

DEC 21
CLERK OF THE COURT

FILED

DEC 21 11 53 AM '07

CLERK OF THE COURT

FILED

DEC 27 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY Alvarado
DEPUTY CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

MARK ZANA,

Defendant.

CASE NO. C218103
DEPT. NO. V
DOCKET NO. 50786

NOTICE OF APPEAL

NOTICE is hereby given that Defendant, MARK ZANA, hereby appeals to the Supreme Court of the State of Nevada from his sentence of December 20, 2007, the Judgement of Conviction not yet having been entered.

DATED this 21 day of December, 2007.

RECEIVED
DEC 27 2007
JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

By Christopher R. Oram
CHRISTOPHER R. ORAM
Nevada Bar #004349
520 South Fourth Street
Las Vegas, Nevada 89101
Attorney for Defendant
MARK ZANA

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

07-28085

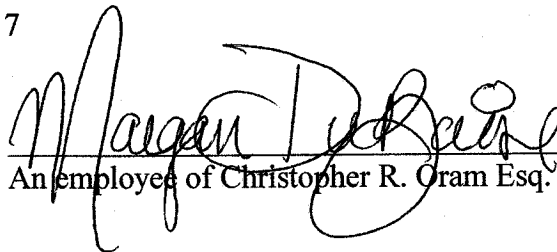
CERTIFICATE OF MAILING

I hereby certify that I am an employee of CHRISTOPHER R ORAM and that on the 21
day of December, 2007, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a
sealed envelope with postage fully pre-paid thereon, a true and correct copy of the above and
foregoing **NOTICE OF APPEAL**, addressed to:

Supreme Court Clerk
Supreme Court Building
201 S. Carson Street
Carson City, NV 89170

David Roger
District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

Catherine Cortez Masto
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717


An employee of Christopher R. Oram Esq.

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

1 **CASA**
2 **CHRISTOPHER R. ORAM, ESQ.**
3 Nevada State Bar #004349
4 520 S. Fourth Street, 2nd Floor
5 Las Vegas, Nevada 89101
6 (702) 384-5563

7 Attorney for Defendant
8 MARK ZANA

FILED

DEC 21 11 53 AM '07

Chaf
CLERK OF THE COURT

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 * * * * *

12 THE STATE OF NEVADA,
13 Plaintiff,

14 vs.

15 MARK ZANA,
16 Defendant.

CASE NO. C218103
DEPT. NO. V
DOCKET NO.

17 **CASE APPEAL STATEMENT**

- 18
19
20 1. Appellant : MARK ZANA
21 2. Judge : Hon. Jackie Glass
22 3. Parties in District Court : State of Nevada v. MARK ZANA
23 4. Parties in Appeal : MARK ZANA v. State of Nevada
24 5. Counsel on Appeal : Christopher R. Oram, Esq.
25 520 S. Fourth Street, 2nd Floor
26 Las Vegas, Nevada 89101
27 (702) 384-5563
28

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

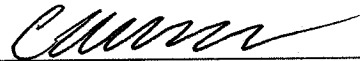
1 DAVID J. ROGER
2 District Attorney
3 200 South Third Street
4 Las Vegas, NV 89155
(702) 455-4711

5 CATHERINE CORTEZ MASTO
6 Attorney General
7 Attention: Criminal Division
8 Capitol Complex
9 100 North Carson Street
10 Carson City, Nevada 89710
11 (702) 687-4170

- 12 6. Appellant was represented by retained counsel in the district court.
13 7. Appellant is currently represented by retained counsel on appeal.
14 8. Appellant has not been granted leave to proceed in form pauperis as of this date.
15 9. On December 20, 2007, the Honorable Jackie Glass sentenced Mr. Zana, the
16 Judgement of Conviction not yet having been filed.

17 DATED this 21 day of December, 2007.

18 Respectfully submitted by:

19 

20 CHRISTOPHER R. ORAM, ESQ.
21 Nevada Bar No. 004349
22 520 S. Fourth Street, 2nd Floor
23 Las Vegas, Nevada 89101
24 (702) 384-5563
25 Attorney for Defendant
26 MARK ZANA
27
28

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

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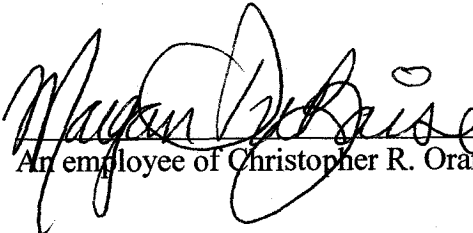
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of CHRISTOPHER R. ORAM, ESQ., and
that on the 21 day of December, 2007, I did deposit in the United States Postal
Service office at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid
thereon, a true and correct copy of the above foregoing **CASE APPEAL STATEMENT**,
addressed to:

Supreme Court Clerk
Supreme Court Building
201 S. Carson Street
Carson City, Nevada 89701

David Roger
District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

Catherine Cortez Masto
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717


An employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM
520 South Fourth Street, Second Floor
Las Vegas, Nevada 89101

DATE: 12/24/07
CASE NO. 05-C-218103-C

I N D E X

TIME 10:05 AM
JUDGE: Glass, Jackie

STATE OF NEVADA

[] vs Zana, Mark R

[]

