

DECLARATION

ERIKA D. BALLOU makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That your affiant was first assigned to this case when Warren Geller, the former deputy public defender who had this matter for preliminary hearing, left this office.

3. The matter was set for trial in November of 2012. Your affiant requested and was granted an oral Motion to Continue and the November 26, 2012, trial date was vacated. At that time a firm trial date was set for February 4, 2013.

4. Your affiant has attempted to reach Mr. Castaneda during the intervening time period. However, your affiant did not meet with Mr. Castaneda until January 22, 2013.

5. That due to the nature and number of the charges, your affiant would be ineffective to proceed to trial on February 4, 2013.

6. That your affiant is requesting a final continuance, during which period, your affiant would need to retain a computer forensic expert as well as file additional motions.

7. Your affiant would request a setting any time during the next two criminal trial setting stacks of April 15, 2013-May 17, 2013, or June 24, 2013-July 26, 2013, EXCEPT for the week of April 15, 2013.

8. This motion is not made for purposes of delay.

9. Mr. Castaneda has previously waived his right to a speedy trial.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 24th day of January, 2013.


ERIKA D. BALLOU

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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion to Continue Trial
Date will be heard on January 28, 2013, at 9:00 am in Department No. V of the District Court.

DATED this 24th day of January, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

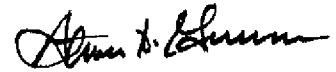
By 
ERIKA D. BALLOU, #8365
Deputy Public Defender

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion to Continue Trial Date is
hereby acknowledged this _____ day of January, 2013.

CLARK COUNTY DISTRICT ATTORNEY

By _____


CLERK OF THE COURT

1 NOTC
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite #226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

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

10 THE STATE OF NEVADA,)	
)	
11 Plaintiff,)	CASE NO. C-11-272657-1
)	
12 v.)	DEPT. NO. V
)	
13 ANTHONY CASTANEDA,)	
)	DATE: February 5, 2013
14 Defendant.)	TIME: 9:00 a.m.

15 **DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234**

16 TO: CLARK COUNTY DISTRICT ATTORNEY:

17 You, and each of you, will please take notice that the Defendant, ANTHONY
18 CASTANEDA, intends to call the following witness in his case in chief:

- | | | |
|---------------------|-------------------|--|
| 19 1. Doug Dahmen | Investigator | c/o Office of the Clark County Public Defender |
| 20 2. Mariah Carney | 25 Gold Bar Court | Las Vegas, NV |

21 DATED this 28th day of January, 2013.

22 PHILIP J. KOHN
23 CLARK COUNTY PUBLIC DEFENDER

24 /s/ Erika D. Ballou
25 By: _____
26 ERIKA D. BALLOU, #8365
27 Deputy Public Defender
28

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234 was made via e-filing to PDMotions@ccdanv.com and via facsimile to the Clark County District Attorney's Office (455-6980) on this 28th day of February, 2013.

/s/ Jane Palmer

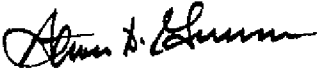
By

Employee of the Clark County Public Defender's
Office

Case Name: Anthony Castaneda

Case No.: C272657X

Dept. No.: V


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHELLE ANTHONY
Deputy District Attorney
Nevada Bar #9919
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ANTHONY CASTANEDA,
#2799593
Defendant.

CASE NO: C-11-272657-1

DEPT NO: V

SECOND SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES
[NRS 174.234(1)(a)]

TO: ANTHONY CASTANEDA, Defendant; and

TO: WARREN GELLER, Deputy Public Defender, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

*indicates additional witnesses

NAME

ADDRESS

*MASHA ALLEN c/o DARREN SUMMERVILLE, 400 COLONY SQUARE,
SUITE 1900, 1200 PEACHTREE STREET, N.E., ATLANTA, GA. 30361

BARRETT

LVMPD#04972

BRANDON

LVMPD#09631

BUSTILLOS, ALEX

FBI

CARPENTER

LVMPD#05003

1 CETYL, DR. SANDRA; SUNRISE HOSPITAL/SNCAC; Will testify as a medical expert as
2 to the ages of the subjects depicted in child pornography.

3 CODY LVMPD#07294

4 COR or Designee; CCDC

5 COR or Designee; LVMPD COMMUNICATIONS

6 COR or Designee; LVMPD RECORDS

7 COR or Designee; NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN

8 EHLERS, PAUL; LVMPD#04215; Will testify as an expert as to the forensic
9 examination of computers and/or electronic devices for the presense of child pornography.

10 GRUNINGER, ANDREW FBI

11 HINES, TAMI; 5795 W. FLAMINGO RD. #167, LVN 89103

12 PARTRIDGE, SHAWNA FBI

13 RAMIREZ, VINCENTE; LVMPD#04916; Will testify as an expert as to the forensic
14 examination of computers and/or electronic devices for the presense of child pornography.

15 ROWE LVMPD#03727

16 SHUMATE LVMPD#08980

17 SMITH LVMPD#03571

18 SOLOMON LVMPD#08458

19 TAFOYA LVMPD#04435

20 TOOLEY LVMPD#06224

21 *VICKY SERIES VICTIM c/o CAROL L. HEPBURN, 2722 EASTLAKE AVENUE
22 EAST, SUITE 200, SEATTLE, WA. 98102

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These witnesses are in addition to those witnesses endorsed on the Information and any other witness for which a separate Notice has been filed.

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar # 001565

BY /s/ Michelle Anthony

MICHELLE ANTHONY
Deputy District Attorney
Nevada Bar # 9919

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of Second Supplemental Notice of Witnesses and/or Expert Witnesses, was made this 31st day of January, 2013, by facsimile transmission to:

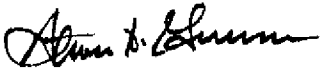
WARREN GELLER, Deputy Public Defender
FAX #455-5112

BY /s/ J. Robertson

Employee of the District Attorney's Office

MA/jr/L-1

ORIGINAL


CLERK OF THE COURT

1 SAO
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 -vs-

14 ANTHONY CASTANEDA,
15 #2799593

16 Defendant.

Case No. C-11-272657-1

Dept No. V

17
18 STIPULATION AND ORDER REGARDING DISCOVERY OF
19 CHILD PORNOGRAPHIC MATERIALS

20 Having come to the attention of the State that images exist deemed as Child
21 Pornography exemplified by the Information as filed on record in the instant case,

22 It is hereby stipulated and agreed to by both parties that in accordance with the
23 Nevada Supreme Court ruling in State v. Second Judicial District Court, 120 Nev. 254
24 (2004), Defense Counsel must adhere to the following strict limitations regarding their copy
25 of said images:

26 (1) Defendant cannot possess a copy of said images; however, Defendant may view
27 them with counsel in preparing defense;

28 (2) Defense Counsel cannot make additional copies of said images;

J:\WPDOCS\ORDERS\ORDR10311008561.doc

(3) Only attorneys, legal staff, Defendant, an audio/video technician and expert witnesses may view said images;

(4) Attorney(s) must keep said images safe at their place of business;

(5) No one may mail or transport said images by any third-party commercial carriers;

(6) No one may transport said images across state lines without a written court order;

(7) After trial, or at the conclusion of the case, Defense Counsel must promptly return their copy of said images directly to the Prosecutor, who will destroy it; and

(8) The audio/video technician may make enhanced copies of specific portions of said images for trial purposes, but shall not retain a copy for any reason.

DATED this 31st day of January, 2013.

DATED this 31st day of January, 2013.

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

ATTORNEY FOR DEFENDANT

BY

James R. Sweetin
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144

BY

Erika Ballou
ERICA BALLOU, DPD
Nevada Bar #008365

SO ORDERED,

DATED this 31st day of January, 2013.

Randy Elmore
DISTRICT COURT JUDGE

hje/SVU

• ORIGINAL •

6/5

1 **AINFO**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHELLE ANTHONY
6 Deputy District Attorney
7 Nevada Bar #009919
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB - 5 2012

Lincoln Trujillo
LINCOLN TRUJILLO, DEPUTY

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 ANTHONY CASTANEDA,
13 #2799593

14 Defendant.

Case No: C-11-272657-1
Dept No: V

AMENDED
INFORMATION

C-11-272657-1
AINF
Amended Information
2209496



15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 DAVID ROGER, District Attorney within and for the County of Clark, State of
18 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

19 That ANTHONY CASTANEDA, the Defendant above named, having committed
20 the crime of POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
21 CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730) in the manner
22 following, to-wit: That the said Defendant, on or between November 25, 2008 and April 7,
23 2010, at and within the County of Clark, State of Nevada, contrary to the form, force and
24 effect of statutes in such cases made and provided, and against the peace and dignity of the
25 State of Nevada,

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1 COUNT 1

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: 2 girls01.jpg, described as: Image
6 depicts two nude prepubescent female children. One child is lying on her stomach with her
7 buttocks in the air. There is a nude adult male who is penetrating the child's genitals with his
8 penis and his left thumb in between the child's buttocks. The other child is positioned to the
9 left of the first child and has her left arm draped around the first child. The second child's left
10 hand is on the first child's right buttock's cheek. The second child's head is positioned over
11 the buttocks' of the first child. The second child has her mouth open with what appears to be
12 ejaculate dripping out.

13 COUNT 2

14 did, then and there, feloniously, knowingly and willfully, have in his possession a
15 film, photograph, or other visual presentation depicting a person under the age of 16 years as
16 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
17 in or simulate sexual conduct, to-wit: Image File Name: girlondick06.bmp, described as:
18 Image depicts a prepubescent female child pictured from the neck up. There is an adult
19 male's penis next to the child's mouth. There is ejaculate coming from the penis and on the
20 child's mouth, chin and cheek.

21 COUNT 3

22 did, then and there, feloniously, knowingly and willfully, have in his possession a
23 film, photograph, or other visual presentation depicting a person under the age of 16 years as
24 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
25 in or simulate sexual conduct, to-wit: Image File Name: girlondick08.jpg, described as:
26 Image depicts a partial view of a nude adult male and a prepubescent female child from the
27 neck up. The adult male has his left hand on his penis and has the tip of his penis inserted
28 into the child's mouth. The child has her hands on either side of the penis.

1 COUNT 4

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: NEW-22.JPG, described as: Image
6 depicts an adult male penetrating the vagina of a prepubescent child. The image appears to
7 be shot from a close distance and neither shows the heads nor the majority of either person's
8 torso.

9 COUNT 5

10 did, then and there, feloniously, knowingly and willfully, have in his possession a
11 film, photograph, or other visual presentation depicting a person under the age of 16 years as
12 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
13 in or simulate sexual conduct, to-wit: Image File Name: 2girls.jpg, described as: Image
14 depicts two nude prepubescent children and a nude adult male, standing, visible from the
15 lower stomach down. The children are positioned on either side of the adult male. Both
16 children are performing fellatio on the adult male.

17 COUNT 6

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: euro-002.jpg, described as: This
22 image has 6 images depicting a prepubescent female child with blonde hair. The first image
23 depicts the child laying on a bed with pink pants pulled down to her knees and a black dog
24 collar around her neck. The second image depicts the child nude, holding her legs open
25 exposing her genitals. The third image depicts the child on the bed leaning against a nude
26 adult male who has his arm placed around the child. The fourth image depicts an adult male
27 straddling the child with his penis next to her mouth. The fifth image depicts the child on her
28 stomach with the adult male placing his penis between the cheeks of the child's buttocks.

1 The last image depicts the adult male penetrating the child's vagina with his penis. The child
2 is positioned on her back with her hands covering her eyes.

3 COUNT 7

4 did, then and there, feloniously, knowingly and willfully, have in his possession a
5 film, photograph, or other visual presentation depicting a person under the age of 16 years as
6 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
7 in or simulate sexual conduct, to-wit: Image File Name: new-05.jpg and/or new-01.jpg,
8 described as: This image has 7 images within. The first image depicts 3 clothed prepubescent
9 female children standing with their arms around each others shoulders. Two of the images
10 show a prepubescent female child (different child in each image) performing fellatio on an
11 adult male. One image depicts a nude prepubescent female child lying on her back with her
12 legs spread open. There is a second prepubescent female child with her mouth near the first
13 child's vagina. Another image depicts a nude prepubescent female child lying face down on
14 a bed with her buttocks raised up exposing her genitals. One image depicts a female child
15 lying on the bed with what appears to be ejaculate on her face. Another image depicts an
16 adult male inserting his penis into the vagina of a prepubescent child.

17 COUNT 8

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: new-35.jpg, described as: This
22 image depicts a nude prepubescent female child performing fellatio on an adult male. Also,
23 the child is inserting a pink phallic shaped device into her vagina.

24 COUNT 9

25 did, then and there, feloniously, knowingly and willfully, have in his possession a
26 film, photograph, or other visual presentation depicting a person under the age of 16 years as
27 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
28 in or simulate sexual conduct, to-wit: Image File Name: GIRL69.jpg, described as: This

1 image depicts a nude adult male lying on his back with a nude prepubescent female child
2 lying, face down, on his stomach in the opposite direction. The adult has his penis inside the
3 child's mouth and is performing cunnilingus on the child.

4 COUNT 10

5 did, then and there, feloniously, knowingly and willfully, have in his possession a
6 film, photograph, or other visual presentation depicting a person under the age of 16 years as
7 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
8 in or simulate sexual conduct, to-wit: Image File Name: new-43.jpg, described as: Image
9 depicts a prepubescent female child with long blonde hair seen from the neck up. The child's
10 hands are positioned on either side of an adult's penis. The adult has his penis inserted into
11 the mouth of the child.

