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Case No. 64515

Electronically Filed  
Feb 12 2014 09:29 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

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By /s/ Audrey M. Conway  
AUDREY M. CONWAY, #5611  
Deputy Public Defender

1                                    **DECLARATION OF AUDREY M. CONWAY**

2                    1. I am an attorney licensed to practice law in the State of Nevada; I am a  
3  
4 deputy public defender assigned to handle the appeal of this matter; I am familiar with  
5 the procedural history of this case.

6                    2. Our office filed the Notice of Appeal in this matter on November 25,  
7  
8 2013. This case is governed by the provisions of NRAP 3C, which requires the Appellant  
9 to file a Fast Track Statement forty days after the filing of the Notice of Appeal. On  
10 January 3, 2014, this Court reinstated briefing in this case; accordingly, the instant Fast  
11 Track Statement is due no later than February 12, 2014.

12                    3. I filed a Request for Rough Draft Transcripts on January 6, 2014. The  
13  
14 original intent of NRAP 3C was to allow court reporters twenty days to file all requested  
15 transcripts, and to allow trial counsel twenty days thereafter to file the fast track  
16 statement. In many cases counsel does not receive the transcripts for five to seven days  
17 after they are filed. NRAP Rule 3C required the reporter to produce the rough draft  
18 transcripts by January 26, 2014.

19                    5. The last requested transcript in this case was filed on January 28, 2014.  
20  
21 I received the completed appellate appendix from appellate staff on February 7, 2014.

22                    6. After a seven-day trial, Mr. Castaneda was convicted of fifteen felony  
23  
24 counts of possession of visual presentations depicting sexual conduct of a child. He was  
25 sentenced to a suspended sentence of 28-72 months and placed on probation for five  
26 years, with the condition of lifetime supervision. The appellate appendix consists of eight  
27  
28

1 volumes and 1,698 pages. As of today, I have identified the following issues which must  
2 be briefed based upon a preliminary review of the record and the appendix:

3 I. The Court erred in partially denying the defense pre-trial motion for discovery.  
4

5 II. The Court erred in denying the defense motion to call a rebuttal witness.

6 III. The Court erred by denying the defense motions to dismiss based on prosecutorial  
7 misconduct and on witness misconduct.  
8

9 IV. The Court erred by providing misleading jury instructions and by rejecting proposed  
10 defense instructions.

11 V. The Court erred by denying the defense motion for a mistrial based on violations of  
12 the Court's pre-trial rulings.  
13

14 VI. The Court erred in denying the defense motion to dismiss a juror and by dismissing a  
15 second juror over defense objection.

16 VII. The Court erred by admitting irrelevant and prejudicial evidence.  
17

18 VIII. The evidence failed to prove these charges beyond a reasonable doubt.

19 IX. The Court erred by denying the defense motion to vacate Counts II through XV.  
20

21 7. Due to the complexity of the case and my inability to brief the issues  
22 within the number of pages imposed by Rule 3C, I respectfully ask that this appeal be  
23 deemed a regular criminal appeal and not a Fast Track Appeal. I respectfully ask that  
24 Rule 3C not apply to this appeal and that this Court grant the motion for full briefing in  
25 light of the fact that this appeal presents numerous meritorious issues which cannot be  
26 adequately addressed within the confines of Rule 3C. In the alternative, I request an  
27 extension of forty-five days in which to complete the Fast Track Statement.  
28

1 8. I am requesting this extension in light of the delay in the receipt of the  
2 transcripts, the length of the jury trial, the number of issues presented, and the size of the  
3 appellate appendix.  
4

5 9. This request for extension of time is made in good faith and not for the  
6 purposes of delay. It is the best professional judgment of the undersigned that this  
7 extension is crucial to the perfection of this appeal and to the provision of effective  
8 assistance of counsel to this client.  
9

10 I declare under penalty of perjury that the foregoing is true and correct.

11 EXECUTED on the 11<sup>th</sup> day of February, 2014.  
12

13 /s/ Audrey M. Conway  
14 AUDREY M. CONWAY

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that this document was filed electronically with the Nevada  
17 Supreme Court on the 11<sup>th</sup> day of February, 2014. Electronic Service of the foregoing  
18 document shall be made in accordance with the Master Service List as follows:  
19

20 CATHERINE CORTEZ MASTO                      AUDREY M. CONWAY  
21 STEVEN S. OWENS                                HOWARD S. BROOKS

22 I further certify that I served a copy of this document by mailing a true and  
23 correct copy thereof, postage pre-paid, addressed to: ANTHONY CASTANEDA, 370  
24 East. Harmon #H-305, Las Vegas, NV 89169.  
25

26  
27 BY /s/ Carrie M. Connolly  
28 Employee, Clark County Public  
Defender's Office