0001 D1 Mark R Zana

004349 Oram, Christopher R.
NO. 1 520 S Fourth St., 2nd Floor
Las Vegas, NV 89101

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0001	12/22/05	CBO	/CRIMINAL BINDOVER Fee \$0.00				
0002	12/22/05	ARRN	/INITIAL ARRAIGNMENT	0001		01/09/06	
0003	12/23/05	CBOR	/CRIMINAL BINDOVER RECEIPT	0001			
0004	12/27/05	NOEV	/NOTICE OF EXHIBIT(S) IN THE VAULT			12/22/05	
0005	12/29/05	TRAN	/REPORTER'S TRANSCRIPT PRELIMINARY HEARING VOLUME II	0001		12/13/05	
0006	12/30/05	INFO	/INFORMATION	0001		12/30/05	
0007	01/09/06	ARRN	/ARRAIGNMENT CONTINUED	0001		01/23/06	
0008	01/11/06	TRAN	/REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING	0001		12/06/05	
0009	01/23/06	OCAL	/STATUS CHECK	0001		02/06/06	
0010	02/06/06	CALC	/CALENDAR CALL (#2) (VJ 7/10/06)	0001	VC	08/01/06	
0011	02/06/06	JURY	/TRIAL BY JURY (#2) (VJ 7/10/06)	0001	VC	08/07/06	
0012	03/22/06	RAO	/MEDIA REQUEST AND ORDER	0001	GR	03/22/06	
0013	03/31/06	RAO	/MEDIA REQUEST AND ORDER	0001	GR	03/31/06	
0014	04/05/06	RAO	/MEDIA REQUEST AND ORDER	0001	GR	04/05/05	
0015	04/05/06	RAO	/MEDIA REQUEST AND ORDER	0001	GR	04/05/06	
0016	05/09/06	COA	/NOTICE OF FIRM CHANGE OF ADDRESS TELEPHONE AND TELEFAX NUMBERS	0001			
0017	05/11/06	MOT	/DEFT'S MTN FOR DISCOVERY AND FOR CONTINUANCE OF TRIAL/6	0001	GP	05/23/06	
0018	05/15/06	ROC	/RECEIPT OF COPY	0001		05/11/06	
0019	05/22/06	RSPN	/STATES RESPONSE TO DEFENDANTS MOTION FOR DISCOVERY AND FOR CONTINUANCE OF TRIAL	0001			Y
0020	06/23/06	CRTF	/CERTIFICATE FOR ATTENDANCE OF OUT OF STATE WITNESS CHRISTINA BUTLER	0001			
0021	06/23/06	REQT	/REQUEST FOR ATTENDANCE OF OUT OF STATE WITNESS CHRISTINA BUTLER	0001			
0022	06/23/06	ORDR	/ORDER FOR PAYMENT OF WITNESS FEES	0001		06/23/06	
0023	06/27/06	MOT	/STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES/7	0001	GP	07/25/06	
0024	07/11/06	ASSG	/RECUSAL OF JUDGE Mosley REASSIGNED TO JUDGE Glass				
0025	07/11/06	HEAR	/TRIAL SETTING	0001		07/25/06	
0026	07/11/06	NDR	/NOTICE OF DEPARTMENT REASSIGNMENT			07/11/06	Y
							000190FC
000190							
0027	07/10/06	SUBT	/SUBSTITUTION OF ATTORNEY	0001			
0028	07/12/06	CALC	/CALENDAR CALL (VJ 3/8/07)	0001	VC	03/13/07	
0029	07/12/06	JURY	/TRIAL BY JURY (VJ 3/8/07)	0001	VC	03/19/07	
0030	07/13/06	ROC	/RECEIPT OF COPY	0001		07/13/06	
0031	07/13/06	ROC	/RECEIPT OF COPY	0001		07/13/06	
0032	07/18/06	OPPS	/DEFENDANTS OPPOSITION TO MOTION TO ADMIT EVIDENCE OF OTHER CRIMES WRONGS	0001			Y

(Continued to page 2)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
OR ACTS						
0033	07/25/06	OCAL/STATUS CHECK: STATE'S MOTION TO ADMIT EVIDENCE OF	0001	MH	02/09/07	
0034	07/25/06	MOT /ALL PENDING MOTIONS 7/25/06	0001		07/25/06	
0035	07/26/06	CERT/CERTIFICATE OF MAILING	0001		07/17/06	
0036	11/01/06	MOT /DEFT'S MTN OF CHANGING STATUS OF INTENSIVE SUPERVISION/13	0001	GP	11/21/06	
0037	11/01/06	ROC /RECEIPT OF COPY	0001		11/01/06	
0038	01/12/07	ORDR/ORDER FOR PAYMENT OF WITNESS FEES	0001		01/12/07	
0039	01/12/07	CRTF/CERTIFICATE FOR ATTENDANCE OF OUT OF STATE WITNESS CHRISTINA BUTLER	0001			
0040	01/12/07	REQT/REQUEST FOR ATTENDANCE OF OUT OF STATE WITNESS CHRISTINA BUTLER	0001			
0041	02/09/07	ARGU/ARGUMENT	0001		03/01/07	
0042	02/09/07	MOT /STATE'S MOTION TO ADMIT EVIDENCE	0001	GP	03/01/07	
0043	02/09/07	MOT /DEFT.'S MOTION TO QUASH WARRANT AND SUPPRESS EVIDENCE (COMPUTER)	0001	DN	03/01/07	
0044	02/20/07	BREF/SUPPLEMENTAL BRIEF	0001			
0045	02/20/07	BREF/STATES BRIEF CONCERNING THE LEGAL SIGNIFICANCE OF THE SEALING OF RECORDS	0001			Y
RELATED TO THE ADMISSION OF OTHER ACT EVIDENCE						
0046	02/27/07	OPPS/STATES OPPOSITION TO DEFENDANTS MOTION TO QUASH WARRANT AND SUPPRESS EVIDENCE	0001			
0047	03/01/07	MOT /ALL PENDING MOTIONS 3/1/07	0001		03/01/07	
0048	03/01/07	OCAL/STATUS CHECK: DEFENSE COUNSEL'S EYE SURGERY // TRIAL READINESS	0001	MH	03/08/07	
0049	03/02/07	LIST/NOTICE OF WITNESSES AND/OR EXPERT WITNESSES	0001			
0050	03/08/07	OCAL/STATUS CHECK: NEGOTIATIONS	0001	OC	03/13/07	
0051	03/08/07	CALC/CALENDAR CALL	0001	MH	07/31/07	
0052	03/08/07	JURY/TRIAL BY JURY	0001		08/13/07	
0053	05/18/07	ORDR/ORDER DENYING DEFENDANTS APPEAL OF HENDERSON JUSTICE COURTS GRANTING OF STATES MOTION TO UNSEAL RECORDS	0001	HG	05/14/07	Y
0054	06/20/07	TRAN/REPORTER'S TRANSCRIPT ALL PENDING MOTIONS	0001		03/01/07	
0055	07/13/07	LIST/NOTICE OF WITNESSES AND/OR EXPERT WITNESSES	0001			
0056	07/17/07	HEAR/AT REQUEST OF COURT: STATUS CHECK ON TRIAL DATE	0001	MH	07/24/07	
0057	07/16/07	ERR /ERRATA TO NOTICE OF WITNESSES AND/OR EXPERT WITNESSES	0001			
0058	07/20/07	TRAN/REPORTER'S TRANSCRIPT STATUS CHECK STATES MOTION TO ADMIT EVIDENCE	0001		02/09/07	
0059	07/30/07	SUPP/SUPPLEMENTAL NOTICE OF WITNESSES AND OR EXPERT WITNESSES	0001			
0060	07/30/07	EIE /ENTRY IN ERROR	0001			
0061	07/30/07	LIST/SUPPLEMENTAL NOTICE OF WITNESSES AND OR EXPERT WITNESSES	0001			
0062	08/06/07	TRB /TRIAL BEGINS	0001			
0063	08/08/07	INFO/AMENDED INFORMATION	0001		08/07/07	
0064	08/07/07	ORDR/ORDER	0001		08/07/07	

(Continued to page 3)