12 COUNT 11

13 did, then and there, feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: NEW-47.jpg, described as: Image
17 depicts prepubescent female child with her hands on an adult penis and the penis is next to
18 the prepubescent female's mouth.

19 COUNT 12

20 did, then and there, feloniously, knowingly and willfully, have in his possession a
21 film, photograph, or other visual presentation depicting a person under the age of 16 years as
22 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
23 in or simulate sexual conduct, to-wit: Image File Name: EURO-001.jpg and/or
24 EURO013.jpg described as: This image has 5 images depicting a prepubescent female child
25 with darker blonde hair. The first image depicts the child with an adult penis in her mouth
26 and an adult hand on the penis. The second image depicts the child nude with her hands
27 around an adult penis and the child's mouth is on the penis. The third image depicts the
28 child on all fours with her buttocks facing the camera. The child is nude with her buttocks

1 and genitalia exposed. The fourth image depicts the child lying on her back with an adult
2 male straddling the child and his penis is in the child's mouth. The fifth image depicts a
3 close up of an adult penis and the penis is penetrating the anal opening of the child.

4 COUNT 13

5 did, then and there, feloniously, knowingly and willfully, have in his possession a
6 film, photograph, or other visual presentation depicting a person under the age of 16 years as
7 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
8 in or simulate sexual conduct, to-wit: Image File Name: new-33.jpg and/or
9 girlondick32.bmp described as: Image depicts 2 prepubescent children with their faces and
10 mouths near or touching an adult male penis. The image is a picture of the children from the
11 neck up.

12 COUNT 14

13 did, then and there, feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: carved image unnamed file.jpg
17 and/or new-38.jpg, described as: This image is of a prepubescent Asian female child
18 positioned in front of a Caucasian adult male with the adult male penis touching the child's
19 mouth with what appears to be ejaculate dripping from the penis. Also noted on the adult
20 male's abdominal area are the words CP REAL.

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1 COUNT 15

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: new-44.jpg, described as: This
6 image depicts the head and face of a prepubescent female with an adult male positioned in
7 front of her and his penis is inserted into the child's mouth.

8 STEVEN B. WOLFSON
9 DISTRICT ATTORNEY
Nevada Bar #001565

10
11 BY


12 MICHELLE ANTHONY
13 Deputy District Attorney
14 Nevada Bar #009919
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1 Names of witnesses known to the District Attorney's Office at the time of filing this
2 Information are as follows:

3 BERRETT; LVMPD#04972

4 BRANDON; LVMPD#09631

5 BRISTETLOS, ALEX; FBI

6 CARPENTER; LVMPD#05003

7 CODY; LVMPD#07294

8 EHLERS; LVMPD#04215

9 HINES, TAMI; 5795 W. FLAMINGO RD. #167, LVN 89103

10 PORTRIDGE, SHAWNA; FBI

11 RAMIREZ; LVMPD#04916

12 ROWE; LVMPD#03727

13 SHUMATE; LVMPD#08980

14 SMITH; LVMPD#03571

15 SOLOMON; LVMPD#08458

16 TAFOYA; LVMPD#04435

17 TOOLEY; LVMPD#06224

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27 DA#11F03995X/jr/L-1
28 LVMPD EV#1002081406
(TK12)

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB - 5 2013

BY: Denise Trujillo
DENISE TRUJILLO, DEPUTY

0317
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

ANTHONY CASTANEDA,

Defendant.

CASE NO. C-11-272657-1

DEPT. NO. V

DATE: February 5, 2013

TIME: 9:00 a.m. C-11-272657-1

MDIS
Motion for Discovery
2208501



MOTION FOR DISCOVERY

COMES NOW, the Defendant, ANTHONY CASTANEDA, by and through ERIKA D. BALLOU, Deputy Public Defender and hereby request that this Honorable Court to order the State to provide Defendant copies of all evidence material either to guilt or punishment.

This Motion is made pursuant to Brady vs. Maryland, 373 U.S. 83, the U.S. and Nevada Constitutions and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 5th day of February, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: Erika Ballou
ERIKA D. BALLOU, #8365
Deputy Public Defender

DECLARATION

ERIKA D. BALLOU makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. Defense counsel is **NOT** claiming that defense counsel is compelled to file this motion because the state has refused to disclose the discovery materials requested herein.

3. Rather, this Brady motion is being filed in recognition of the different standard of review applied in determining whether the State committed a Brady violation, warranting a reversal of the conviction. As the Court knows, if a defendant makes no request or only a general request for information, the reviewing court will reverse a conviction based on Brady if the evidence not disclosed is material as to give rise to a **reasonable probability** that the result would have been different had it been disclosed.¹ However, if the defendant makes a specific request, the evidence is deemed material upon the lesser showing that a **reasonable possibility** exists of a different result had there been disclosure.²

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 5th day of February, 2013.


ERIKA D. BALLOU

¹ State v. Bennett, 119 Nev. 599 (2003)

² *Id.*

MEMORANDUM OF POINTS AND AUTHORITIES

I. LEGAL ARGUMENT

According to NRS 174.235³ and Brady v. Maryland, 373 U.S. 83 (1963), the state has a duty to disclose material evidence. Failure to do so results in a violation of Due Process under the Fifth and Fourteenth Amendments of the United States Constitution. The rule applies regardless of how the state has chosen to structure its overall discovery process. Brady v. Maryland, 373 U.S. 83 (1963); Kyles v. Whitley, 514 U.S. 419 (1995); Strickler v. Greene, 527 U.S. 263 (1999). The government has a duty to disclose Brady material even in the absence of a request by the defense. See Kyles, *supra*.

The Nevada Supreme Court has addressed the import of N.R.S. 174.235:

"The trial court is vested with the authority to order discovery and inspection of materials in the possession of the state. The exercise of the court's discretion, however, is predicated on a showing that the evidence sought is material to the preparation of the defense and the existence of the evidence is known or, by the exercise of due diligence, may become known to the district attorney."

Riddle v. State, 96 Nev. 589, 590, 613 P.2d 1031 (1980).

A prosecutor's duty under Brady necessarily requires the cooperation of other government agents who might possess Brady material. United States v. Blanco, No. 03-10390 U.S. Court of Appeals, Ninth Circuit, p. 17276 (December 27, 2004). In United States v. Zuno-Arce, 44 F.3d 1420 (9th Cir. 1995) (as amended), the Court explained why "it is the government's not just the prosecutor's, conduct which may give rise to a Brady violation." *Id.* at 1427. It noted:

"Exculpatory evidence cannot be kept out of the hands of the defense just because the prosecutor does not have it, where an investigating agency does. That would undermine Brady by allowing the investigating agency to prevent production by keeping a report out of the prosecutor's hands until the agency decided the prosecutor ought to have it, and by allowing the prosecutor to tell the

³ NRS 174.235 in relevant part provides: "At the request of a defendant, the prosecuting attorney shall permit the defendant to inspect and copy or photograph any relevant: (a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by any witness, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney...."

investigators not to give him certain materials unless he asked for them."

Id.; see also United States v. Monroe, 943 F.2d 1007, 1011 n.2 (9th Cir. 1991) (stating that "the prosecution must disclose any [Brady] information within the possession or control of law enforcement personnel") (quoting United States v. Hsieh Hui Mei Chen, 754 F.2d 817, 824 (9th Cir. 1985)).

Brady material is that evidence which is: 1) material, 2) relevant to guilt or punishment, 3) favorable to the accused, and 4) within the actual or constructive possession of anyone acting on behalf of the state. See Brady, 373 U.S. 83 (1963).

1. Materiality

When the defense makes a specific request for Brady material and the state does not provide such material, the Nevada Supreme Court has held that there are grounds for reversal of a conviction "if there exists a reasonable possibility that the claimed evidence would have affected the judgment of the trier of fact." Roberts v. State, 110 Nev. 1121, 881 P.2d 1, 5 (1994); See Jimenez v. State, 112 Nev. 610, 619, 918 P.2d 687, 692 (1996), and State v. Bennett, 119 Nev. 589, 81 P.3d 1, 8 (2003).

Even if a specific request has not been made, reversal is also warranted "if there exists a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." United States v. Bagley, 473 U.S. 667, 682, 685 (1985); Pennsylvania v. Ritchie, 480 U.S. 39, 57 (1986). A 'reasonable probability' is a probability sufficient to undermine confidence in the outcome. Bagley, 473 U.S. at 678, 685; Ritchie, 480 U.S. at 57; Roberts, 110 Nev. at 1128-1129.

Therefore, absent a specific request for Brady material, anything that might have created a probability that the confidence of the verdict was undermined is considered material. Where a specific request is made, however, anything that creates a reasonable possibility that the evidence might have affected the fact-finder's judgment is material.

All of the evidence requested in this case is material because it relates to the police investigation of these alleged crimes.

1 **2. Relevance to Guilt or Punishment**

2 Brady material applies not only to evidence which might affect the defendant's
3 guilt, but also includes evidence which could serve to mitigate a defendant's sentence if convicted.
4 Jimenez v. State, 112 Nev. 610, 918 P.2d 687 (1996). Essentially, anything which could convince
5 the court to impose something less than a maximum sentence, or rebut alleged aggravating
6 circumstances would be relevant to punishment.

7 All of the requested material is relevant to the question of Mr. Castaneda's guilt or
8 punishment. The requested material relates to the police investigation.

9 **3. Favorability to the Accused**

10 Impeachment evidence is exculpatory evidence within the meaning of Brady. See Giglio v.
11 United States, 405 U.S. 150 (1972), cited in United States v. Blanco, No. 03-10390 U.S Court of
12 Appeals, Ninth Circuit, p. 17275 (December 27, 2004). Brady/Giglio information includes
13 "material ... that bears on the credibility of a significant witness in the case." (citations omitted).
14 Blar.co, supra. The Nevada Supreme Court has spoken directly to what is considered "favorable to
15 the accused" and therefore proper Brady material. In Mazzan v. Warden, 116 Nev. 48, 67, 993
16 P.2d 25, 37 (2000) the Court stated:

17 Due process does not require simply the disclosure of "exculpatory"
18 evidence. Evidence also must be disclosed if it provides grounds for
19 the defense to attack the reliability, thoroughness, and good faith of
20 the police investigation, to impeach the credibility of the state's
21 witnesses, or to bolster the defense case against prosecutorial
22 attacks. Furthermore, "discovery in a criminal case is not limited to
investigative leads or reports that are admissible in evidence."
Evidence "need not have been independently admissible to have
been material." (citations omitted)

23 Therefore, Brady material under this standard, would include criminal records or other
24 evidence concerning state's witnesses which might show their bias or otherwise impeach their
25 credibility. All of the requested material relates to the police investigation and could result in
26 impeachment evidence.

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4. **Within the Actual or Constructive Possession of Anyone Acting on Behalf of the State.**

Based on prior experience, it is anticipated that the prosecution may assert that it has an "open file" policy and that the requested material is not available in its file. This argument is unavailing. In Strickler v. Green, 527 U.S. at 283, the United States Supreme Court explicitly held that a prosecutor's open file policy does not in any way substitute for or diminish the state's obligation to turn over Brady material. The Nevada Supreme Court is in accord. "It is a violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial." Jimenez v. State, 112 Nev. 610, 618, 918 P.2d 687, 692 (1996). Furthermore, "even if the detectives withheld their reports without the prosecutor's knowledge, 'the state attorney is charged with constructive knowledge and possession of evidence withheld by other state agents, such as law enforcement officers.'" Id. 112 Nev. at 620 (citation omitted).

In Kyles v. Whitley, *supra*, the United States Supreme Court made it clear that the prosecutor has an affirmative obligation to obtain Brady material and provide it to the defense, even if the prosecutor is initially unaware of its existence. In so finding, the Supreme Court noted that "[t]he prosecution's affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th century strictures against misrepresentation and is of course most prominently associated with this Court's decision in Brady v. Maryland. . ." Id. 514 U.S. at 432. The Kyles Court also made it clear that this obligation exists even where the defense does not make a request for such evidence. Id.

The Kyles Court additionally made the following observations when finding the state had breached its duty to Kyles and discussing the prosecutor's obligations.

This in turn means that the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police. But whether the prosecutor succeeds or fails in meeting this obligation (whether, that is, a failure to disclose is in good faith or bad faith), the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable.

Kyles, 514 U.S. at 437,438 (citations and footnotes omitted).

1 There can be little question, therefore, that despite its "open file policy," the prosecution
2 has an affirmative duty to seek out the previously discussed Brady material, regardless of whether
3 such material is in the hands of the prosecutor or in the hands of some other entity acting on behalf
4 of the state. All items requested in the instant matter are in the hands of the prosecutor or police.

