes, ma'am, I did.

2 THE COURT: Are you aware that you have a right
3 to plead not guilty, have a trial by jury, be confronted
4 by the witnesses against you, bring witnesses here on your
5 own behalf, and testify or not testify at that jury trial?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you understand you have a right
8 against self-incrimination, you may assert that right by
9 refusing to testify, and the State must prove you guilty
10 beyond a reasonable doubt??

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Are you aware you'll be giving up all
13 of these rights if you plead guilty?

14 THE DEFENDANT: Yes, ma'am, I am.

15 THE COURT: I'm going to ask the clerk to read
16 the charge to which you're pleading, and then I'll ask if
17 you understand it.

18 (Whereupon, the Information was read
19 by the clerk.)

20 THE COURT: Is there anything about those charges
21 you do not understand?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Do you understand Count I is a legal
24 fiction?

1 THE DEFENDANT: As far as what a legal fiction
2 is?

3 THE COURT: Yes. What is it about Count I that's
4 a legal fiction?

5 THE DEFENDANT: That per the agreement, we're
6 changing the original count down to a lower one and
7 pleading guilty to that so that probation can be an
8 option.

9 THE COURT: Are all the facts and circumstances
10 the same?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: It's just that it's a lewdness
13 instead of a sexual assault?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Did you do what it says you did in
16 the charge?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: And what about Count II?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Do you understand that charge?

21 THE DEFENDANT: Yes, ma'am, I do.

22 THE COURT: Did you do what it says you did in
23 that charge?

24 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Has your attorney told you the
2 possible maximum penalties?

3 THE DEFENDANT: Yes, ma'am, he has.

4 THE COURT: I know he told me that he had, but
5 now you have to tell me what those are in your own words.
6 What is the penalty for Count I?

7 THE DEFENDANT: The first count is a felony
8 carrying a sentence of no less than 10 years to a life
9 sentence, eligible for parole after 10 years in the Nevada
10 State correctional facilities.

11 Count II will carry a felony, as well as Count I
12 will carry a lifetime supervision, and Count II will carry
13 a felony with no less than two years served in the Nevada
14 State correctional facilities with a maximum of 20 years,
15 as well as carrying a lifetime supervision penalty as
16 well, and a fine in the first count of up to \$10,000.

17 THE COURT: Okay. And a fine in the second
18 count?

19 MS. VILORIA: There is no fine.

20 THE COURT: Okay.

21 Now, do you understand, with regard to Count I,
22 it's a penalty, a maximum penalty of life in prison?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: But you would be eligible for

1 probation after you served 10 years.

2 THE DEFENDANT: Yes, ma'am, I do.

3 THE COURT: And do you understand that with
4 regard to Count II, it's a maximum penalty of 20 years,
5 but you could be eligible for probation -- for parole at a
6 date that I give you, but it could be no less than two
7 years?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Now, do you understand that probation
10 is not available on these charges unless you are certified
11 by a professional pursuant to NRS 176.139 to not represent
12 a high risk to reoffend as to both counts?

13 THE DEFENDANT: I understand, Your Honor.

14 THE COURT: Do you understand that with regard to
15 lifetime supervision, that even if you completed your term
16 of sentence, you've satisfied all your obligations, if you
17 violated the terms of your lifetime supervision, you would
18 be subject to being back in prison?

19 THE DEFENDANT: Yes, ma'am, I do.

20 THE COURT: Do you understand that's totally up
21 to me whether I run these charges concurrent or
22 consecutive?

23 THE DEFENDANT: I do, Your Honor.

24 THE COURT: Do you understand I'm free to

1 sentence you up to and including the maximum allowed by
2 law?

3 THE DEFENDANT: I do.

4 THE COURT: Has anyone made any threats to get
5 you to enter these pleas?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Has anyone told you that you would be
8 guaranteed probation or any other particular result?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Has anyone made any promises or
11 representations to you to get you to enter these pleas
12 that you haven't told me about?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Do you have any doubt about what
15 you're doing here today?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Do you understand that you have a
18 jury trial scheduled for March 24th, and by pleading
19 guilty, that trial is off?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand this is a permanent
22 entry of plea?

23 THE DEFENDANT: I do, Your Honor.

24 THE COURT: You can't tell me in a week or two

1 that you didn't understand what was happening. You have
2 to tell me that now.

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: And you won't be able to change your
5 mind with regard to these pleas of guilt.

6 THE DEFENDANT: I do.

7 THE COURT: With everything I've asked and you
8 your answers, do you still wish to go forward?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Are you doing so of your own free
11 will?

12 THE DEFENDANT: Yes.

13 THE COURT: How do you plead to Count I?

14 THE DEFENDANT: Guilty.

15 THE COURT: How do you plead to Count II?

16 THE DEFENDANT: Guilty.

17 THE COURT: The Court finds that your pleas are
18 voluntary, that you fully understand the nature of the
19 offenses charged and the consequences of your pleas.
20 Therefore, I will accept your pleas of guilt and we'll set
21 a date for sentencing.