05-C-218103-C		(Continuation	Page	3)
NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC SCH/PER C
0065	08/07/07	FUS /FILED UNDER SEAL AMENDED JURY LIST	0001	
0066	08/07/07	FUS /FILED UNDER SEAL JURY LIST	0001	
0067	08/07/07	SUBP/SUBPOENA DUCES TECUM	0001	SH 07/31/07
			0001	SV 07/27/07
0068	08/08/07	SUBP/SUBPOENA	0001	SH 08/06/07
			0001	SV 08/01/07
0069	08/08/07	SUBP/SUBPOENA	0001	SH 08/06/07
			0001	SV 08/01/07
0070	08/13/07	SENT/SENTENCING (VJ 9/11/07)	0001	VC 10/04/07
0071	08/13/07	NOEV/NOTICE OF EXHIBITS IN THE VAULT		08/06/07
0072	08/07/07	INFO/AMENDED INFORMATION	0001	08/07/07
0073	08/13/07	VER /VERDICT	0001	08/13/07
0074	08/13/07	PINU/PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL	0001	08/13/07
			0001	
0075	08/13/07	JMNT/VERDICT(COUNTS 1,2,6,7,11,13,14,15,16,17	0001	08/14/07
0076	08/13/07	JMNT/VERDICT(COUNT3,4,5,8,9,10,12,18,19,20,21	S	08/14/07
0077	08/13/07	INST/INSTRUCTIONS TO THE JURY	0001	
0078	08/15/07	TRE /TRIAL ENDS		08/13/07
0079	08/21/07	SUBP/SUBPOENA	0001	SH 08/08/07
			0001	SV 08/09/07
0080	08/21/07	SUBP/SUBPOENA	0001	SH 08/08/07
			0001	SV 08/09/07
0081	08/21/07	SUBP/SUBPOENA	0001	SH 08/08/07
			0001	SV 08/09/07
0082	09/04/07	OCAL/FURTHER PROCEEDINGS	0001	09/11/07
0083	09/06/07	HEAR/AT REQUEST OF COURT	0001	09/04/07
0084	09/10/07	FUS /FILED UNDER SEAL DEFENDANTS MOTION FOR NEW TRIAL	0001	
			0001	
0085	09/11/07	HEAR/HEARING: DEFT.'S MOTION FOR NEW TRIAL	0001	MH 10/08/07
0086	09/14/07	FUS /FILED UNDER SEAL NOTICE OF EXHIBITS	0001	
0087	10/08/07	MOT /DEFT.'S MOTION FOR NEW TRIAL	0001	DN 11/30/07
0088	10/22/07	FUS /FILED UNDER SEAL RECRODERS TRANSCRIPT OF HEARING RE HEARING DEFTS MOTION	0001	10/08/07 Y
			0001	
FOR NEW TRIAL				
0089	10/22/07	FUS /FILED UNDER SEAL REPORTERS TRANSCRIPT	0001	10/08/07
0090	10/29/07	SUPP/SUPPLEMENT TO DEFENDANTS MOTION FOR NEW TRIAL	0001	
			0001	
0091	10/31/07	ROC /RECEIPT OF COPY	0001	10/31/07
0092	11/20/07	OPPS/STATES OPPOSITION TO DEFENDANTS MOTION FOR NEW TRIAL	0001	
			0001	
0093	11/30/07	SENT/SENTENCING	0001	12/20/07

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA vs Zana, Mark R

01/09/06 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Kevin V Williams, Hearing Master; Dept. AA

OFFICERS: Sandra Anderson/sa, Court Clerk
Connie Gleason, Relief Clerk
Kiara Schmidt, Reporter/Recorder

PARTIES: STATE OF NEVADA
005043 Laurent, Christopher J.

0001 D1 Zana, Mark R
000190 Consul, Vincent A.

Y
Y

Y
Y

Mr. Consul advised Court he's in a medical malpractice case and requested 2 week continuance. COURT ORDERED, matter CONTINUED.

BOND

01-23-06 9:00 AM ARRAIGNMENT CONTINUED

01/23/06 09:00 AM 00 ARRAIGNMENT CONTINUED

HEARD BY: Kevin V Williams, Hearing Master; Dept. AA

OFFICERS: Sandra Anderson/a, Court Clerk

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.

0001 D1 Zana, Mark R
000190 Consul, Vincent A.

Y
Y

Y
Y

DEFT. ZANA ARRAIGNED, PLED NOT GUILTY. COURT ORDERED, matter set for a status check in department XIV.

BOND

02-06-06 9:00 AM STATUS CHECK

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 001

02/06/06 09:00 AM 00 STATUS CHECK

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/RecorderPARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
0001 D1 Zana, Mark R
000190 Consul, Vincent A.Y
Y
Y
Y

Mr. Carroll advised there are 7 victims and he will be invoking the State's right for a speedy trial. Mr. Consul stated there are 40-50 witnesses and he will not be ready for trial within sixty days. Following additional discussion, COURT ORDERED, matter set for trial in August with priority and expects to go forward.

BOND

8/1/06 9:00 AM CALENDAR CALL (#2)

8/7/06 1:30 PM JURY TRIAL (#2)

05/23/06 09:00 AM 00 DEFT'S MTN FOR DISCOVERY AND FOR
CONTINUANCE OF TRIAL/6

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Joe D'Amato, Reporter/RecorderPARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
0001 D1 Zana, Mark R
000190 Consul, Vincent A.Y
Y
Y
Y

Court noted it is not inclined to continue this case. Mr. Consul advised the discovery he wants needs to come from the Henderson Police Department. Mr. Consul advised he needs statements from the various witnesses. Mr. Carroll stated he has provided all statements that are available; the statements that Mr. Consul is asking for are from people that are mentioned in the Police Report, however, there were no written statements. Mr. Consul advised a Search Warrant was issued for the cell phone. Mr. Carroll advised the cell phone was returned and he is not using anything from the phone. Mr. Consul stated there were copies of e-mails that he would like. Mr. Carroll advised he does not have these, they are not germane to the case, however,

CONTINUED ON PAGE: 003

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 002

will try to obtain whatever is available. Mr. Consul requested Pennsylvania records. Mr. Carroll advised he has given him everything. Mr. Consul stated there were some statements by other teachers at the school. Mr. Carroll advised formal statements were not taken from the 5 individuals he has mentioned; that there is one statement from an individual that needs to be transcribed and he will have it done and give it to Mr. Consul. Mr. Carroll advised he has an open file policy and Mr. Consul has never asked to review the file. Colloquy regarding statements that are missing. Mr. Carroll stated there are no statements for the 2 individuals and he will get the statement of Maurice. COURT ORDERED, Motion GRANTED as to discovery and DENIED as to continuance.

BOND

07/10/06 09:00 AM 00 STATE'S MOTION TO ADMIT EVIDENCE OF
OTHER CRIMES/7

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: Linda Skinner, Court Clerk
Maureen Schorn, Reporter/Recorder

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
007842 Nelson III, Roy L.

0001 D1 Zana, Mark R
000190 Consul, Vincent A.
001332 Pitaro, Thomas F.

Y
Y
Y

Y
Y
Y

Mr. Consul advised he received a phone call from Defendant on 6/30 that he had hired Mr. Pitaro to represent him. Mr. Pitaro concurred. Conference at the Bench. Pursuant to conference and at request of Defendant, COURT ORDERED, Mr. Consul is WITHDRAWN and Mr. Pitaro is APPOINTED as counsel of record. FURTHER, due to the personnel relationship between this Court and Mr. Pitaro, to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS, trial date VACATED and this matter be REASSIGNED at random. Mr. Carroll stated he objected to the substitution of counsel and the trial being vacated and that the State invoked their right to a speedy trial and will do so in the new Dept. as well. Court so noted and ORDERED, matter be set for trial setting in the new Dept and the Motion CONTINUED as well.