5 **II. DEFENDANT'S SPECIFIC REQUESTS FOR BRADY MATERIAL**

6 Defendant respectfully requests the state to produce the following Brady materials:

- 7 1. any and all 911 calls relating to LVMPD Event # 100208-1406;
- 8 2. any and all 311 calls relating to LVMPD Event # 100208-1406;
- 9 3. any and all CAD logs relating to LVMPD Event # 100208-1406;
- 10 4. any and all radio traffic relating to LVMPD Event # 100208-1406;
- 11 5. any and all information relating to other suspects in LVMPD Event # 100208-1406;
- 12 6. any and all statements made by Anthony Castaneda, taped or otherwise;
- 13 7. any and all statements made by Tami Hines, taped or otherwise;
- 14 8. any and all statements made by any other witness, taped or otherwise;
- 15 9. any and all criminal history relating to Anthony Castaneda;
- 16 10. any and all relevant criminal history relating to Tami Hines;
- 17 11. any and all relevant criminal history relating to any other witness;
- 18 12. any and all photographs relating to LVMPD Event # 100208-1406 (for the child
19 pornographic images this is limited as outlined in the Stipulation and Order);
- 20 13. any and all video surveillance relating to LVMPD Event # 100208-1406;
- 21 14. any and all officer and/or detective reports for LVMPD Event # 100208-1406;
- 22 15. any and all officer and/or detective notes for LVMPD Event # 100208-1406;
- 23 16. any and all exculpatory evidence in the possession or constructive possession of the state;
- 24 17. any and all information regarding any benefits afforded to any of the state's witnesses in
25 exchange for their assured cooperation in the prosecution of the instant case;
- 26 18. any and all curriculum vitae of any experts the state intends to call at trial;
- 27 19. any and all information regarding the compensation of any of the state's expert witness(es);

1 20. any other reports, witness statements, affidavits, declarations, video, or other material the
2 state is relying on in its case in chief.
3

4 DATED this 5th day of February, 2013.

5 PHILIP J. KOHN
6 CLARK COUNTY PUBLIC DEFENDER

7
8 By: 

9 ERIKA D. BALLOU, #8365
10 Deputy Public Defender
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the
above and foregoing Motion on for hearing before the Court on the 5th day of February, 2013, at
9:00 a.m.

DATED this 5th day of February, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: 
ERIKA D. BALLOU, #8365
Deputy Public Defender

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RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion for Discovery is hereby
acknowledged this _____ day of February, 2013.

CLARK COUNTY DISTRICT ATTORNEY

By: _____


CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHELLE ANTHONY
Deputy District Attorney
Nevada Bar #9919
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ANTHONY CASTANEDA,
#2799593

Defendant.

CASE NO: C-11-272657-1

DEPT NO: V

STATE'S OPPOSITION TO DEFENDANT'S DISCOVERY MOTION

DATE OF HEARING: 2/11/13
TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MICHELLE ANTHONY, Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Discovery Motion.

This opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 POINTS AND AUTHORITIES

2 LEGAL ARGUMENT

3 The State is aware of its obligation to provide exculpatory evidence to the defense.
4 Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995); Giglio v. United States, 405 U.S.
5 150, 92 S.Ct. 763 (1972); Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); Wade v.
6 State, Nev. 115 Nev. 290, 986 P.2d 438 (1999); Jimenez v. State, 112 Nev. 610, 918 P.2d
7 687 (1996); Roberts v. State, 110 Nev. 1121, 881 P.2d 1 (1994); Wallace v. State, 88 Nev.
8 549, 501 P.2d 1036 (1972)

9 Due process requires the prosecution to disclose materially exculpatory information in
10 its possession to the defense upon a proper request. See United States v. Bagley, 473 U.S.
11 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985); United States v. Agurs, 427 U.S. 97 (1976);
12 Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Evidence is
13 material if there is a reasonable probability that the result would have been different if the
14 evidence had been disclosed. Jimenez v. State, 112 Nev. 610, 619, 918 P.2d 687, 692
15 (1996).

16 NRS 174.235 states:

17 1. Except as otherwise provided in NRS 174.233 to NRS
18 174.295 inclusive, at the request of a defendant, the prosecuting
attorney shall permit Defendant to inspect and to copy or
photograph any:

19 (a) Written or recorded statements or confessions made by
20 Defendant, or any written or recorded statements made by a
21 witness the prosecuting attorney intends to call during the case in
22 chief of the state, or copies thereof, within the possession,
custody or control of the state, the existence of which is known,
or by the exercise of due diligence may become known, to the
prosecuting attorney;

23 (b) Results or reports of physical or mental examinations,
24 scientific tests or scientific experiments made in connection with
25 the particular case, or copies thereof, within the possession,
26 custody or control of the state, the existence of which is known,
or by the exercise of due diligence may become known, to the
prosecuting attorney; and

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1 (c) Books, papers, documents, tangible objects, or copies
2 thereof, which the prosecuting attorney intends to introduce
3 during the case in chief of the state and which are within the
4 possession, custody or control of the state, the existence of which
5 is known, or by the exercise of due diligence may become
6 known, to the prosecuting attorney.

7 2. Defendant is not entitled, pursuant to the provisions of
8 this section, to the discovery or inspection of:

9 (a) An internal report, document or memorandum that is
10 prepared by or on behalf of the prosecuting attorney in
11 connection with the investigation or prosecution of the case.

12 (b) A statement, report, book, paper, document, tangible
13 object or any other type of item or information that is privileged
14 or protected from disclosure or inspection pursuant to the
15 constitution or laws of this state or the Constitution of the United
16 States.

17 3. The provisions of this section are not intended to affect
18 any obligation placed upon the prosecuting attorney by the
19 constitution of this state or the Constitution of the United States
20 to disclose exculpatory evidence to Defendant.

21 In the case of Riddle v. State, 96 Nev. 589, 613 P.2d 1031 (Nev. 1980) the Nevada
22 Supreme Court reaffirmed the strictures of the provisions of our discovery statutes by
23 making the following statement:

24 The trial court is vested with the authority to order the discovery and inspection of
25 materials in the possession of the State. The exercise of the court's discretion however is
26 predicated on a showing that the evidence sought is material to the presentation of the
27 defense and the existence of the evidence is known or, by the exercise of due diligence may
28 become known to the District Attorney.

Id. at 390.

In Mazzan v. Warden, 116 Nev. 48, 993 P.2d 25 (2000), the Nevada Supreme Court stated:

Brady and its progeny require a prosecutor to disclose evidence
favorable to the defense when that evidence is material either to
guilt or to punishment. See Jimenez v. State, 112 Nev. 610, 618-
19, 918 P.2d 687, 692 (1996).

In other words, evidence is material if there is a reasonable probability that the result
would have been different if the evidence had been disclosed. Id.

1 Id. at 66, 36 (emphasis added).

2 In determining its materiality, the undisclosed evidence must be considered
3 collectively, not item by item. Kyles v. Whitley, 514 U.S. at 436, 115 S.Ct. 1555. "[T]he
4 character of a piece of evidence as favorable will often turn on the context of the existing or
5 potential evidentiary record." Id. at 439, 1555.

6 Id. at 66-67, 36.

7 In sum, there are three components to a Brady violation: the evidence at issue is
8 favorable to the accused; the evidence was withheld by the state, either intentionally or
9 inadvertently; and prejudice ensued, i.e., the evidence was material. Strickler v. Greene, 527
10 U.S. 263, 119 S.Ct. 1936, 1948, (1999).

11 Id. at 67, 37 (emphasis added).

12 There will only be a Brady violation if the prosecution fails to provide material
13 evidence. As stated in Mazzan, evidence is material if there is a reasonable probability that
14 the result would have been different if the evidence had been disclosed. A reasonable
15 probability is shown when the nondisclosure undermines confidence in the outcome of the
16 trial.

17 The State herein responds to Defendant's specific discovery requests as follows:

18 **1. Any and all 911 calls relating to LVMPD Event # 100208-1406; (2) Any and all**
19 **311 calls relating to LVMPD Event # 100208-1406; (3) Any and all CAD logs relating to**
20 **LVMPD Event # 100208-1406.**

21 The State is aware of its obligation to provide exculpatory evidence to the defense.
22 Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995); Gigolo v. United States, 405 U.S.
23 150, 92 S.Ct. 763 (1972); Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); Wade v.
24 State, Nev. 115 Nev. 290, 986 P.2d 438 (1999); Jimenez v. State, 112 Nev. 610, 918 P.2d
25 687 (1996); Roberts v. State, 110 Nev. 1121, 881 P.2d 1 (1994); Wallace v. State, 88 Nev.
26 549, 501 P.2d 1036 (1972). The prosecution intends to comply with the mandate of the
27 aforementioned cases. To the State's knowledge there is not a 911 call nor is there a 311 call
28 in the instant case. There could be a CAD log but the State does not see how this could be

1 exculpatory evidence. If this evidence exists the State will turn it over to the Defense even
2 though it appears it would not be exculpatory.

3 **4. Any and all radio traffic relating to LVMPD Event # 100208-1406.**

4 The State does not have this information in our possession and objects to this request
5 as overbroad and the Defense has failed to meet their obligation showing how this
6 information is material. If the defense seeks anything in addition to the statements made by
7 an accused or a witness a prosecuting attorney intends to call during the case in chief, and
8 reports of scientific physical and medical examinations, then as a condition precedent, the
9 defense must make a predicate showing of reasonableness and materiality. EJDRC 3.24
10 permits defense counsel to obtain such materials if the "items are material to the preparation
11 of the defendant's case at trial and constitute a reasonable request."

12 At this point, the defense has made no showing, whatsoever, regarding the materiality
13 of the radio traffic or how such information would be relevant to his case. The State has no
14 obligation to accommodate such over-broad requests for information. The Defense is not
15 permitted to go on a fishing expedition seeking information that may provide information
16 helpful to their defense. The request does not seek the time nor the date that they are
17 requesting this radio traffic and from which officers. In Sonner v. State, 112 Nev. 1328,
18 1340, 930 P.2d 707, 715 (1996) (per curiam), modified on other grounds, Sonner v. State,
19 114 Nev. 321, 955 P.2d 673 (1997), cert. denied, 525 U.S. 886 (1998), among other issues,
20 defendant appealed the district court's denial of his motion to discover the victim's
21 personnel records in order to rebut State evidence of the victim's value as a law enforcement
22 officer and an individual.

23 In addressing the issue of Discovery of the victim's personnel records, the Court
24 stated:

25 Although the State may not withhold evidence favorable to the
26 accused and material to either guilt or sentence, the State is under
27 no obligation to accommodate a defendant's desire to flail about
28 in a fishing expedition to try to find a basis for discrediting a
victim. See State v. Blackwell, 120 Wash.2d 822, 845 P.2d
1017, 1021 (1993) ("Defense counsel's broad, unsupported claim
that the police officers' personnel files may lead to material
information does not justify automatic disclosure of the

documents.”) As the Washington Supreme Court observed: “A defendant must advance some factual predicate which makes it reasonably likely the requested file will bear information material to his or her defense. A bare assertion that a document ‘might’ bear such fruit is insufficient.” *Id.*, 845 P.2d at 1022; see also *People v. Gissendanner*, 48 N.Y.2d 543, 423 N.Y.S.2d 893, 399 N.E.2d 924, 928 (1979) (“What [the decisions] do call for is the putting forth in good faith some factual predicate which would make it reasonably likely that the file will bear such fruit that the quest for its contents is not merely a desperate grabbing at a straw.”)

Sonner, 112 Nev. 1328 at 1340, 1341, 930 P.2d 707 at 715. Like the defense in *Sonner*, the defense in this case seeks any scrap of evidence that might discredit the witnesses in this case with absolutely no indication that any such evidence would be in the information which he requested.

5. Any and all information relating to other suspects in LVMPD Event # 100208-1406.

The State is unaware of any other suspects in the instant case. This request is irrelevant.

6. Any and all statements made by Anthony Castaneda, taped or otherwise; (7) any and all statements made by Tami Hines, taped or otherwise; (8) any and all statements made by any other witness, taped or otherwise.

The State has provided the audio and transcriptions of the Defendant’s statements given to Det. Tooley. The State has also provided the statements provided by Tami Hines to detectives in this case. The State objects to the request by the Defense requesting all statements made by Tami Hines. The State is aware of our Brady obligation and will provide any statements made by Tami Hines that are exculpatory but the Defense is not entitled to any statement ever made by Tami Hines. Additionally, the State objects to the Defenses request for any and all statements made by any other witnesses. Should the State intend to call a witness and there is a report or a written statement made about that witness

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1 the State will provide it. However, any statement ever made by any witness does not entitle
2 the Defense to receive such information through discovery. To the State's knowledge all
3 information regarding the instant case has been provided to the Defense.

4 **9. Any and all criminal history relating to Anthony Castaneda.**

5 The State does not have to provide this information to the Defense. This is beyond
6 the scope of discovery. The Defense can ask their client what his criminal past entails.

7 **10. Any and all relevant criminal history relating to Tami Hines; (11) Any and all**
8 **relevant criminal history relating to any other witness.**

9 The State is aware of its obligation to provide exculpatory evidence to the defense.
10 Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995); Gigolo v. United States, 405 U.S.
11 150, 92 S.Ct. 763 (1972); Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); Wade v.
12 State, Nev. 115 Nev. 290, 986 P.2d 438 (1999); Jimenez v. State, 112 Nev. 610, 918 P.2d
13 687 (1996); Roberts v. State, 110 Nev. 1121, 881 P.2d 1 (1994); Wallace v. State, 88 Nev.
14 549, 501 P.2d 1036 (1972). The prosecution intends to comply with the mandate of the
15 aforementioned cases.

16 Should a witness that the State intends to call at trial have a criminal history including
17 felonies within the last 10 years or other criminal history that would be admissible at trial the
18 State will provide this information to the Defense.

19 **12. Any and all photographs relating to LVMPD Event # 100208-1406 (for the child**
20 **pornographic images this is limited as outlined in the Stipulation and Order).**

21 The State has already provided the Defense with this information.

22 **13. Any and all video surveillance relating to LVMPD Event # 100208-1406.**

23 This information is irrelevant to the instant case. This is a case where detectives
24 performed a search warrant on the Defendant's computers and USB thumb drive. Whether
25 or not there is any video surveillance is not material and the Defense is not entitled to this
26 information.