22 MR. O'MARA: Your Honor, there's been
23 negotiations with the district attorney's office to set
24 this out five to six months so that Mr. Dunckley can get

1 sexual offender therapy during that period of time. And
2 basically the D.A. is giving him every opportunity to try
3 to qualify for probation and to do the things that will be
4 beneficial for him to present to you at sentencing. So
5 she's allowed for a five- to six-month extension so that
6 he can get those type of therapy classes, and so we'd ask
7 for that type of time before sentencing.

8 MS. VILORIA: Your Honor, my agreement is just to
9 see if this defendant is worthy of any type of grant of
10 probation, whether he can earn it or not. I want to see
11 what he does between now and then.

12 So I do not object to any type of continuance
13 that Mr. O'Mara is asking for to set out the sentencing
14 date.

15 THE COURT: Counsel approach.

16 (A sidebar was held off the record.)

17 THE COURT: Okay. What are the conditions of
18 Mr. Dunckley's release? Is he out on bail?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And what's your bail set at?

21 THE DEFENDANT: I don't remember. It's been a
22 year, Your Honor. I don't remember off the top of my
23 head.

24 THE COURT: We have two bails posted. One may be

1 in the Reno Justice Court case.

2 It looks like it's 15,000 and 18,500, which seems
3 somewhat sufficient to me with regard to the bail. But I
4 am going to modify the terms and conditions of his release
5 to include Court Services supervision.

6 If you are going to do some sort of treatment,
7 then you need to do that and report that to Court
8 Services. And I want you reporting at least once a week
9 to Court Services so we know where you are and what you're
10 doing.

11 You must abstain from the use, possession, and
12 control of alcohol between now and the date you're
13 sentenced, and you can't use controlled substances.

14 So I just want to make sure you understand these
15 special conditions of your release. Do you?

16 THE DEFENDANT: I do, Your Honor.

17 THE COURT: Okay. Then that will be the order,
18 and I'll see you back at sentencing the clerk is about to
19 give.

20 THE CLERK: August 5th at 9:00 o'clock.

21 THE COURT: Between now and that date it's your
22 responsibility to make appointments with the Division of
23 Parole and Probation, to complete the evaluation. It's
24 further your responsibility to see that the psychological

1 | evaluation is conducted timely. And stay in touch with
2 | Court Services.

3 | MS. VILORIA: Your Honor, can we vacate the trial
4 | date for March 24, '08?

5 | THE COURT: That will be the order.

6 | (Proceedings concluded.)

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STATE OF NEVADA,)
)
 COUNTY OF WASHOE.)

I, BECKY VAN AUKEN, Certified Shorthand Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify:

That I was present in Department No. 4 of the above-entitled Court and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Reno, Nevada, 04/02/2008.

/s/Becky Van Auken
 BECKY VAN AUKEN, CCR No. 418

CASE NO. CR07-1728

TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCKLEY

**DATE, JUDGE
 OFFICERS OF
 COURT PRESENT**

APPEARANCES-HEARING

CONT'D TO

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONT'D TO
3/6/08	<u>MOTION TO CONFIRM TRIAL DATE/ARRAIGNMENT ON AMENDED</u>	
HONORABLE	<u>INFORMATION</u>	8/5/08
CONNIE	Deputy District Attorney Kelli Vilorio, Esq., represented the State.	9:00 a.m.
STEINHEIMER	Defendant present with counsel David O'Mara, Esq. Probation Officer Laura	Sentencing
DEPT. NO.4	Pappas also present.	
M. Stone	Defendant handed copy of Amended Information; indicated to the Court that	
(Clerk)	name as set forth on same was his true name; waived reading and enter a	
B. Van Auken	plea of guilty to Lewdness with a Child Under the Age of Fourteen Years	
(Reporter)	and Attempted Sexual Assault as set forth therein.	
	Negotiations recited to the Court by defense counsel. Court interrogated	
	defendant, fully advised him of his rights; found plea freely and voluntarily	
	entered. Defendant advised the Court that he understood the guilty plea	
	memorandum. Clerk read aloud charge to which the defendant pled. Possible	
	penalty for offense charged related to defendant. Court accepted plea after	
	finding defendant had been fully advised by counsel.	
	COURT ORDERED matter referred to Probation Department for PSI and	
	continued for entry of judgment, consideration of probation report and	
	imposition of sentence.	
	COURT FURTHER ORDERED that the Defendant be supervised by Court	
	Services while released on bail with the following special conditions: That	
	the Defendant check-in with Court Services 1 time per week; and that he	
	abstain from the use of alcoholic beverages and controlled substances.	
	Trial ordered vacated.	
	Defendant remained out of custody on bail.	

ORIGINAL

FILED

AUG 05 2008

HOWARD W. CONYERS, CLERK

By: *[Signature]*
DEPUTY CLERK

1 CODE: 2528

CR07-1728
STATE VS. BRENDAN DUNCKLEY
District Court
Washoe County
DC-9900003832-197
08/05/2008 09:00 AM
2528
RCOTTER

2
3
4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
5 IN AND FOR THE COUNTY OF WASHOE
6

7 STATE OF NEVADA,

8 Plaintiff,

Case No. CR07-1728

9 vs.