BOND

CONTINUED TO: 07/25/06 08:30 AM 01

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 003

07/25/06 08:30 AM 00 ALL PENDING MOTIONS 7/25/06

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/RecorderPARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.Y
Y
Y
Y

TRIAL SETTING...STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES

Mr. Carroll stated he is prepared to argue the State's motion today; the Court can then make a finding of relevancy and set it for hearing at a later time to determine whether the State has met the standard. Arguments by counsel. Court stated it doesn't know how the State will get over the remoteness prong of the test in reference to the 1992 case. Response by Mr. Carroll. Colloquy regarding the camera and candy. Further arguments. COURT ORDERED, it wants to go further as to the 1992 incident in Pennsylvania; the 1998 Henderson incident and testimony of Mark Barita; however, the camera is not coming in. Following a conference at the bench, COURT ORDERED, matter CONTINUED for status check and further review.

BOND

10/13/06 8:30 AM STATUS CHECK: STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES

10/12/06 08:30 AM 01 STATUS CHECK: STATE'S MOTION TO ADMIT EVIDENCE OF

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Teri Braegelmann, Court Clerk
Rachelle Hamilton, Reporter/RecorderPARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.Y
Y
Y
Y

Court directed counsel to check with the Judicial Executive Assistant regarding a new date. COURT ORDERED, matter CONTINUED.

BOND

CONTINUED TO: 02/09/07 09:00 AM 02

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 004

11/14/06 08:30 AM 00 DEFT'S MTN OF CHANGING STATUS OF
INTENSIVE SUPERVISION/13

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Judy McFadden/jm, Relief Clerk
Francesca Haak, Reporter/Recorder

PARTIES: STATE OF NEVADA
009640 Walsh, Jessica A.

Y
Y

Mr. Pitaro and Deft. not present. Court advised Mr. Pitaro has requested
the matter be continued. COURT SO ORDERED.

BOND

CONTINUED TO: 11/16/06 08:30 AM 01

11/16/06 08:30 AM 01 DEFT'S MTN OF CHANGING STATUS OF
INTENSIVE SUPERVISION/13

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter/sj, Court Clerk
Judy McFadden, Relief Clerk
Rachelle Hamilton & Francesca Haak, Reporter/Recorder

PARTIES: STATE OF NEVADA
008988 Tanasi, Summer C.
007842 Nelson III, Roy L.

0001 D1 Zana, Mark R
004380 Sciscento, Joseph S.

Y
Y
Y

N
Y

Mr. Sciscento requested the matter continued stating Mr. Pitaro is
unavailable today and needs to further discuss the matter with Tom Carroll.
Matter trailed for Mr. Carroll's presence. Matter recalled. Roy Nelson
present for Mr. Carroll. COURT ORDERED, matter CONTINUED.

BOND

CONTINUED TO: 11/21/06 08:30 AM 02

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 005

11/21/06 08:30 AM 02 DEFT'S MTN OF CHANGING STATUS OF
INTENSIVE SUPERVISION/13

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	007842 Nelson III, Roy L.	Y
	0001 D1 Zana, Mark R	Y
	001332 Pitaro, Thomas F.	Y

Argument by Mr. Pitaro in support of his motion. Mr. Nelson advised this is Mr. Carroll's case who requested the matter submitted on the State's opposition. Court noted it did not receive the State's opposition. Argument by Mr. Nelson in opposition to deft.'s motion. Colloquy regarding Judge Burr's order. COURT ORDERED, deft.'s motion GRANTED IN PART; deft. to REPORT TWICE A MONTH FOR INTENSIVE SUPERVISION; however, deft. is to have ABSOLUTELY NO CONTACT WHATSOEVER WITH ANY CHILDREN TO INCLUDE THOSE IN HIS OWN FAMILY REGARDLESS OF THE HOLIDAYS.

BOND

02/09/07 09:00 AM 02 STATUS CHECK: STATE'S MOTION TO ADMIT
EVIDENCE OF

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter/sj, Court Clerk
Pamela Humphrey, Relief Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004232 Carroll, Thomas M.	Y
	003814 Holthus, Mary Kay	Y
	0001 D1 Zana, Mark R	Y
	001332 Pitaro, Thomas F.	Y

Mr. Pitaro requested argument on the issue of the sealings of the 1992 and 1998 incidents prior to any testimony. COURT SO ORDERED. Mr. Pitaro argued the State is attempting to circumvent the sealed incidents by finding persons to testify. Response by Mr. Carroll that the State hasn't made a motion to unseal yet; he agrees the 92' incident in Pennsylvania was expunged and the 98' incident involving Jill Lozano was sealed; however, he hasn't offered any sealed records and believes he can bring in the evidence through the memory of witnesses. Further arguments by counsel. Colloquy.

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 006

COURT ORDERED, it will hear evidence at this time and anything obtained here will be for the purposes of this hearing only. Further, it will allow counsel to submit additional briefs and set the issue for further argument and decision at which time it will decide whether or not the incidents can come in through the independent recollection of the witnesses. Court INVOKED the EXCLUSIONARY RULE. Testimony. (See attached worksheet.) Following arguments by counsel on the clear and convincing issue, Court noted it is good on that issue, however, ORDERED, matter SET for further argument and decision on the sealing issue. Deft.'s Motion to Quash Warrant and Suppress Evidence FILED IN OPEN COURT. State requested until the 20th to file an Opposition. COURT SO ORDERED. FURTHER, matter SET for HEARING and the officer may be brought in; however, depending on what happens with the motion to suppress, it may need to hold another hearing. Mr. Pitaro expressed concern regarding his possible eye surgery on the 6th.

3/1/07 1:00 PM HEARING: ARGUMENT AND DECISION on STATE'S MOTION TO ADMIT EVIDENCE...DEFT.'S MOTION TO QUASH WARRANT AND SUPPRESS EVIDENCE (COMPUTER)

03/01/07 01:00 PM 00 ALL PENDING MOTIONS 3/1/07

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
003814 Holthus, Mary Kay
0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.

Y
Y
Y
Y
Y

ARGUMENT: STATE'S MOTION TO ADMIT EVIDENCE: Court noted it received the additional information from both sides and has reviewed same. Following arguments by counsel and in regards to the issue of the sealings, Court FINDS when you seal a case, you are sealing the case but you are not sealing the people who were involved in the case. Further, the sealing of the two cases does not seal the individuals' memories/experiences and therefore, would not prevent the individuals from testifying as to what happened; i.e., that on such and such a day, this happened to him/her. Therefore, COURT ORDERED, if the Court decides the witnesses will be permitted to testify, they will be allowed to testify within the parameters outlined and can only speak as to their experiences. In regards to the issue of clear and convincing and pursuant to NRS 48.045(2), the Court FINDS the other bad acts meet the clear and convincing test; the evidence is relevant; it would not unfairly prejudice the deft. as it goes to show motive/what motivated deft. to do what he did; therefore, it will come in.

ARGUMENT: DEFT.'S MOTION TO QUASH WARRANT AND SUPPRESS EVIDENCE: Mr. Pitaro

CONTINUED ON PAGE: 008

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 007

advised Mr. Carroll informed him the Officer is unavailable today. Court noted it had to move the hearing to today as it has a conflict tomorrow; therefore, it will hear from counsel today and if it finds a hearing is necessary, it will hold one at a later date. Following arguments by counsel, Court FINDS there is no great leap of faith as alleged by deft., Judge Burr had a substantial basis to issue the warrant and the warrant is valid. Therefore, COURT ORDERED, motion DENIED.