27 **14. Any and all officer and/or detective reports for LVMPD Event # 100208-1406.**

28 The State has provided all of the information requested.

1 **15. Any and all officer and/or detective notes for LVMPD Event # 100208-1406.**

2 The State is aware of its obligation to provide exculpatory evidence to the defense.
3 Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995); Gigolo v. United States, 405 U.S.
4 150, 92 S.Ct. 763 (1972); Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); Wade v.
5 State, Nev. 115 Nev. 290, 986 P.2d 438 (1999); Jimenez v. State, 112 Nev. 610, 918 P.2d
6 687 (1996); Roberts v. State, 110 Nev. 1121, 881 P.2d 1 (1994); Wallace v. State, 88 Nev.
7 549, 501 P.2d 1036 (1972). The prosecution intends to comply with the mandate of the
8 aforementioned cases. Pursuant to NRS 174.235, the Defense is not entitled to any and all
9 notes taken by officers or detectives because some notes are privileged. Should these notes
10 exist and the State be required to turn them over by law, we will comply with our
11 obligations.

12 **16. Any and all exculpatory evidence in the possession or constructive possession of the**
13 **state.**

14 The State is aware of its obligation to provide exculpatory evidence to the defense.
15 Kyles v. Whitley, 514 U.S. 419, 115 S.Ct. 1555 (1995); Gigolo v. United States, 405 U.S.
16 150, 92 S.Ct. 763 (1972); Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); Wade v.
17 State, Nev. 115 Nev. 290, 986 P.2d 438 (1999); Jimenez v. State, 112 Nev. 610, 918 P.2d
18 687 (1996); Roberts v. State, 110 Nev. 1121, 881 P.2d 1 (1994); Wallace v. State, 88 Nev.
19 549, 501 P.2d 1036 (1972). The prosecution intends to comply with the mandate of the
20 aforementioned cases.

21 **17. Any and all information regarding any benefits afforded to any of the state's**
22 **witnesses in exchange for their assured cooperation in the prosecution of the instant**
23 **case.**

24 To the State's knowledge the only benefits afforded by the State to any witness are
25 the witness fees provided pursuant to the Nevada Revised Statutes.

26 **18. Any and all curriculum vitae of any experts the state intends to call at trial.**

27 **This information has already been provided to the Defense.**

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1 19. Any and all information regarding the compensation of any of the state's expert
2 witness(es).

3 To the State's knowledge the State's experts are not being compensated. Should this
4 information change the State will provide this information.

5 20. Any other reports, witness statements, affidavits, declarations, video, or other
6 material the state is relying on in its case in chief.

7 Besides any demonstrative evidence that the State may use at trial to aide the jury in
8 understanding the case, the State has provided all of the information in its file and has fully
9 complied with our discovery obligations.

10 CONCLUSION

11 Based upon the above and foregoing Points and Authorities, Defendant's Motion for
12 Discovery should be denied to the extent any of the requested information is privileged or
13 irrelevant as to the guilt or punishment of Defendant.

14 DATED this 8th day of February, 2013.

15 Respectfully submitted,

16 STEVEN B. WOLFSON
17 Clark County District Attorney
18 Nevada Bar #001565

19 BY /s/ Michelle Anthony
20 MICHELLE ANTHONY
21 Deputy District Attorney
22 Nevada Bar #9919
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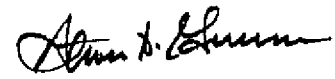
1 CERTIFICATE OF FACSIMILE TRANSMISSION

2 I hereby certify that service of State's Opposition to Defendant's Discovery Motion,
3 was made this 8th day of February, 2013, by facsimile transmission to:

4 ERIKA BALLOU, DEPUTY PUBLIC DEFENDER
5 Fax #384-1969

6 BY: /s/ J. Robertson
7 J. Robertson
8 Employee of the District Attorney's Office

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CLERK OF THE COURT

1 ORDR
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite #226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

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

10 THE STATE OF NEVADA,
11
12 Plaintiff,

CASE NO. C-11-272657-1

DEPT. NO. V

13 ANTHONY CASTANEDA,
14
15 Defendant.

16 **ORDER**

17 THIS MATTER having come before the Court on February 11, 2013, and good cause
18 appearing therefor,

19 IT IS HEREBY ORDERED that Defendant's motion for discovery is granted in part
20 and denied in part pursuant to the directives of this order:

21 DEFENDANT'S REQUESTS 1, 2, 3, 6, 10, 11, 12, 14, 16, 17, 18, 19, and 20: All requests
22 made in these enumerated items are GRANTED as unopposed pursuant to E.D.C.R. 3.20;

23 DEFENDANT'S REQUESTS 4 and 9 are DENIED;

24 DEFENDANT'S REQUEST 5 is GRANTED as unopposed pursuant to E.D.C.R. 3.20 to the
25 extent that such information exists;

26 DEFENDANT'S REQUESTS 7 and 8 are GRANTED as unopposed pursuant to E.D.C.R.
27 3.20 for all recorded statement and all exculpatory statements for those that were made orally;

28 DEFENDANT'S REQUEST 13 is GRANTED as unopposed pursuant to E.D.C.R. 3.20 for
items which are material to the defense; and

///

///

DEFENDANT'S REQUEST 15 is GRANTED as unopposed pursuant to E.D.C.R. 3.20 with the exception of items which are work product if prepared in anticipation of litigation and the state is to make affirmative inquiry as to whether any material covered under this request exists.

DATED 19th day of February, 2013.

DISTRICT COURT JUDGE

Submitted by:

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By

ERIKA D. BALLOU, #8365
Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing ORDER was made via e-filing to PDMotions@ccdancv.com and via facsimile to the Clark County District Attorney's Office (455-6980) on this 20th day of February, 2013.

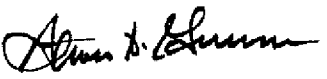
/s/ Jane Palmer

By: _____
Employee of the Clark County Public Defender's
Office

Case Name: Anthony Castaneda

Case No.: C-11-272657-1

Dept. No.: V


CLERK OF THE COURT

1 NOTC
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite #226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

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

10 THE STATE OF NEVADA,)	
11)	
12 Plaintiff,)	CASE NO. C-11-272657-1
13)	
14 v.)	DEPT. NO. V
15)	
16 ANTHONY CASTANEDA,)	
17)	
18 Defendant.)	DATE: April 29, 2013
19)	TIME: 1:30 p.m.

20 **DEFENDANT'S SUPPLEMENTAL NOTICE OF WITNESSES, PURSUANT TO NRS**
21 **174.234**

22 TO: CLARK COUNTY DISTRICT ATTORNEY:

23 You, and each of you, will please take notice that the Defendant, ANTHONY
24 CASTANEDA, intends to call the following witness in his case in chief:

- 25 1. Craig Castaneda 786 Basswood Ave.# A Imperial Beach, CA 91932

26 DATED this 18th day of April, 2013.

27 PHILIP J. KOHN
28 CLARK COUNTY PUBLIC DEFENDER

By: /s/ Erika D. Ballou
ERIKA D. BALLOU, #8365
Deputy Public Defender

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing DEFENDANT'S SUPPLEMENTAL NOTICE OF WITNESSES, PURSUANT TO NRS 174.234 was made via e-filing to PDMotions@ccdanv.com and via facsimile to the Clark County District Attorney's Office (455-6980) on this 19th day of April, 2013.

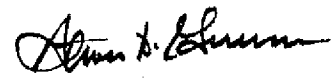
/s/ Jane Palmer

By: _____
Employee of the Clark County Public Defender's
Office

Case Name: Anthony Castaneda

Case No.: C-11-272657-1

Dept. No.: V


CLERK OF THE COURT

1 **NOH**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHELLE ANTHONY
6 Deputy District Attorney
7 Nevada Bar #009919
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 ANTHONY CASTANEDA,
13 #2799593
14 Defendant.

CASE NO: C-11-272657-1

DEPT NO: V

15 STATE'S NOTICE OF HEARING MOTION AND MOTION
16 TO MOVE THE TRIAL DATE

17 DATE OF HEARING: MAY 20, 2013

18 TIME OF HEARING: 9:00 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through MICHELLE ANTHONY, Deputy District Attorney, and files this
21 Notice of Hearing.

22 ///

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28 ///

1 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned
2 will bring STATE'S MOTION TO MOVE THE TRIAL DATE on for setting before the
3 above entitled Court, in Department V thereof, on Monday, the 20th day of May, 2013, at
4 the hour of 9:00 o'clock AM, or as soon thereafter as counsel may be heard.

5 DATED this 6th day of May, 2013.

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

9 BY /s/ Michelle Anthony
10 MICHELLE ANTHONY
11 Deputy District Attorney
12 Nevada Bar #009919
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A F F I D A V I T

STATE OF NEVADA }
COUNTY OF CLARK } ss:

Michelle Anthony, being first duly sworn, deposes and says:

1. That I am the Deputy District Attorney assigned to handle the State of Nevada v. Anthony Castaneda, C-11-272657-1.
2. In the Eighth Judicial District Court, Department Five, I have three cases currently scheduled to start trial on the same date.
3. The cases I am currently assigned to in Department Five are State of Nevada v. Anthony Castaneda (C-11-272657-1), State of Nevada v. Lorenzo Richie (C-12-284324-1) and State of Nevada v. Daniel Duran, Oscar Gomez, Jesus Antonio Olivas-Leon (C-11-278136-1, 2, 3).
4. I am respectfully requesting a new trial date for the instant case based on sufficient cause being shown.
5. If the Court's schedule permits, I am requesting a trial date of either July 22, 2013 or July 29, 2013.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on 5/6/13
(Date)

/s/ Michelle Anthony
Michelle Anthony
Deputy District Attorney
Nevada Bar #009919

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1 ready for trial but the third Defendant who had been in bench warrant since September of
2 2012 showed in court on calendar call date. All three co-defendants rejected favorable
3 negotiations. The case was reset to start trial on June 24, 2013. Here, the case was set to
4 start trial on April 29, 2013. At calendar call, Defendant failed to appear and a bench
5 warrant was issued. Defendant's Motion to Quash his outstanding Bench Warrant was
6 granted on May 1, 2013 and a new trial date was set for June 24, 2013. Thus, this case was
7 necessarily continued by the Defendant due to his failure to appear.

8 Each of the continuances in the above cases was not caused by the State. Pursuant to
9 NRS 174.515(1) "court may, upon sufficient cause shown by either party by affidavit, direct
10 the trial to be postponed to another day." Due to the continuances in the above cases each
11 case was rescheduled for the same trial date. This Prosecutor is assigned to each of these
12 cases and cannot complete all three trials during the same week. If the Court's calendar
13 permits, the State respectfully requests a new trial date of July 22, 2013 or July 29, 2013.

14 CONCLUSION

15 The State requests that this Honorable Court find that sufficient cause has been shown
16 to reset the trial date.

17 DATED this 6th day of May, 2013.

18 STEVEN B. WOLFSON
19 Clark County District Attorney
Nevada Bar #001565

20
21 BY /s/ Michelle Anthony
22 MICHELLE ANTHONY
23 Deputy District Attorney
24 Nevada Bar #009919
25
26
27
28

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of State's Notice Of Hearing Motion And Motion To Move The Trial Date, was made this 6th day of May, 2013, by facsimile transmission to:

ERIKA BALLOU, Deputy Public Defender
455-5112

BY: /s/ C. Cintola
C. Cintola
Employee of the District Attorney's Office

MA/cc/L1

EXHIBIT "1"

Skip to Main Content Logout My Account Search Menu New District Criminal/Civil Search Refine Search Close

Location : District Courts Images Help

REGISTER OF ACTIONS

CASE No. C-11-272657-1

State of Nevada vs Anthony Castaneda

05/02/2011 09:00 AM

Case Type: Felony/Gross Misdemeanor
Date Filed: 04/18/2011
Location: Department 5
Conversion Case Number: C272657
Defendant's Scope ID #: 2799593
Lower Court Case Number: 11F03995

PARTY INFORMATION

Defendant	Castaneda, Anthony	Lead Attorneys Public Defender Public Defender
Plaintiff	State of Nevada	Steven B Wolfson 702-671-2700(W)

CHARGE INFORMATION

Charges: Castaneda, Anthony	Statute	Level	Date
1. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
2. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
3. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
4. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
5. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
6. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
7. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
8. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
9. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
10. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
11. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
12. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
13. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
14. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008
15. POSSESSION OF CHILD PORNOGRAPHY-1ST OFFENSE	200.730	Felony	11/25/2008

EVENTS & ORDERS OF THE COURT

05/02/2011 Motion for Own Recognizance Release/Setting Reasonable Bail (9:00 AM) (Judicial Officer Cory, Kenneth)

Minutes

05/02/2011 9:00 AM

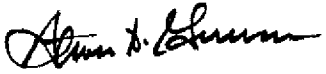
- Defendant present in custody. Arguments by Mr. Geller. Ms. Monroe argued regarding photographs on computer. Statement by Defendant. Statements by the Court. COURT ORDERED, Motion GRANTED with the following CONDITIONS: 1. Any law enforcement agencies may make unannounced visits to the Defendant's residence and search any computer on the premises. 2. Defendant is restricted from using any computer which connects to the internet. COURT FURTHER ORDERED, trial date VACATED and RESET. O.R. 11/21/11 9:00 AM CALENDAR CALL 11/28/11 1:30 PM JURY TRIAL

Parties Present

Return to Register of Actions

EXHIBIT "1"

<http://odyssey.court.clarkcountycourts.org/CaseDetail.aspx?CaseID=8895768&HearingID=...> 5/6/2013


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHELLE ANTHONY
Deputy District Attorney
Nevada Bar #009919
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ANTHONY CASTANEDA,
#2799593

Defendant.