Dept. No. 4

10 BRENDAN DUNCKLEY,

11 Defendant.
12 _____ /

13 NOTICE OF DOCUMENT RECEIVED BUT NOT CONSIDERED BY THE COURT

14 TO: District Attorney's Office and Defense counsel:

15 Take notice that the attached document has been received unsolicited by the
16 Court. The Court has not reviewed the document. Further, the Court will not review the
17 document absent an affirmative request to do so from a party.

18 ///

19 ///

20 ///

21 ///

22 ///

23 This document was considered by the Court only if initialed and dated by
24 the Judge below.

25 8/5/08
Date

[Signature]
Judges Initials

CERTIFICATE OF MAILING

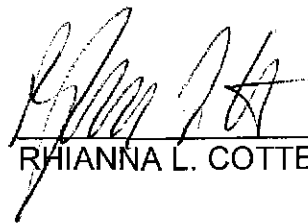
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Case No. CR07-1728

I certify that I am an employee of JUDGE CONNIE STEINHEIMER, and that on the 5th day of August, 2008, I hand delivered true copy of the Notice of Document Received But Not Considered by the Court, addressed to:

Kelli Vilorio, Esq.
Washoe County Deputy District Attorney
Via Hand Delivery

David O'Mara, Esq.
Via Hand Delivery



RHIANNA L. COTTER

222 Altos Parkway – Sparks, NV 89436
(775) 626-2229 Phone
spanishspringssushi@yahoo.com



Fax

To: Anne E. Connor	From: Cheryl Gallagher
Fax: 775/789-7150	Pages: 2
Phone: 775/789-7100	Date: 8/4/2008
Re: Brendan Dunckley - [REDACTED]	CC: File

We have terminated the employment for the attached employee, so can not send any future payments towards his past-due child support.

Can you please pass this along to the DA prosecuting his case, Kelli Vioria (Case # CR07-1728), to ensure the courts are aware that no job, at least at our restaurant, should be considered in case an ankle bracelet type or release is being considered. The case is scheduled for sentencing tomorrow, August 5, 2008, at 9 a.m.

Copy to Connie Steinhammer via Fax at 775/328-3821

ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

Original Amended Termination

State NEVADA
Co./City/Dist. of WASHOE COUNTY
Tribunal/Case Number EV04-03734
Employer/Withholder:

Attn: Cheryl
Fax 398-2083

SPANISH SPRINGS SUSHI
JERALD O KIGER
10575 PALM DESERT DR
SPARKS NV 89441-0000

26-1140998
Employer/withholder's Federal EIN Number (if known)
RE: DUNCKLEY, BRENDAN
Employee's/Obligor's Name (Last, First, MI)
[REDACTED]
Employee's/Obligor's Social Security Number
[REDACTED]
Employee's/Obligor's Case Identifier
DIJNKLEY, JENNY, A
Obligee Name (Last, First, MI)

Child(ren)'s Name(s):
DUNCKLEY, MADISON,
DUNCKLEY, JESSE,

DOB
01/07/1999
11/19/1997

If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available to the employee/obligor through his/her employment.

ORDER INFORMATION: This Order/Notice is based on the support order from NEVADA. You are required by law to deduct these amounts from the employee's/obligor's income until further notice.

\$350.00	per MONTH	current child support	
\$35.00	per MONTH	past-due child support - Arrears 12 weeks or greater?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
	per	current medical support	
	per	past-due medical support	
	per	spousal support	
	per	other (specify)	

for a total of \$385.00 per MONTH to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$88.85	per weekly pay period.	\$192.50	per semimonthly pay period (twice a month).
\$177.69	per biweekly pay period (every two weeks).	\$385.00	per monthly pay period.

REMITTANCE INFORMATION: When remitting payment, provide the pay date/date of withholding and the case identifier 588274000B. If the employee's/obligor's principal place of employment is NEVADA, begin withholding no later than the first pay period occurring 14 days after the date of this Order/Notice. Send payment within 7 working days of the pay date/date of withholding. The total withheld amount, including your fee, cannot exceed 50% of the employee's/obligor's aggregate disposable weekly earnings.

If the employee's/obligor's principal place of employment is not NEVADA, for limitations on withholding, applicable time requirements, and any allowable employer fees, follow the laws and procedures of the employee's/obligor's principal place of employment (see #4 and #10, ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS).

Make check payable to: STATE COLL & DISB UNIT - SCADU Case Identifier 588274000B.
Send check to: PO BOX 98950, LAS VEGAS NV 89193-8950

Authorized by WASHOE COUNTY DISTRICT ATTORNEY Date 07/23/2008
Sharon McLeod for Date _____

Print Name and Title ANNE E. CONNOR, caseworker
Of Authorized Official(s) _____