State to prepare the Order. Colloquy regarding Mr. Pitaro's potential eye surgery. Mr. Pitaro stated that based on what happened with the last surgery, he doesn't think this trial will go on the date currently scheduled. COURT ORDERED, matter CONTINUED for status check on Mr. Pitaro's eye surgery/trial readiness.

BOND

3/8/07 8:30 AM STATUS CHECK: DEFENSE COUNSEL'S EYE SURGERY // TRIAL READINESS

03/08/07 08:30 AM 00 STATUS CHECK: DEFENSE COUNSEL'S EYE SURGERY // TRIAL READINESS

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004232	Carroll, Thomas M.	Y
003814	Holthus, Mary Kay	Y
0001 D1	Zana, Mark R	Y
001332	Pitaro, Thomas F.	Y
010151	Miceli, Michael J.	Y

Mr. Pitaro advised he is having surgery on the 16th. COURT ORDERED, calendar call and trial dates, VACATED; matter RESET in the ORDINARY COURSE on a date agreed to by all counsel. Court ADMONISHED this TRIAL DATE IS IT. Mr. Carroll requested the 3/13/07 remain for status check on negotiations and the COURT SO ORDERED.

BOND

3/13/07 8:30 AM STATUS CHECK: NEGOTIATIONS

7/31/07 8:30 AM CALENDAR CALL

8/06/07 10:00 AM JURY TRIAL

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 008

03/13/07 08:30 AM 00 STATUS CHECK: NEGOTIATIONS

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004232 Carroll, Thomas M.	Y
	0001 D1 Zana, Mark R	Y
	001332 Pitaro, Thomas F.	Y

Mr. Pitaro requested the matter taken off calendar and the COURT SO ORDERED.

BOND

07/24/07 08:30 AM 00 AT REQUEST OF COURT: STATUS CHECK ON
TRIAL DATE

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Roshonda Mayfield, Relief Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	003814 Holthus, Mary Kay	Y
	004232 Carroll, Thomas M.	Y
	0001 D1 Zana, Mark R	N
	001332 Pitaro, Thomas F.	Y

Mr. Carroll advised he has contacted the witnesses and it is looking good for the State for the 6th. Colloquy between parties regarding jury selection. COURT ORDERED, Deft's presence WAIVED; calendar call and trial date will STAND.

BOND

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 009

07/31/07 08:30 AM 00 CALENDAR CALL

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
006541 Lewis, Linda Y.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.

Y
Y
Y

N
Y

Mr. Pitaro requested DEFT.'S PRESENCE WAIVED and the COURT SO ORDERED. Counsel announced ready for trial. COURT ORDERED, matter SET FIRM for TRIAL. COURT FURTHER ORDERED, counsel to e-mail the proposed jury instructions and Verdict form to the JEA. Mr. Carroll stated he has not received deft.'s list of witnesses. Following review of Blackstone, Court noted Mr. Pitaro electronically filed his Notice of Witnesses on 7/13/07 and FINDS same was timely filed. Colloquy reference possible witness/subpoena issues.

BOND

8/6/07 1:00 PM JURY TRIAL

Tom Carroll/Linda Lewis, DDAs; Thomas Pitaro, Esq.
State has 15 witnesses 2 of which are out-of-state;
defense has 6/7 witnesses
1 week

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 010

08/06/07 01:00 PM 00 TRIAL BY JURY

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
006541 Lewis, Linda Y.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.

Y
Y
Y

Y
Y
Y

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Pitaro moved to sever the child pornography and lewdness counts arguing prejudicial joinder; that the State has not charged a minor under the age of 16 in the pornography counts and that the State will need an expert to testify to a reasonable degree of medical certainty that the persons depicted are under the age of 16. Arguments. Mr. Carroll requested leave to amend the Information where it says "child" to "person under the age of 16." Court FINDS Mr. Pitaro has been placed on notice that the child pornography depicts persons under the age of 16; therefore, ORDERED, Mr. Pitaro's motion DENIED, however, the State better have an expert to distinguish the age differences.

Mr. Carroll advised Count 21 contains a typographical error in the file name. Mr. Pitaro argued fatal variance. COURT ORDERED, State to amend the Information to include the correct file name.

Mr. Carroll expressed concern regarding media coverage and requested no photographs of the children and/or parents be taken. Mr. Pitaro stated he has no problem with the State's request. Court noted the media is not present currently but will admonish them regarding coverage parameters.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire Oath given. Jury selection commenced. During jury selection, the Court ADMONISHED the Jury and ORDERED them to return the following day at the time given.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Mr. Pitaro moved for a mistrial based on statements/questions reference touching that Ms. Lewis made in Voir Dire. In the alternative, Mr. Pitaro requested he be allowed to clarify. COURT ORDERED, Mr. Pitaro's oral motion for mistrial DENIED. FURTHER, Mr. Pitaro to formulate something for the Court's consideration.

The Bailiff advised Juror #206 is refusing to return tomorrow morning. Outside the presence of the other prospective Jurors, Court ADMONISHED Juror #206 and ORDERED him to return the following morning or a warrant will issue

CONTINUED ON PAGE: 012

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 011

for his arrest.

BOND

CONTINUED TO: 08/07/07 10:30 AM 01

08/07/07 10:30 AM 01 TRIAL BY JURY

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
006541 Lewis, Linda Y.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.

Y
Y
Y

Y
Y
Y

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Statements by Mr. Pitaro regarding suggested cure to Ms. Lewis' Voir Dire questioning reference touching. Court FINDS Ms. Lewis' questioning did not cross the line, it did not taint the Jury and it will not instruct the Jury; however, there will be no more discussion regarding touching. Mr. Pitaro's oral motion for mistrial remains DENIED.

Order reference school records and Amended Information FILED IN OPEN COURT.

Colloquy and arguments reference the Court's previous rulings regarding the records that were sealed and the witness' testimony of the events. Mr. Carroll requested a finding of trustworthiness under NRS 51.385 relative to Jillian Lozano's mother's and grandmother's testimony and stated a Petrocelli Hearing maybe necessary. Argument in opposition by Mr. Pitaro. Court noted it will re-address this issue at a later time.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Jury selection continued.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Scott Greenberg, Assistant General Counsel, Clark County School District, present. Court noted it is here on deft.'s ex-parte subpoena for school district records and it has ordered the School District to comply. Outside the presence of the District Attorney, Mr. Greenberg advised he has produced 12 of the 20 records requested, however, he is concerned because there are 1,000's of loose pages in the boxes which he has not reviewed. Further, Mr. Greenberg has concerns reference FERPA and notice to the parents. Court stated it is foregoing the notice requirements, however, DIRECTED Mr. Greenberg to

CONTINUED ON PAGE: 013

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 012

provide the records to the parents if they call. COURT ORDERED, if Mr. Pitaro intends to use any of the records, he is provide them to the State and to the Court before hand so it can rule. Inside the presence of the District Attorneys, Mr. Carroll requested a complete copy of the records not just one piece. Court stated it does not know what is in the records, however, noted it has ordered Mr. Pitaro to provide whatever he intends to use.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Jury SELECTED and SWORN.