CASE NO: C-11-272657-1

DEPT NO: V

THIRD SUPPLEMENTAL NOTICE OF WITNESSES
[NRS 174.234(1)(a)]

TO: ANTHONY CASTANEDA, Defendant; and

TO: ERIKA BALLOU, Deputy Public Defender, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call the following witnesses in its case in chief:

<u>NAME</u>	<u>ADDRESS</u>
LANDEAU, MICHAEL	C/O Clark County District Attorney's Office

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1
2 These witnesses are in addition to those witnesses endorsed on the Information and
3 any other witness for which a separate Notice has been filed.

4 STEVEN B. WOLFSON
5 Clark County District Attorney
6 Nevada Bar #001565

7 BY /s/ Michelle Anthony
8 MICHELLE ANTHONY
9 Deputy District Attorney
10 Nevada Bar #009919

11
12 CERTIFICATE OF FACSIMILE TRANSMISSION

13 I hereby certify that service of Third Supplemental Notice of Witnesses, was made
14 this 28th day of June, 2013, by facsimile transmission to:

15 ERIKA BALLOU, Deputy Public Defender
16 455-5112

17
18
19 BY: /s/ C. Cintola
20 C. Cintola
21 Employee of the District Attorney's Office

22
23
24
25
26
27 cc/L1
28

1 AINFO
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHELLE ANTHONY
6 Deputy District Attorney
7 Nevada Bar #009919
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUL 8 - 2013

BY: Denise Trujillo
DENISE TRUJILLO, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ANTHONY CASTANEDA,
#2799593

Defendant.

Case No: C-11-272657-1
Dept No: V

SECOND AMENDED
INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That ANTHONY CASTANEDA, the Defendant above named, having committed the crime of POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730) in the manner following, to-wit: That the said Defendant, on or between November 25, 2008 and April 7, 2010, at and within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

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//

1 COUNT 1

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: 2 girls01.jpg, described as: Image
6 depicts two nude prepubescent female children. One child is lying on her stomach with her
7 buttocks in the air. There is a nude adult male who is penetrating the child's genitals with his
8 penis and his left thumb in between the child's buttocks. The other child is positioned to the
9 left of the first child and has her left arm draped around the first child. The second child's left
10 hand is on the first child's right buttock's cheek. The second child's head is positioned over
11 the buttocks' of the first child. The second child has her mouth open with what appears to be
12 ejaculate dripping out.

13 COUNT 2

14 did, then and there, feloniously, knowingly and willfully, have in his possession a
15 film, photograph, or other visual presentation depicting a person under the age of 16 years as
16 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
17 in or simulate sexual conduct, to-wit: Image File Name: girlondick06.bmp, described as:
18 Image depicts a prepubescent female child pictured from the neck up. There is an adult
19 male's penis next to the child's mouth. There is ejaculate coming from the penis and on the
20 child's mouth, chin and cheek.

21 COUNT 3

22 did, then and there, feloniously, knowingly and willfully, have in his possession a
23 film, photograph, or other visual presentation depicting a person under the age of 16 years as
24 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
25 in or simulate sexual conduct, to-wit: Image File Name: girlondick08.jpg, described as:
26 Image depicts a partial view of a nude adult male and a prepubescent female child from the
27 neck up. The adult male has his left hand on his penis and has the tip of his penis inserted
28 into the child's mouth. The child has her hands on either side of the penis.

1 COUNT 4

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: NEW-22.JPG, described as: Image
6 depicts an adult male penetrating the vagina of a prepubescent child. The image appears to
7 be shot from a close distance and neither shows the heads nor the majority of either person's
8 torso.

9 COUNT 5

10 did, then and there, feloniously, knowingly and willfully, have in his possession a
11 film, photograph, or other visual presentation depicting a person under the age of 16 years as
12 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
13 in or simulate sexual conduct, to-wit: Image File Name: 2girls.jpg, described as: Image
14 depicts two nude prepubescent children and a nude adult male, standing, visible from the
15 lower stomach down. The children are positioned on either side of the adult male. Both
16 children are performing fellatio on the adult male.

17 COUNT 6

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: euro-002.jpg, described as: This
22 image has 6 images depicting a prepubescent female child with blonde hair. The first image
23 depicts the child laying on a bed with pink pants pulled down to her knees and a black dog
24 collar around her neck. The second image depicts the child nude, holding her legs open
25 exposing her genitals. The third image depicts the child on the bed leaning against a nude
26 adult male who has his arm placed around the child. The fourth image depicts an adult male
27 straddling the child with his penis next to her mouth. The fifth image depicts the child on her
28 stomach with the adult male placing his penis between the cheeks of the child's buttocks.

1 The last image depicts the adult male penetrating the child's vagina with his penis. The child
2 is positioned on her back with her hands covering her eyes.

3 COUNT 7

4 did, then and there, feloniously, knowingly and willfully, have in his possession a
5 film, photograph, or other visual presentation depicting a person under the age of 16 years as
6 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
7 in or simulate sexual conduct, to-wit: Image File Name: new-05.jpg and/or new-01.jpg,
8 described as: This image has 7 images within. The first image depicts 3 clothed prepubescent
9 female children standing with their arms around each others shoulders. Two of the images
10 show a prepubescent female child (different child in each image) performing fellatio on an
11 adult male. One image depicts a nude prepubescent female child lying on her back with her
12 legs spread open. There is a second prepubescent female child with her mouth near the first
13 child's vagina. Another image depicts a nude prepubescent female child lying face down on
14 a bed with her buttocks raised up exposing her genitals. One image depicts a female child
15 lying on the bed with what appears to be ejaculate on her face. Another image depicts an
16 adult male inserting his penis into the vagina of a prepubescent child.

17 COUNT 8

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: new-35.jpg, described as: This
22 image depicts a nude prepubescent female child performing fellatio on an adult male. Also,
23 the child is inserting a pink phallic shaped device into her vagina.

24 COUNT 9

25 did, then and there, feloniously, knowingly and willfully, have in his possession a
26 film, photograph, or other visual presentation depicting a person under the age of 16 years as
27 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
28 in or simulate sexual conduct, to-wit: Image File Name: GIRL69.jpg, described as: This

1 image depicts a nude adult male lying on his back with a nude prepubescent female child
2 lying, face down, on his stomach in the opposite direction. The adult has his penis inside the
3 child's mouth and is performing cunnilingus on the child.

4 COUNT 10

5 did, then and there, feloniously, knowingly and willfully, have in his possession a
6 film, photograph, or other visual presentation depicting a person under the age of 16 years as
7 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
8 in or simulate sexual conduct, to-wit: Image File Name: new-43.jpg, described as: Image
9 depicts a prepubescent female child with long blonde hair seen from the neck up. The child's
10 hands are positioned on either side of an adult's penis. The adult has his penis inserted into
11 the mouth of the child.

12 COUNT 11

13 did, then and there, feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: NEW-47.jpg, described as: Image
17 depicts prepubescent female child with her hands on an adult penis and the penis is next to
18 the prepubescent female's mouth.

19 COUNT 12

20 did, then and there, feloniously, knowingly and willfully, have in his possession a
21 film, photograph, or other visual presentation depicting a person under the age of 16 years as
22 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
23 in or simulate sexual conduct, to-wit: Image File Name: EURO-001.jpg and/or
24 EURO0013.jpg described as: This image has 5 images depicting a prepubescent female child
25 with darker blonde hair. The first image depicts the child with an adult penis in her mouth
26 and an adult hand on the penis. The second image depicts the child nude with her hands
27 around an adult penis and the child's mouth is on the penis. The third image depicts the
28 child on all fours with her buttocks facing the camera. The child is nude with her buttocks

1 and genitalia exposed. The fourth image depicts the child lying on her back with an adult
2 male straddling the child and his penis is in the child's mouth. The fifth image depicts a
3 close up of an adult penis and the penis is penetrating the anal opening of the child.

4 COUNT 13

5 did, then and there, feloniously, knowingly and willfully, have in his possession a
6 film, photograph, or other visual presentation depicting a person under the age of 16 years as
7 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
8 in or simulate sexual conduct, to-wit: Image File Name: new-33.jpg and/or
9 girlondick32.bmp described as: Image depicts 2 prepubescent children with their faces and
10 mouths near or touching an adult male penis. The image is a picture of the children from the
11 neck up.

12 COUNT 14

13 did, then and there, feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: carved image unnamed file.jpg
17 and/or new-38.jpg, described as: This image is of a prepubescent Asian female child
18 positioned in front of a Caucasian adult male with the adult male penis touching the child's
19 mouth with what appears to be ejaculate dripping from the penis. Also noted on the adult
20 male's abdominal area are the words CP REAL.

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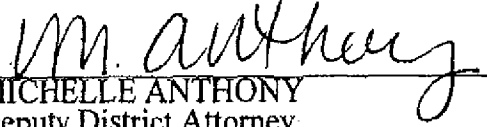
28 //

1 COUNT 15

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: new-44.jpg, described as: This
6 image depicts the head and face of a prepubescent female with an adult male positioned in
7 front of her and his penis is inserted into the child's mouth.

8 STEVEN B. WOLFSON
9 DISTRICT ATTORNEY
Nevada Bar #001565

10
11 BY


12 MICHELLE ANTHONY
13 Deputy District Attorney
14 Nevada Bar #009919
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27 DA#11F03995X/cc/L1
28 LVMPD EV#1002081406
(TK12)

1 IT IS FINALLY STIPULATED AND AGREED TO BY BOTH PARTIES that
2 physical copies of the photographs referred to in Counts I-XV of the Amended Information filed in
3 open Court on ^{July 8 2013} ~~February 5~~, 2013, will be entered into evidence as State's exhibits and placed into an
4 envelope which will go to the jury room, along with the other exhibits admitted in this case. The
5 jury will be instructed regarding the stipulation as follows:

6 (1) That each of the photographs meets the statutory definition of a "photograph, or other
7 visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal
8 or engaging in, or simulating, or assisting others to engage in or simulate, sexual conduct" and that
9 the jury should so find; and

10 (2) The photographs have been entered into evidence.

11
12 DATED this 8th day of July, 2013,

13 STEVEN B. WOLFSON
14 DISTRICT ATTORNEY
Nevada Bar # 001565

DATED this 8th day of July, 2013,

PHILIP J. KOHN
PUBLIC DEFENDER
Nevada Bar # 000556

15
16
17
18 BY

M. Anthony
MICHELLE ANTHONY
Deputy District Attorney
Nevada Bar # 009919

BY

Erika Ballou
ERIKA BALLOU
Deputy Public Defender
Nevada Bar # 008365

19
20
21
22
23 SO ORDERED

24 DATED this 8th day of July, 2013,

25
26
27 [Signature]
28 DISTRICT COURT JUDGE

JUL 8 - 2013

BY: Denise Trujillo
DENISE TRUJILLO, DEPUTY

1 ORDER
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite #226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11
12 Plaintiff,

CASE NO. C-11-272657-1

DEPT. NO. V

13 ANTHONY CASTANEDA,
14
15 Defendant.

16 STIPULATION AND ORDER REGARDING REFERENCE TO BESTIALITY

17 IT IS HEREBY STIPULATED AND AGREED TO BY BOTH PARTIES that there
18 will be no references to bestiality made at trial, unless the Court determines that the defense "opens
19 the door" through the presentation ^{of} character evidence.

20 DATED this 8th day of July, 2013,

DATED this 8th day of July, 2013,

21 STEVEN B. WOLFSON
22 DISTRICT ATTORNEY
23 Nevada Bar # 001565

PHILIP J. KOHN
PUBLIC DEFENDER
Nevada Bar # 000556

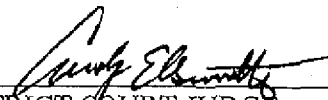
24 BY M. Anthony
25 MICHELLE ANTHONY
26 Deputy District Attorney
27 Nevada Bar # 009919

BY Erika Ballou
ERIKA BALLOU
Deputy Public Defender
Nevada Bar # 008365

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SO ORDERED

DATED this 8th day of July, 2013,

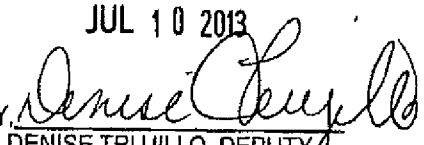

DISTRICT COURT JUDGE

C-11-272 657

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUL 10 2013

BY 
DENISE TRUJILLO, DEPUTY

1 SAO
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHELLE ANTHONY
6 Deputy District Attorney
7 Nevada Bar #009919
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 ANTHONY CASTANEDA,
13 #2799593


14 Defendant.


CASE NO. C-11-272657-1
DEPT NO. V

15 STIPULATION AND ORDER

16 IT IS HEREBY STIPULATED AND AGREED TO BY BOTH PARTIES that each
17 of the images referred to in Counts I through XV in the Second Amended Information
18 consist of a film, photograph, or other visual presentation depicting a person under the age of
19 16 years as the subject of a sexual portrayal or engaging in, or simulating, or assisting others
20 to engage in or simulate sexual conduct. The parties further stipulate as to the names of the
21 files and descriptions of those files as listed in each count of the Second Amended
22 Information.

23 DATED this 10th day of July, 2013.

24
25 BY 
26 MICHELLE ANTHONY
27 Deputy District Attorney
28 Nevada Bar #009919

BY 
ERIKA BALLOU
Attorney for Defendant
Nevada Bar #008365

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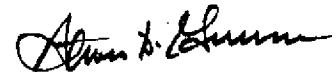
SO ORDERED

Dated this 10th day of July, 2013.