OUTSIDE THE PRESENCE OF THE OTHER JURY MEMBERS, COURT ORDERED, Juror #206 EXCUSED FOR CAUSE AND NON-PARTICIPATION. Alternate selected (Juror #4). Jury List FILED IN OPEN COURT.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Pitaro renewed his motion reference the prior bad act testimony of Jillian Lozano and Ms. Lozano's mother and grandmother. Response by the State. COURT ORDERED, Mr. Pitaro's oral motion DENIED; however, the Court will give a limiting instruction for each prior bad act witness after testimony. Mr. Pitaro requested the instruction be read before and after the testimony of each witness. DENIED, prior ruling STANDS.

OUTSIDE THE PRESENCE OF THE OTHER JURY MEMBERS, Juror #2 indicated she may have worked at the teacher's credit union with one of deft.'s family members. Following questioning of the Juror, COURT ORDERED, the Juror will remain.

OUTSIDE THE PRESENCE OF THE OTHER JURY MEMBERS, Juror #14 was EXCUSED because he recognized one of the State's witnesses as being one of his employees.

OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED, Alternate Juror (#4) is now a part of the Jury panel. Amended Jury List FILED IN OPEN COURT.

INSIDE THE PRESENCE OF THE JURY: Introductory remarks by the Court. Clerk read the Information to the Jury and stated deft.'s plea thereto. Opening statements by Mr. Carroll and Mr. Pitaro. Court ADMONISHED the Jury and ORDERED them to return the following day at the time given.

OUTSIDE THE PRESENCE OF THE JURY: Arguments by counsel reference hearsay testimony of Jillian Lozano's mother and grandmother. Court NOTED it will review the cases cited and the statute and make a ruling tomorrow.

Mr. Pitaro moved to dismiss Counts 10 - 21 arguing the State never corrected the second part of the Information and just stated "naked minor" rather than "under the age of 16". Response by Mr. Carroll. COURT ORDERED, Mr. Pitaro's oral motion to dismiss DENIED.

BOND

CONTINUED TO: 08/08/07 09:00 AM 02

PRINT DATE: 12/24/07

PAGE: 013

CONTINUED ON PAGE: 014

MINUTES DATE: 08/07/07

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 013

08/08/07 09:00 AM 02 TRIAL BY JURY

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
006541 Lewis, Linda Y.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.

Y
Y
Y

Y
Y
Y

OUTSIDE THE PRESENCE OF THE JURY: Court FINDS under NRS 51.385 there are sufficient guarantees of trustworthiness reference Jillian Lozano's mother's and grandmother's testimony and same will be admitted over Mr. Pitaro's objection.

INSIDE THE PRESENCE OF THE JURY: Court INVOKED the EXCLUSIONARY RULE. Testimony and exhibits.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Pitaro moved for a mistrial and requested the testimony of Karen Bjornson be stricken. Response by Mr. Carroll. COURT ORDERED, Mr. Pitaro's oral motion DENIED.

INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits continue. During the testimony of witness Marcovecchio, Mr. Pitaro moved for a hearing outside the presence of the Jury. Following a conference at the bench, COURT ORDERED, Mr. Pitaro's request DENIED. Testimony continued.

Court ADMONISHED the Jury and ORDERED them to return the following day at the time given.

BOND

CONTINUED TO: 08/09/07 10:30 AM 03

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 014

08/09/07 10:30 AM 03 TRIAL BY JURY

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
006541 Lewis, Linda Y.
004232 Carroll, Thomas M.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.

Y
Y
Y

Y
Y
Y

OUTSIDE THE PRESENCE OF THE JURY: Mr. Carroll expressed concern reference media coverage. Court ADMONISHED the media there is to be no filming and/or pictures of the victim witnesses and/or their parents from the chest up; no faces are to be shown to include obscured shots.

Mr. Pitaro advised he received deft.'s records from the School District and lodged same with the Court.

INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits. (See attached worksheets.) Court ADMONISHED the Jury and ORDERED them to return the following day at the time given.

OUTSIDE THE PRESENCE OF THE JURY: Court ADMONISHED deft. regarding his right not to testify. Jury Instructions settled.

BOND

CONTINUED TO: 08/10/07 09:00 AM 04

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 015

08/10/07 09:00 AM 04 TRIAL BY JURY

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA

004232 Carroll, Thomas M.

006541 Lewis, Linda Y.

0001 D1 Zana, Mark R

001332 Pitaro, Thomas F.

010151 Miceli, Michael J.

Y
Y
Y
Y
Y
Y

OUTSIDE THE PRESENCE OF THE JURY: Mr. Pitaro objected to the testimony of the State's expert arguing he received nothing and was told on Friday the expert would not be testifying. Response by Mr. Carroll. COURT ORDERED, the witness will be permitted to testify. Mr. Pitaro requested his expert, Dr. Hyman, be present during the testimony of the State's expert. SO ORDERED.

INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits. (See attached worksheets.) Mr. Carroll moved to AMEND the AMENDED INFORMATION by INTERLINEATION to reflect the correct spelling of Melissa Marcovecchio's last name and the COURT SO ORDERED. State rested. Defense commenced with its case. Testimony and exhibits continue. Following the testimony of witness Mancino, the defense rested.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Pitaro moved for a mistrial based on the State's introduction of Exhibits 7 and 8. Response by Mr. Carroll. COURT ORDERED, Mr. Pitaro's oral motion DENIED.

Mr. Pitaro objected to the closed-courtroom setting during the video of State's Exhibit 6/the child pornography. Response by Mr. Carroll and the Court.

Mr. Pitaro renewed his motion to sever. DENIED.

Mr. Carroll stated Mr. Pitaro previously objected to the State not providing him with an expert report, however, Mr. Pitaro provided the State with 52 pages of documents immediately prior to deft. testifying. Response by Mr. Pitaro.

INSIDE THE PRESENCE OF THE JURY: Court instructed the Jury on the law. Closing arguments by Ms. Lewis, Mr. Pitaro and Mr. Carroll. Bailiff and matron SWORN to take charge of the Jury. At the hour of 4:43 p.m., the Jury retired to deliberate.

Deliberations. Having not reached a Verdict, Court ADMONISHED the Jury and ORDERED them to return on the date and time given.

CONTINUED ON PAGE: 017

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 016

BOND

CONTINUED TO: 08/13/07 08:00 AM 05

08/13/07 08:00 AM 05 TRIAL BY JURY

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004232	Carroll, Thomas M.	Y
006541	Lewis, Linda Y.	Y
0001 D1	Zana, Mark R	Y
001332	Pitaro, Thomas F.	Y
010151	Miceli, Michael J.	Y

Deliberations continue.

OUTSIDE THE PRESENCE OF THE JURY: Court noted on Friday the Bailiff informed it after it had already notified counsel that it was sending the Jury home, that the Jury a question and same was marked as Court's Exhibit 3 with the Court's response marked as Court's Exhibit 4.

INSIDE THE PRESENCE OF THE JURY: At the hour of 11:27 a.m., the Jury returned with GUILTY/NOT GUILTY Verdicts as recorded on file herein. Court thanked and excused the Jury.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Carroll requested deft. remanded into custody. Objection by Mr. Pitaro. COURT ORDERED, deft. REMANDED to the CUSTODY OF THE SHERIFF; NO BAIL. FURTHER, BOND, if any EXONERATED. Matter REFERRED to P&P and SET for SENTENCING.

CUSTODY

10/4/07 8:30 AM SENTENCING

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA vs Zana, Mark R

CONTINUED FROM PAGE: 017

09/04/07 01:15 PM 00 AT REQUEST OF COURT

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/RecorderPARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.Y
Y

Y
Y
Y

Court NOTED it placed this matter on calendar because its law clerk received a phone call from Juror #8, Carol Marques, who related concerns that Juror #13, Christopher Thurman, did independent, Internet research over the weekend between Friday and Monday deliberations which had to do with the age of the girls in the videos. Thereafter, the Court directed its JEA to contact Juror #8 to ask pertinent questions. Colloquy reference possible options. Mr. Pitaro requested a continuance to research the law. COURT ORDERED, matter CONTINUED and counsel are DIRECTED to review Myer vs. State of Nevada, 119 Nev. 554 (2003) which deals with juror misconduct and sets the standards and discretion of the Court. COURT FURTHER ORDERED, no one is to discuss and/or contact anyone reference this issue at this time. Court stated it will have the JEA prepare a Memorandum regarding the Juror contacts and provide same to counsel.

9/11/07 11:00 AM FURTHER PROCEEDINGS

09/11/07 11:00 AM 00 FURTHER PROCEEDINGS

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/RecorderPARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.

0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
010151 Miceli, Michael J.
004349 Oram, Christopher R.Y
Y

Y
Y
Y
Y

Conference at the bench. Mr. Pitaro advised he filed a Motion for New Trial and requested the JEA's Memorandum be made part of the record. COURT SO ORDERED. Memorandum marked as Court's Exhibit 1 to the hearing this date and will be SEALED until further order of this Court. Mr. Pitaro requested

CONTINUED ON PAGE: 019

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 018

a hearing held with all Jurors placed under oath and the offending Juror's computer seized for forensic examination. Mr. Carroll stated he is in agreement that further inquiry be done of the Jurors, however, objection to seizure of the computer. In addition, Mr. Carroll requested that no contact be made with any of the Jurors by any party in the interim. COURT ORDERED, matter SET for HEARING and Deft.'s Motion For New Trial will be addressed following the hearing. Request for seizure of computer DENIED. The Court will prepare a subpoena for each Juror requiring their presence at the next date; the Jurors will be segregated from one another and questioned separately. FURTHER, there is to be absolutely no contact with the Jurors by any party. Mr. Pitaro advised Mr. Oram has associated in for Appellate purposes.

Court ADMONISHED K. C. Howard, reporter for the Las Vegas Review Journal who was present this date, and/or any other representatives from the media to not make contact with, call or interview any of the Jurors in an effort to preserve the integrity of the proceedings. Mr. Pitaro stated he requested the Court ask the press not to report on the case or, at the very least, that the names of the Jurors not be mentioned. Court noted Mr. Pitaro did not request a closed hearing, however, REQUESTED the media/press keep the names of the Jurors confidential and that they just be referred to as Jurors. Ms. Howard stated she will advise her Editor of the Court's concerns but the decision of what to print is left to the Editor's discretion. Mr. Pitaro requested his Motion for New Trial be SEALED and the COURT SO ORDERED. FURTHER, Jury Lists and minutes of this date and of the 9/4/07 hearing to be SEALED until further order. Sentencing date VACATED.

CUSTODY

10/8/07 10:00 AM HEARING ... DEFT.'S MOTION FOR NEW TRIAL

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 019

10/08/07 10:00 AM 00 HEARING: DEFT.'S MOTION FOR NEW TRIAL

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004232	Carroll, Thomas M.	Y
006541	Lewis, Linda Y.	Y
0001 D1	Zana, Mark R	Y
001332	Pitaro, Thomas F.	Y
004349	Oram, Christopher R.	Y
010151	Miceli, Michael J.	Y

Pursuant to Order of the Court and in an effort to protect the integrity of the proceedings, COURTROOM CLOSED. All Jurors examined and testified. (See attached list - SEALED until further order of this Court.) Colloquy regarding next course of action. COURT ORDERED, defense to submit their Supplemental Points and Authorities to Motion for New Trial by 10/30/07, State to file its Response by 11/20/07 and matter SET for argument. Mr. Oram stated a Reply will not be necessary. COURT FURTHER ORDERED, Court Recorder to provide copies of the disc to both the State and defense and to prepare a transcript and file under seal.

CUSTODY

11/30/07 9:00 AM DEFT.'S MOTION FOR NEW TRIAL

11/30/07 09:00 AM 00 DEFT.'S MOTION FOR NEW TRIAL

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004232	Carroll, Thomas M.	Y
0001 D1	Zana, Mark R	Y
001332	Pitaro, Thomas F.	Y
004349	Oram, Christopher R.	Y
010151	Miceli, Michael J.	Y

Mr. Pitaro moved to exclude the press. Mr. Carroll submitted. COURT ORDERED, OBJECTION NOTED, request DENIED and the press will remain. Arguments by counsel. Court stated its FINDINGS and ORDERED, motion DENIED. FURTHER ORDERED, matter SET for SENTENCING.

CONTINUED ON PAGE: 021

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 020

CUSTODY

12/20/07 1:30 PM SENTENCING

12/20/07 01:30 PM 00 SENTENCING

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
004232 Carroll, Thomas M.
0001 D1 Zana, Mark R
001332 Pitaro, Thomas F.
004349 Oram, Christopher R.
010151 Miceli, Michael J.

Y
Y
Y
Y
Y
Y

DEFT. ZANA ADJUDGED GUILTY of COUNT 1 - OPEN OR GROSS LEWDNESS (GM); COUNTS 2, 6 and 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (F); and COUNTS 11, 13, 14, 15, 16 and 17 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF PERSON UNDER THE AGE OF SIXTEEN (F). Arguments by Mr. Carroll and Mr. Pitaro. Ann Marcovecchio, Melissa Marcovecchio and David Marcovecchio, victim speakers, SWORN and made victim impact statements to the Court. Court NOTED the psychosexual examination indicates a low risk to re-offend; however, deft. has proven he will re-offend and has done so over and over again and ORDERED, in addition to the \$25 Administrative Assessment Fee, \$800 Psychosexual Fee and \$150 DNA Analysis Fee to include submission to testing for genetic markers and/or secretor status, deft. SENTENCED as follows:

COUNT 1 - to TWELVE (12) MONTHS in the CLARK COUNTY DETENTION CENTER;

COUNT 2 - to LIFE in the NEVADA DEPARTMENT OF CORRECTIONS WITH THE ELIGIBILITY for PAROLE AFTER a MINIMUM term of TEN (10) YEARS HAS BEEN SERVED CONCURRENT with COUNT 1;

COUNT 6 - to LIFE in the NEVADA DEPARTMENT OF CORRECTIONS WITH THE ELIGIBILITY for PAROLE AFTER a MINIMUM term of TEN (10) YEARS HAS BEEN SERVED CONSECUTIVE to COUNT 2;

COUNT 7 - to LIFE in the NEVADA DEPARTMENT OF CORRECTIONS WITH THE ELIGIBILITY for PAROLE AFTER a MINIMUM term of TEN (10) YEARS HAS BEEN SERVED CONCURRENT with COUNT 6;

COUNT 11 - to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS CONSECUTIVE

CONTINUED ON PAGE: 022

CRIMINAL COURT MINUTES

05-C-218103-C STATE OF NEVADA

vs Zana, Mark R

CONTINUED FROM PAGE: 021

to COUNT 6;

COUNT 13 - to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS CONSECUTIVE to COUNT 11;

COUNT 14 - to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS CONCURRENT with COUNT 13;

COUNT 15 - to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS CONCURRENT with COUNT 14;

COUNT 16 - to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS CONCURRENT with COUNT 15; and

COUNT 17 - to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS CONCURRENT with COUNT 16.