DISTRICT JUDGE

da


CLERK OF THE COURT

1 **PHILIP J. KOHN, PUBLIC DEFENDER**
2 Nevada Bar #0556
3 309 South Third Street, Suite 226
4 Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 ANTHONY CASTANEDA

12 Defendant.

)
)
) Case No. C-11-272657-1

)
) Dept No. V
)
)
)

13
14 **MOTION TO DISMISS**

15 I.

16 **INTRODUCTION**

17
18 The idea that a witness would fudge, exaggerate, mischaracterize, or even downright lie
19 under oath is hardly a new concept. Nevada's perjury statute exists in order to discourage this
20 practice. At an even more basic level, having witnesses swear to tell the truth, "so help me God," is
21 an attempt by courts to invoke a higher power in keeping witnesses honest. The presumption of
22 innocence and the burden of proof form the foundation of our system of jurisprudence, the system
23 we have all sworn an oath to uphold. Lies tear away at this foundation and compromise these vital
24 principles. The lies of a government witness cannot be allowed to form the basis for a conviction.

25 The problem in most cases is this: how can we tell, with any reasonable degree of
26 confidence, whether a witness is lying? Normally, the answer is: "we can't, that's why we have
27 juries." The juries hear the evidence, the lawyers make the arguments, and hopefully, at the end of
28 the day, lies are ferreted out and justice is done. That is the reality of *most* cases. *This* case is

1 different.

2 On July 9, 2013, we saw something exceedingly rare: a witness actually admitted, in no
3 uncertain terms, to lying under oath. Several lies, in fact. This is not mere impeachment: these are
4 independently verifiable lies, followed by the witness's actual admissions that she lied under oath
5 about material issues in this case. We don't have to "guess" whether she has broken her oath of
6 truthfulness: we know. As a result, this case should be dismissed pursuant to the Nevada Supreme
7 Court's authority in Riley v. State, 93 Nev. 461, 567 P.2d 475 (1977) and Goldsmith v. Sheriff, 85
8 Nev. 295, 454 P.2d 86 (1969).

9 LEGAL ARGUMENT

10
11 There can be no doubt that Tami Hines committed perjury when she took the witness stand
12 and lied both at Mr. Castaneda's trial and at his preliminary hearing. Perjury occurs when a person
13 "having taken a lawful oath or made affirmation in a judicial proceeding . . . [s]wears or affirms
14 willfully and falsely in a matter material to the issue or point in question." NRS 199.120. At trial,
15 Ms. Hines's story about how she "discovered" a thumb drive containing child pornography that
16 allegedly belonged to Mr. Castaneda drastically changed from the story she first told detectives, and
17 the story to which she attested during Mr. Castaneda's preliminary hearing.

18 At trial, Ms. Hines offered astonishingly vivid details about how she had seen Mr. Castaneda
19 in possession of the thumb drive on numerous occasions -- that it was always in his possession, that
20 it was on his key chain, and that he was always either putting it in his pocket or taking it out of his
21 pocket. Ms. Hines testified at trial that, based on this, she "knew" the thumb drive belonged to Mr.
22 Castaneda immediately when she saw it. However, Ms. Hines' trial testimony flatly contradicted the
23 testimony she gave during the preliminary hearing when she swore, under oath, that she did not
24 know right away that the thumb drive belonged to Mr. Castaneda. **Exhibit 1 (Preliminary Hearing**
25 **Transcript) at 10:12-15.** When confronted with this discrepancy on cross examination at trial, Ms.
26 Hines admitted she lied during the preliminary hearing.

27 At trial, Ms. Hines also testified, under oath, that she told Detective Tooley the "truth" when
28 she first reported the thumb drive to police. According to Detective Tooley's report, the authenticity

1 of which was verified by Hines, Ms. Hines claimed that she found the thumb drive in a "tote" and
2 that she looked at it because she was intending to use it for her own purposes. *See Defense Exhibit*
3 *A.* However, at trial and preliminary hearing, Ms. Hines testified that her *boyfriend* was the one
4 who actually found the thumb drive and that he woke her up from a nap and *showed* her what was on
5 that thumb drive.¹ When cross-examined about the contradictory stories she had told, Ms. Hines
6 admitted that her statement to Detective Tooley back in 2010 was a lie.

7 Given the numerous discrepancies in Ms. Hines' testimony, it is not altogether clear which of
8 her statements is true and which is false. Yet, even though we cannot be sure whether Ms. Hines
9 was lying to Detective Tooley in 2010, lying at preliminary hearing, or lying to the jury now, we
10 know that at least one of the stories she told during trial is false: Either (1) she told Detective
11 Tooley the truth when she claimed she found the thumb drive herself (which would render her
12 testimony at trial/preliminary hearing that her boyfriend found the thumb drive false) or (2) she lied
13 to Detective Tooley in 2010 (which would render her sworn trial testimony that she told Detective
14 Tooley the "truth" false). Either way, there is no doubt that Ms. Hines committed perjury at trial.

15 The circumstances surrounding Ms. Hines' so-called "discovery" of the thumb drive are,
16 without a doubt, material to this case, since it was this "discovery" that led to the search warrant
17 executed by officers in this case. *See* NRS 199.120. The fact that Ms. Hines would lie about how
18 the thumb drive came into her possession completely undermines any confidence in her remaining
19 testimony about the thumb drive, particularly where *she* was the one who provided the thumb drive
20 to the police, and where the thumb drive conveniently contained all sorts of personal identifying
21 information related to Mr. Castaneda.

22 The materiality of Hines' testimony has only grown during trial, as the State has elicited
23 extensive testimony regarding the times and date stamps of the subject child pornography files. The
24 State's experts have admitted that these markers can be changed manually, which makes the veracity
25 of Hines' testimony about how she came into possession of the drive vitally important.² Hines's false
26 statement about her "discovery" of this drive led to the original search warrant. Her allegations

27
28 ¹ To be more accurate, Hines first testified at preliminary hearing that she found the thumb drive, then she changed her
testimony, stating that her boyfriend found it.

² There are also numerous other reasons that I must decline to highlight at this time because they involve defense
strategy.

1 made Mr. Castenada a suspect in this case. Her story about how she discovered the drive also
2 convinced police to eliminate her and her boyfriend, Michael Landeau, as suspects. This led to the
3 destruction of evidence in the case: Neither Landau or Hines' computers were ever analyzed by
4 forensic specialist. Any evidence they may have contained has been lost forever.

5 Given the grievous nature of Ms. Hines' perjury, Mr. Castaneda's Constitutional rights to
6 due process and a fundamentally fair trial would be eviscerated if this case were not dismissed. See
7 U.S. Const. Amend. V, VI, XIV.

- 8
9 **1) Allowing the instant case to proceed to verdict in light of Tami Hines' false
10 testimony would violate Mr. Castaneda's constitutional rights.**

11 It is well-settled that "if the character of material evidence is false, due process inevitably is
12 denied the accused." Riley v. State, 93 Nev. 461, 462, 567 P.2d 475 (1977). In Riley, the Nevada
13 Supreme Court reversed a conviction for attempted murder following a trial that involved perjured
14 witness testimony that related to a material issue in the trial. Although there was no suggestion that
15 the prosecutor knowingly used perjured testimony in that case, the Court nevertheless found that the
16 appellant's due process right to a fair trial was violated. Id. The Court explained that even when the
17 prosecutor does not knowingly use perjured testimony, a defendant's due process rights are
18 implicated because the "truth seeking function of the trial is corrupted by such perjury whether
19 encouraged by the prosecutor or occurring without his knowledge". Id.

20 At this point, both the prosecution and the trial court can see that a witness has lied under
21 oath about material issues in this case – the discovery of the thumb drive and the reporting of that
22 thumb drive to the police. In light of the perjured testimony on this material issue, Mr. Castaneda
23 cannot now receive a fair trial and the case must be dismissed. See Riley, 93 Nev. at 462.

- 24
25 **2) Given Tami Hines' sworn declaration that she lied under oath at the
26 preliminary hearing, bindover was improper and this case should be
27 vacated.**

28 Tami Hines is the nexus between Mr. Castenada and the thumb drive. She claimed it was
his. Her allegations led to the initial warrant and all subsequent evidence. She has now testified

1 under oath that she lied at preliminary hearing. False testimony cannot legally form the basis for a
2 conviction. The rules concerning bindover are no different.

3 "The rules of evidence require the production of legal evidence and the exclusion of
4 whatever is not legal. The Constitutional guarantee of due process of law requires adherence to the
5 adopted and recognized rules of evidence. There cannot be one rule of evidence for the trial of cases
6 and another rule of evidence for preliminary examinations. The rule for admission or rejection of
7 evidence is the same for both proceedings." Goldsmith v. Sheriff, 85 Nev. 295, 454 P.2d 86 (1969).

8 A lie is not "legally competent evidence," and forcing Mr. Castaneda to face a jury verdict in
9 a case that is based on a lie is fundamentally unfair. See U.S. Const. Amend. V. In light of this
10 "new" evidence, we now know the bindover was improper. Mr. Castaneda cannot be forced to stand
11 trial in district court without proper preliminary due process. This case should therefore be
12 dismissed.

13 DATED this 10th day of July, 2013

14
15 **PHILIP J. KOHN, PUBLIC DEFENDER**
16 Nevada Bar #0556
17 309 South Third Street, Suite 226
18 Las Vegas, Nevada 89155

19 BY /s/David Westbrook
20 **DAVID WESTBROOK**
21 Deputy Public Defender, #9278
22
23
24
25
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28

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was made this 12th day of
July, 2013 by Electronic Filing to:

District Attorneys Office
E-Mail Address:
PDMotions@ccdany.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office

Exhibit 1

1 CASE NO. C272657
2 DEPT. NO. 12
3
4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA
6
7 STATE OF NEVADA,
8 Plaintiff,
9 vs. Case No. 11F03995X
10 ANTHONY CASTANEDA, VOLUME I
11 Defendant.
12
13
14 REPORTER'S TRANSCRIPT
15 OF
16 PRELIMINARY HEARING
17 BEFORE THE HONORABLE DIANA L. SULLIVAN
18 JUSTICE OF THE PEACE
19 TAKEN ON MONDAY, APRIL 11, 2011
20 AT 9:30 A.M.
21
22 APPEARANCES:
23 For the State: VICKI J. MONROE
24 Deputy District Attorney
25 For the Defendant: WARREN J. GELLER
Deputy Public Defender
Reported by: Gerri De Iacca, C.C.R. #82
Official Court Reporter

EXHIBITS
Marked Admitted
State's Exhibits 1 through 15: 43
State's Exhibits 1 through 15: 46
State's Exhibits 8 through 14: 46
MAY 3 2 45 PM '11
J. D. Sullivan
CLERK OF THE COURT
C-11-272657-1
THAN
Reporter's Transcript
1301321
[Barcode]

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Cross-Examination by Mr. Geller: 17
Examination by The Court: 29
Redirect Examination by Ms. Monroe: 30
VICENIE RAMIREZ
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Examination by the Court: 88
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Recross-Examination by Mr. Geller: 96
RECEIVED
MAY - 3 2011
CLERK OF THE COURT

1 LAS VEGAS, NEVADA, MONDAY, APRIL 11, 2011
2 * * * * *
3
4 THE COURT: This is the date and time set
5 for the preliminary hearing of Anthony Castaneda,
6 11F03995. Is the State ready to proceed?
7 MS. MONROE: Yes, your Honor.
8 THE COURT: Defense ready to proceed?
9 MR. GELLER: Yes, Judge.
10 THE COURT: Mr. Geller, we have filed an
11 Amended Criminal Complaint. Do you have a copy of
12 that?
13 MR. GELLER: I do.
14 THE COURT: All right. Miss Monroe, you
15 can call your first witness.
16 MS. MONROE: Thank you, your Honor. The
17 State would call Tami Hines.
18 THE CLERK: Please have a seat.
19 Please state your first and your
20 last name and spell both for the record.
21 THE WITNESS: Tami Hines, T-a-m-i,
22 H-i-n-e-s.
23 THE COURT: Thank you.
24 You may proceed.
25

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CLERK OF THE COURT

1 TAMI HINES, having been first duly sworn to 5
2 testify to the truth, the whole truth, and nothing
3 but the truth, testified as follows:

4
5 DIRECT EXAMINATION

6 BY MS. MONROE:

7 Q: Miss Hines, do you know the defendant in
8 this case, Anthony Castaneda?

9 A: Yes, I do.

10 Q: How is it that you know Mr. Castaneda?

11 A: I met Mr. Castaneda a couple years ago
12 over at a weekly I was staying at, a Budget Suites,
13 and I lived with him for two periods in the past
14 couple years.

15 Q: And, for the record, do you see
16 Mr. Castaneda here in court?

17 A: Yes, I do.

18 Q: What I'd like you to do is describe where
19 he's located in the courtroom and an article of
20 clothing that he has on so that the Court will know
21 who it is you're referring to.

22 A: Mr. Castaneda is wearing, I guess, the
23 blue jump suit and his glasses and he's sitting next
24 to, I guess, his attorney.

25 MS. MONROE: Let the record reflect the

1 A: Yes, I was 7

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(Overlapping speakers)

THE COURT: You can't talk over each
other. Even though you may be anticipating the tail
end of her question, let her get her question out
before you give your answer.

THE WITNESS: Okay.

BY MS. MONROE:

Q: Where were you and Mr. Castaneda living
in '09?

A: He had a house on East Sahara. I forgot
the name of the street. It's behind ST's Pub across
from one of the casinos. I don't remember the name
of the street. I'm sorry.

Q: Approximately how long did you live with
him that first time?

A: The first time was probably three or four
months.

Q: Now, you said there was a second time --

A: Yes.

Q: -- that you -- let me finish.

There was a second time that you,
again, you and your daughters moved in with

1 identification of the defendant. 6

2 THE COURT: Yes.

3 BY MS. MONROE:

4 Q: You said that you had lived with him.
5 Did you have a relationship with
6 him?

7 A: No.

8 Q: When you say you lived with him for
9 approximately two times, when exactly would have been
10 the first time that you would have lived with him?

11 A: The first time was when my stepdad was
12 terminally ill. I was a single mother. My husband
13 just took off to go back east to Maryland. I was in
14 and out of the hospital all the time with my stepdad
15 and Mr. Castaneda was there.

16 My twins at the time were 17, my
17 daughter was 12, and my other one was six. So they
18 were pretty much taking care of -- my older twins
19 taking care of the younger ones while I was in and
20 out of the hospital a lot, and that was in '07.

21 Q: And then where were you living?

22 A: I'm sorry, I take that back. It was in
23 '09. My dad passed away April 23 of 2009.

24 Q: So around April of '09 you were living
25 with Mr. Castaneda?

1 Mr. Castaneda. About when did that happen? 8

2 A: The end of November 2009 until
3 February 2010.

4 Q: And where was that residence located?

5 A: The same place.

6 Q: 2205 Beverly Way in Las Vegas, Clark
7 County, Nevada?

8 A: Yes, ma'am.

9 Q: So the residence that you lived in in '09
10 and then again in '10, it was the same residence?

11 A: Yes.

12 Q: Was that a house?

13 A: Yes.

14 Q: And do you remember when in November;
15 would it have been before or around the time of
16 Thanksgiving of '09 that you would have moved in
17 there?

18 A: A few days before Thanksgiving. I
19 believe it was November 23.

20 Q: And then you said you moved out in
21 February of '10. Do you remember when it was
22 exactly in February that you moved out?

23 A: I believe it was the 7th. My boyfriend
24 had also lived with us at that period of time between
25 November and February as well.

1 Q. Now, after you left the defendant's 9
2 residence where did you, your boyfriend, and your
3 family move to?
4 A. And I don't need an address. Let
5 me rephrase that. Did your boyfriend and daughters
6 move to a different location?
7 A. Yes. We moved to a condo approximately
8 Flamingo and Lindell.
9 Q. Now, you said you had moved out on the
10 7th. Is it possible you could have moved out a
11 couple days before that?
12 A. I suppose, but I don't really think so.
13 Q. At some point did you locate an item that
14 belonged to Mr. Castaneda?
15 A. Yes.
16 Q. And what was the item that you located,
17 that you found?
18 A. A flash drive, a red flash drive.
19 Q. And where was it located when you found
20 it?
21 A. In one of my totes.
22 Q. And did you have a computer at that time?
23 A. I had a laptop, a small laptop, yes.
24 Q. And was the flash drive found in that
25 tote that contained your laptop?

1 A. No. 10
2 Q. It was found in a separate tote?
3 A. Yes.
4 Q. Do you know how that flash drive got into
5 your tote when you had left Mr. Castaneda's
6 residence?
7 A. No, but I have -- at that time my
8 daughter used to hijack Mr. Castaneda's keys, even
9 took them to school one day. She was always very
10 hands-on and into things. That's the only thing I
11 can think of how it wound up in my stuff.
12 Q. When you found the flash drive did you
13 know right away that it belonged to Mr. Castaneda?
14 A. No.
15 Q. What did you do with the flash drive when
16 you found it?
17 A. Actually, I'm not the one that found it.
18 My boyfriend found it. He had then -- I was watching
19 a movie, sitting on the sofa. I had fallen asleep
20 watching a movie. And he told me that he had found
21 this flash drive and that he picked it up and went to
22 put it in the computer, wanted to upload stuff for
23 himself. He had awakened me and was devastated by
24 what he saw and told me that I needed to come look at
25 this flash drive myself.

1 Q. Did you go look at the flash drive 11
2 yourself?
3 A. I did.
4 Q. What did you see on the flash drive?
5 A. I was -- the first couple things on the
6 flash drive was Mr. Castaneda's license, Social
7 Security card, birth record, military records, and
8 then it went into pictures of children.
9 Q. When you say pictures of children, can
10 you tell us exactly what you mean?
11 A. It's very emotional. Children that were
12 performing things on adults.
13 Q. Sexual activities?
14 A. Yes.
15 Q. Now, how many of these pictures did you
16 actually look at?
17 A. To be honest with you, I looked at
18 everything because I wanted to make sure my children
19 weren't on it.
20 Q. And did you check to see if your children
21 were on it?
22 A. Yes, I did.
23 Q. Did you find any pictures of your
24 children?
25 A. No, ma'am.

1 Q. After you -- so you had that flash drive 12
2 in your possession, at least as far as you knew, from
3 the time you had left Mr. Castaneda's residence until
4 your boyfriend found it?
5 A. Yes.
6 Q. After you had looked at the photos or the
7 pictures of the children that upset you, what did you
8 do?
9 A. I had a parole officer that I had met
10 through my sister before, and her name is Officer
11 Worthington, and I called her on her phone and I said
12 to her, I have something horrible in my possession
13 that I need to give to someone. I don't know who or
14 what or where to do this.
15 A. And she said, come meet me and I
16 will get the proper chain of command, whatever we
17 have to do, and while I was there they couldn't take
18 it from me because it had to go through a chain of
19 command.
20 Q. Let me interrupt you real quickly.
21 You said they couldn't take it
22 from you. When you called this Officer Worthington,
23 what did you do?
24 A. Went to her office off of Rancho and
25 Melrose.

1 Q. Did you show Officer Worthington what was 13
2 on the flash drive?

3 A. No. She would not look at it.

4 Q. And basically had she contacted someone
5 else who then arrived at her office?

6 A. Her supervisor contacted SVU, I believe,
7 and spoke to a Detective Tooley, and Detective Tooley
8 told them that she would be there, wait for her, and
9 I would go downstairs to meet her, they would let me
10 know when she was there.

11 Q. Did that happen?

12 A. Yes.

13 Q. And so you came into contact with
14 Detective Tooley, and what did you do when you came
15 into contact with her?

16 A. I met her at her vehicle on the curb, and
17 I handed her the flash drive. And she asked if we
18 could voice record an interview, and I said
19 absolutely, and that's where we proceeded to do.

20 Q. So you gave a statement at that time that
21 was tape recorded?

22 A. Yes.

23 Q. And then you also gave her the flash
24 drive?

25 A. Yes.

1 drive --

2 A. No.

3 Q. -- or the big computer?

4 A. No.

5 Q. How many big computers did he have in his
6 residence that you know about?

7 A. I knew about the one that he had out in
8 his living room, and I knew about the one that he had
9 in his bedroom. Those were the only big ones I knew
10 about. All the others were laptops.

11 Q. And did you have access to the bigger
12 computer in his bedroom?

13 A. No.

14 Q. Did you have access to the bigger
15 computer in the living room?

16 A. Define having access.

17 Q. Were you able to use it?

18 A. No.

19 Q. Do you know if your girls were able to
20 use either of those two computers?

21 A. My girls mainly used the laptop. Had
22 they been on the hard drive before, yes, but that was
23 to help him if he was out of the house and had a
24 problem with his work and needed her to get to the
25 computer to get information from him is the only time

1 Q. Now, you had lived at Mr. Castaneda's 14
2 house for about three months at this time?

3 A. Yes.

4 Q. Right before the discovery of the flash
5 drive did you have access to his computers?

6 A. Yes.

7 Q. How many computers did he have in his
8 house that you had access to?

9 A. The main one that I used, there was one
10 that I would get onto. My children had access to a
11 few of the other ones.

12 Q. And was it password protected or how did
13 you get onto the one that you would usually use?

14 A. Password connected.

15 Q. And did he give you the password?

16 A. Yes.

17 Q. What was the password that he gave you?

18 A. I believe it was Girls something.

19 THE COURT: What was it?

20 THE WITNESS: Girls, G-i-r-l-s, and some
21 numbers behind it or whatever. It was a -- not a
22 laptop. It was -- it was a laptop. I'm sorry, not a
23 hard drive. His hard drive he used for his business.
24 BY MS. MONROE:

25 Q. So you would never get on his hard

1 they used it.

2 Q. And how many laptops did he have in the
3 house that you were aware of?

4 A. One, two, three.

5 Q. And you accessed one of those laptops?

6 A. Yes.

7 Q. And did you access all three of them or
8 just one of them?

9 A. Mainly the one.

10 Q. Where was that laptop kept?

11 A. In the living room.

12 Q. And then where were the other two laptops
13 kept?

14 A. They were actually -- the living room is
15 the main place that every one was at.

16 Q. All three laptops would have been in the
17 living room?

18 A. One of the laptops was in my daughter's
19 bedroom, which was the first bedroom there was one.
20 And I have to back up for a second, I'm sorry. There
21 was a hard drive in the living room that I did use
22 all the time. It was not the laptop. They were at
23 alternate ends of the room.

24 Q. Did you ever download any child porn
25 while you were in the residence?

1 A. No. 17
 2 MS. MONROE: At this time I'll pass the
 3 witness.
 4 THE COURT: Cross-examination.
 5
 6 CROSS-EXAMINATION
 7 BY MR. GELLER:
 8 Q. Ma'am, first I'd like to clarify a little
 9 bit with respect to the computers and what room.
 10 You made reference to a computer
 11 being in Mr. Castaneda's bedroom; is that correct?
 12 A. Yes.
 13 Q. Could you please articulate what that
 14 computer looked like and where in the bedroom it was
 15 located?
 16 A. There was a little table in his bedroom
 17 that had a monitor and just a hard drive on it and a
 18 keyboard, but I had never seen Mr. Castaneda on that
 19 computer. I just know it existed.
 20 Q. And so you had an occasion to be in his
 21 bedroom before so you could observe that?
 22 A. I walked in there taking laundry and
 23 setting it on his bed. I mean nothing more than
 24 that, yes.
 25 Q. And physically what did that computer

1 look like. Was it black, was it -- 18
 2 A. Black.
 3 Q. Do you recall the manufacturer?
 4 A. No, sir.
 5 Q. And then you made reference to there was
 6 also two also desktop computers, if I understand you
 7 correctly, in the main area?
 8 A. In the main area, yes.
 9 Q. And could you describe -- first of all,
 10 let's start with one and where it was and then we'll
 11 go on to the next one.
 12 A. Mr. Castaneda is a computer analyst, so
 13 computers is his life. On the wall closest to the
 14 kitchen he had his large desktop with his big monitor
 15 and desk.
 16 Q. Do you recall the manufacturer of that
 17 computer?
 18 A. No.
 19 Q. Could you describe its color or size or
 20 anything along those lines?
 21 A. All I remember is black. I really don't
 22 remember.
 23 Q. And is that one of the computers that you
 24 on occasion had an opportunity to access?
 25 A. No.

1 Q. And did your children have occasion to 19
 2 access that computer?
 3 A. Only when Mr. Castaneda asked them to.
 4 Q. To your knowledge?
 5 A. To my knowledge.
 6 Q. So it's possible they could have accessed
 7 it without your knowledge?
 8 A. Okay.
 9 Q. Is that true?
 10 A. Sure. Anything's possible, I suppose.
 11 Q. You made a reference to another desktop
 12 computer. Could you describe where that was located?
 13 A. It was located on the opposite end of the
 14 room closest to the bar area that leads to the
 15 outside to the pool.
 16 Q. What color was that computer?
 17 A. Black.
 18 Q. Do you recall the manufacturer of that
 19 computer?
 20 A. No, I don't.
 21 Q. Have you ever had access to it?
 22 A. Yes.
 23 Q. And have you personally used the
 24 computer?
 25 A. Yes.

1 Q. Would that be the same with your children 20
 2 as well, they had access to it?
 3 A. Yes.
 4 Q. You made reference to the fact that it
 5 was password protected prior.
 6 Does Dogcat123, does that sound
 7 like the password?
 8 A. That was one of them, but there was
 9 another -- I don't know. Mr. Castaneda changed codes
 10 all the time, so sometimes he would tell the girls
 11 what it was, but there was something with a girl
 12 princess or something different. I don't remember.
 13 Q. And so we now discussed three desktop
 14 style computers. You also made reference to the
 15 existence of one or two laptops; is that correct?
 16 A. Two laptops.
 17 Q. Two laptops, okay.
 18 Would it be fair to say that the
 19 location of those laptops varied just depending on
 20 where they were set down or whether they were
 21 stationary or at a desk?
 22 A. One was on a rolling cart that mainly
 23 stayed in the living room where the futon sofa was.
 24 The other one he had moved into the bedroom where my
 25 twins were at the time and into a desk. There was a

1 desk that sat there. He set up the monitor and I 21
 2 mean he set up the laptop for them and the speakers
 3 and stuff.
 4 Q. So the one that's in your twins' room,
 5 could you please describe that one to the best of
 6 your ability.
 7 A. It was a black laptop.
 8 Q. Do you know the manufacturer?
 9 A. No, I don't.
 10 Q. Then with respect to the other one that
 11 was in the rolling cart that you described as near
 12 the futon, could you describe that one?
 13 A. It's a laptop. I'm sorry, I'm not
 14 computer savvy to know all the details about it.
 15 Q. Would it refresh your recollection, was
 16 it possibly gray, does that sound right?
 17 A. In the living room, correct.
 18 Q. So now I believe we've discussed three
 19 desktop computers and two laptops in total.
 20 Other than those were there any
 21 other computers in the house that you were aware of?
 22 A. Yes.
 23 Q. Which computer would this be?
 24 A. My boyfriend and I also had a laptop
 25 there as well. Two of them ourselves. One we put in

1 the pawn shop for a period of time to get a little 22
 2 bit of extra money, and the other one was a gray
 3 laptop that we used on a regular basis as well.
 4 Q. Of the five computers that you referenced
 5 belonged to Mr. Castaneda, were they all in areas
 6 that were accessible to everyone?
 7 What I mean by that, not where
 8 doors were locked otherwise making entry impossible.
 9 A. Yes.
 10 Q. So they were all in general areas; is
 11 that correct?
 12 A. Yes.
 13 Q. And, to the best of your knowledge, the
 14 passwords were the same on all computers?
 15 A. No.
 16 Q. So you're saying dogcat123 was the
 17 password for which computers?
 18 A. I really don't remember. I have to
 19 really think. I'm sorry. It's been a little over a
 20 year.
 21 Q. Understandable.
 22 A. I would think the dogcat123 was actually
 23 the computer to his main computer, to his main -- but
 24 it always changed, so I couldn't tell you on a
 25 regular basis.