COURT FURTHER ORDERED, deft. GRANTED ONE HUNDRED SEVEN (107) DAYS credit for time served.

IN ADDITION, Defendant to submit to testing for the purpose of determining genetic markers and REGISTER as a sex offender pursuant NRS 179D.450 within 48 hours of sentencing or release from custody and LIFETIME SUPERVISION to commence upon release from any term of probation, parole or imprisonment.

BOND, if any, EXONERATED. Mr. Pitaro stated an appeal will be filed and then he moved to withdraw stating Mr. Oram will remain on the case and the COURT SO ORDERED.

NDC

12/24/07

E X H I B I T S

10:05 AM

CASE NO. 05-C-218103-C

CASE STATUS: ACTIVE

STATE OF NEVADA

[] vs Zana, Mark R

[]

NO.	CODE	EXHIBIT DESCRIPTION	SUB	OF/OB	DATE	S
0001	P/D	/JUSTICE COURT EXHIBITS	S	/	12/22/05	V
0002	P1	/YEARBOOK 2000-2001 KESTERSON		AD/NO	08/08/07	V
0003	P2	/YEARBOOK 2001-2002 KESTERSON		AD/NO	08/08/07	V
0004	P3	/YEARBOOK 2002-2004 KESTERSON		AD/NO	08/08/07	V
0005	P4	/YEARBOOK 2003-2003 KESTERSON		AD/NO	08/08/07	V
0006	P5	/COMPUTER PRINTOUT		AD/NO	08/09/07	V
0007	P6	/DVD		AD/OB	08/09/07	V
0008	P7	/4 PHOTOGRAPHS		AD/OB	08/10/07	V
0009	P8	/PHOTOGRAPHS		/OB	99/99/99	V
0010	DA	/LTR WRN BY MELISSA MARCORCCHIO		AD/NO	08/08/07	V
0011	DB	/ERASURE LOG COMPUTER		/	99/99/99	V
0012	DG	/KEEPING TRACK OF HOMEWORK		AD/NO	08/10/07	V
0013	DH	/HEALTH PASSES		/	99/99/99	V
0014	DI	/UNSATs		/	99/99/99	V
0015	DJ	/SIGND ENV/CONF RPT CARD		AD/NO	08/10/07	V
0016	DK	/STDNT PRGRSS RPT		AD/OB	08/10/07	V
0017	DL	/BEHAVIOR RPT		AD/NO	08/10/07	V
0018	DM	/INVATION/ICE CREAM		/	99/99/99	V
0019	DN	/AFTERNOON ROTATION READING GROUPS		AD/NO	08/10/07	V
0020	DO	/PERMISSION SLIPS		AD/NO	08/10/07	V
0021	DP	/LTR TO PARENTS		/	99/99/99	V
0022	DQ	/TEST PACKET		AD/NO	08/10/07	V
0023	DR	/BEHAVIOR PLAN		AD/NO	08/10/07	V
0024	DS	/PERMISSION SLIP/FREE MATH TUTORING		AD/NO	08/10/07	V
0025	DT	/CONTACTING ZANA		/	99/99/99	V
0026	DU	/PARENT LETTER- 1 ON 1 MEETING		/	99/99/99	V
0027	DV	/NOTES FROM PARENTS		/	99/99/99	V
0028	DW	/EMAIL FRM MELISSA'S MOM		/	99/99/99	V
0029	DX	/GRADE BOOK		/	99/99/99	V
0030	DY	/2002/2003 YEARBOOK/KESTERSON		AD/NO	08/10/07	V
0031	DZ	/2001/2002 YEARBOOK/KESTERSON		AD/NO	08/10/07	V
0032	DAA	/2000/2001 YEARBOOK/KESTERSON		AD/NO	08/10/07	V
0033	DC	/POSTERBOARD - 2 GIRLS		AD/OB	08/10/07	V
0034	DE	/POSTERBOARD-VARIOUS AGES		AD/NO	08/10/07	V
0035	DF	/POSTERBOARD-COLLAGE GIRLS		AD/OB	08/10/07	V
0036	DBB	/LG SEATING CHART		AD/NO	08/10/07	V
0037	PCT1	/MEMORADUM DATED 9/11/07 (SEALED)		/	09/11/07	V

eff: 9/1/96

**COUNTY CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT**

**CHRISTOPHER R. ORAM, ESQ.
520 SOUTH 4TH STREET # 370
LAS VEGAS, NV 89101**

DATE: December 24, 2007

CASE: C218103

RE CASE: STATE OF NEVADA vs. MARK ZANA

NOTICE OF APPEAL FILED: December 21, 2007

RULE 3(e) DOCUMENTS TRANSMITTED: December 24, 2007

RULE 3(e) DOCUMENTS **NOT** TRANSMITTED/MISSING:

Order

Notice of Entry of Order

EXPLANATION OF POSSIBLE DEFICIENCIES:

DOCUMENTS/FEES:	REFER TO:	PROCEDURE:
NOTICE OF APPEAL	NRAP 3(a)	\$24.00 District Court Filing Fee (if applicable).
CASE APPEAL STATEMENT	NRAP 3(a)(1)	To be filed with Notice of Appeal: Lists information necessary for docketing in the supreme court: district court case number; party names; counsel names; trial judge; whether trial or appellate counsel was appointed; whether appellant is proceeding in forma pauperis; date the proceedings commenced in the district court {NRAP Form 2}*.

* May be filed directly with the Supreme Court if not submitted with the Notice of Appeal.

Certification of Copy

State of Nevada } **SS:**
County of Clark }

I, Charles J. Short, the duly elected, qualifying and acting Clerk of Clark County, in the State of Nevada, and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true, full and correct copy of the original.

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
INDEX ENTRIES; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY


STATE OF NEVADA,
Plaintiff(s),
vs.
MARK ZANA,
Defendant(s),

)
)
) Case No: C218103
) Dept No: V
)
)
)
)
)
)

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 24 day of December 2007.

Charles J. Short, Clerk of the Court


Heather Lofquist, Deputy Clerk

**SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

MARK R. ZANA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 50786

District Court Case No. C218103

RECEIPT FOR DOCUMENTS

TO: Christopher R. Oram
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Charles J. Short , District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

12/27/07 Filing Fee Waived: Criminal.

12/27/07 Filed Certified Copy of Notice of Appeal.
Appeal docketed in the Supreme Court this day. (Docketing statement mailed to counsel
for appellant.)

DATE: December 27, 2007

Janette M. Bloom, Clerk of Court

By: _____

Deputy Clerk