1 Q. You had previously testified that you had 23
 2 lived on two separate occasions with Mr. Castaneda.
 3 What was the first time that you
 4 moved out, roughly, when was that date?
 5 A. June.
 6 Q. Of which year?
 7 A. 2009.
 8 Q. What were the circumstances that caused
 9 you to leave?
 10 A. It was a financial circumstance at the
 11 time.
 12 Q. Was there any conflict between you or any
 13 of your family and Mr. Castaneda?
 14 A. No.
 15 Q. Was there any conflict between you and
 16 the landlord?
 17 A. Tony never told the landlord that we were
 18 there staying, so the landlord had a problem when he
 19 came in and found out that the children and I were
 20 there, but at that point in my life I was always in
 21 and out.
 22 I mean I just lost my stepdad, who
 23 was more dad to me than my dad could have ever been.
 24 It was very emotional. That period of time was kind
 25 of a -- I felt safe because my children had an adult

1 in the house at the time. They weren't by 24
 2 themselves. And I did what I had to do and
 3 just . . .
 4 Q. I'd like to bring you forward to the
 5 second time you moved out of Mr. Castaneda's house.
 6 What events took place that caused
 7 you to leave that second time?
 8 A. When Mike and I and the girls moved in in
 9 November --
 10 Q. For the record, would Mike be your
 11 boyfriend?
 12 A. Yes, Michael Landau, I'm sorry. He was
 13 my boyfriend at the time.
 14 We moved into, at the end of
 15 November, to Mr. Castaneda's. And we -- Mike was
 16 waiting for his disability, his large back pay of
 17 disability. At that time Mr. Castaneda also got laid
 18 off from his job, so he was only living on what do
 19 you call it?
 20 Q. Unemployment?
 21 A. Unemployment, yes.
 22 Receiving his 400 a week. And he
 23 couldn't make his bills, so we made an agreement we
 24 would pay 500 a month to help him out. This was an
 25 offer he had asked us about. It was kind of, you

1 know, an uncomfortable scenario because I guess Mike 25
 2 and Tony sometimes had some altercations.
 3 Q. What was the nature of those arguments?
 4 A. Probably me. I have no idea. I really
 5 don't.
 6 Q. Did you have a romantic relationship with
 7 Mr. Castaneda?
 8 A. Never.
 9 Q. When you say probably you, could you
 10 elaborate on that?
 11 A. Tony didn't like me, but that didn't
 12 matter, I mean he thought that -- I don't really know
 13 how to word this. I believe in a structured
 14 environment for my children. I believe if they want
 15 something, they ask me for it. If they need
 16 something, tell me and I'll be happy to get it for
 17 them.
 18 Mr. Castaneda was more like the
 19 uncle that would go above and beyond, and I wouldn't
 20 exactly like that because I want them to know that
 21 their mom is where they turn to. They don't need to
 22 turn to anyone else and ask them for something.
 23 So we kind of had disagreements
 24 about that often. I'm not -- Mr. Castaneda was a
 25 very giving man, you know, he loves children, and --

1 A. Yes, I did. I forgot about that. 27
 2 Q. What was the basis for that eviction
 3 letter?
 4 A. Claiming that we agreed upon a certain
 5 amount of monetary money and that we weren't
 6 complying with that, and he had changed the monetary
 7 amount.
 8 Q. So when you previously testified that he
 9 had never asked you to leave, you were just mistaken;
 10 is that correct?
 11 A. Yes.
 12 Q. And did you ever have an argument with
 13 Mr. Castaneda about the disagreement with respect to
 14 the rent?
 15 A. Absolutely.
 16 Q. How often did you all argue about that,
 17 roughly?
 18 A. We argued about it once. I contacted my
 19 attorney and told him about this bogus eviction
 20 letter based on the fact that he knew that my
 21 boyfriend got his disability checks on a monthly
 22 basis, but it was the third Wednesday of the month.
 23 And that was a verbal agreement
 24 that was made. Well, the fifth of the month I can't
 25 guarantee that, you know, you're going to get your

1 but to me I wanted, I guess you could say, the 26
 2 control of what my children get and what they didn't
 3 get.
 4 Q. And did that conflict eventually blow up
 5 to the point where you decided to leave or were you
 6 asked to leave?
 7 A. No. No, because Mr. Castaneda knew that
 8 as soon as Mike got his disability money we were
 9 planning on renting a condo.
 10 Q. So is that what ultimately caused you to
 11 leave?
 12 A. That Mike got his back disability money,
 13 absolutely, yes.
 14 Q. Anything else that motivated that
 15 decision?
 16 A. No.
 17 Q. And at any point in time did he ask you
 18 to leave, he being Mr. Castaneda?
 19 A. Mr. Castaneda was kind of worried about
 20 his landlord was down his throat again because he had
 21 people living there, but what his landlord didn't
 22 realize was that he wouldn't be able to afford living
 23 there unless he had some help, so . . .
 24 Q. At any point in time did you receive an
 25 eviction letter from Mr. Castaneda?

1 money the third week of the month. This was the 28
 2 whole problem was he needed it by the first and we
 3 only had it the third week of the month.
 4 Q. So by the time you finally left
 5 Mr. Castaneda's house would it be fair to say you
 6 were no longer on good terms?
 7 A. I never spoke to him after that. Just
 8 had no interest to. We weren't on bad terms.
 9 MR. GELLER: Court's indulgence.
 10 BY MR. GELLER:
 11 Q. Did you ever observe Mr. Castaneda on the
 12 laptop that was located near the futon?
 13 A. Yes.
 14 Q. Did you observe him on that laptop on a
 15 regular basis?
 16 A. He was always updating files, updating
 17 maintenance things, you know, just regular updates.
 18 I never really noticed all the time, but . . .
 19 Q. Did Mr. Castaneda inform you that he
 20 didn't really want you to stay there anymore, but he
 21 was doing you a favor given your circumstances?
 22 A. No.
 23 MR. GELLER: That's all I have.
 24 THE COURT: I have a question before
 25 redirect.

EXAMINATION

29

BY THE COURT:

Q. How long a time passed between the time you and your boyfriend and your kids moved out to the time that the flash drive was found in your tote?

A. Roughly, a couple weeks. I don't believe it was any more than that. We didn't unpack everything when we first moved, so . . .

Q. That was going to be my next question.

Was this tote something that you used on a regular basis or was it something that still had some items packed in there from when you moved out of his house; what was the circumstances about around the tote?

A. Still had some items like some clothes in it that we didn't use on a regular basis. It wasn't something that we were in all the time.

Q. So what was the circumstances surrounding your boyfriend finding the flash drive?

A. I guess he was --

Q. I don't want you to guess.

A. I don't know.

Q. All you know is that he found the flash drive in the tote?

A. Yes, correct.

of November until sometime in January and then he said, oh, by the way, you should have been paying me this?

A. Yes.

Q. But you had paid him \$500 for at least one month?

A. Yes.

Q. Now, you said that he was -- that Mr. Castaneda was always on his computers updating files?

A. Mm-hmm.

Q. Is that a yes?

A. Yes, m'um.

Q. And would these have been all of these various computers that were throughout the house?

A. Yes.

Q. Now, were you working at that time?

A. No.

Q. So were you always in the house or would you leave the house?

A. I would leave the house. I mean Mike and I would take the kids and go places and do things, so I wasn't always in the house.

Q. So you didn't -- there may have been times when Mr. Castaneda may have had access to his

THE COURT: All right. Redirect.

MS. MONROE: Thank you.

REDIRECT EXAMINATION

BY MS. MONROE:

Q. When was this eviction letter that you received from the defendant that you were asked about on cross-examination?

A. I believe it was in January.

Q. And when did the disagreement about the amount of money you were to pay monthly, when did that happen?

A. At the same time, after he proceeded to hand me that letter.

Q. And what was the difference?

You said you agreed to pay 500 a month. What was the difference; what was the amount?

A. He wanted 600 a month. The 500 a month was supposed to include our utilities too, okay. That was an agreement that was originally made with Mike, Tony, and myself. Unfortunately, we were stupid. We didn't get anything in writing. Mr. Castaneda said that the agreement was 600 a month plus half of each of the utilities.

Q. So you had lived there from about the end

computers that you weren't present or you wouldn't have known about?

A. Yes.

Q. And then you had your own room in the house, your own bedroom?

A. Yes.

Q. And did your children, they had their own bedroom?

A. Yes.

Q. And Mr. Castaneda had his own bedroom?

A. Yes.

Q. And when you went to sleep you don't know if Mr. Castaneda was accessing his computers at that time; would that be fair to say?

A. Mr. Castaneda did a lot of his work on the East Coast, so he was always up weird hours. He could be on the computer in the middle of the night sometimes and then early morning probably down for a little bit until he got his business calls or whatever, but the late night was a very common thing for him to be on the computers.

Q. Let me ask you this. You said you had access to the big computer in the living room. That was the only one you used, correct?

A. The one that is closest to the bar, yes.

1 Q. And how many times do you think you 33
2 accessed that computer from the time you moved in in
3 November until you left in February?
4 A. Very little. The main thing I did on the
5 computer was play the game Zooma.
6 MS. MONROE: That's all I have, your
7 Honor.
8 THE COURT: Do you have any questions
9 based upon my questions?
10 MR. GELLER: No, Judge.
11 THE COURT: Thank you very much,
12 Miss Hines.
13
14 (Witness excused)
15
16 Call your next witness.
17 MS. MONROE: Detective Ramirez.
18 THE CLERK: Please have a seat.
19 Please state your first and your
20 last name and spell both for the record.
21 THE WITNESS: First name is Vicente,
22 V-i-c-e-n-t-e. Last name is Ramirez, R-a-m-i-r-e-z.
23 THE COURT: Thank you. You can proceed.
24 MS. MONROE: Thank you, your Honor.
25

1 A. Basically, just doing the investigations 35
2 on sexually exploited children.
3 Q. When you talk about computer analysis,
4 you just formed that unit, what do you do as a
5 computer analyst?
6 A. We conduct forensic examinations of
7 computers. We've done that since '99, but they just
8 consolidated everybody together.
9 Q. What kind of training did you have to get
10 to the point where you could start doing forensic
11 analysis of computers?
12 A. We've had training everywhere from what's
13 called EnCase training. That's the forensic software
14 tool that we use. Just A Plus Training, Network Plus
15 Training, NCSA training, Microsoft training, training
16 at the Community College for those, and FBI training
17 through the National Center for Missing And Exploited
18 Children, Cyber Training.
19 So it's a continuous amount of
20 training to keep up with all the updates of all the
21 software and everything else.
22 Q. Now, how many computers do you think that
23 you have actually done a forensic analysis on since
24 you've been assigned to that unit?
25 A. Well over a thousand.

1 VICENTE RAMIREZ, having been first duly 34
2 sworn to testify to the truth, the whole truth, and
3 nothing but the truth, testified as follows:
4
5 DIRECT EXAMINATION
6 BY MS. MONROE:
7 Q. Detective Ramirez, where are you
8 presently employed?
9 A. Las Vegas Metropolitan Police Department.
10 Q. And how long have you been with LVMPD?
11 A. 16 years.
12 Q. What unit are you presently assigned to?
13 A. The computer forensic lab.
14 Q. And how long have you been with the
15 computer forensic lab?
16 A. Well, we just started. It's part of the
17 Internet crimes, so that's been since '98, but we
18 just formed the lab itself last year.
19 Q. You've been with Internet crimes since
20 1998?
21 A. Sexual assault '98 and Internet crimes
22 '99.
23 Q. Can you tell the Court what Internet
24 crimes consists of; what is your job with Internet
25 crimes?

1 Q. Now, does that also include analysis of 36
2 flash drives --
3 A. Yes.
4 Q. -- or thumb drives?
5 A. Any digital device.
6 Q. And can you just basically walk me
7 through how you would do an analysis on a computer or
8 a thumb drive if you received it and were asked to do
9 an analysis of it?
10 A. Once I get my device, I prepare my
11 forensic machine, which I have to wipe my hard drive
12 first to make sure there's no remnants of any other
13 case that I worked on.
14 Once I do that then I basically
15 get the device and I use my write blocker, on this
16 one it's a Tableau write blocker, and I connect my
17 write blocker to the device, to my machine, and that
18 ensures that there's absolutely no tampering of the
19 evidence.
20 It says in the same state. I'm
21 able to read it, and I'm able to do what's called an
22 acquisition using EnCase. And, for the record,
23 En Case is spelled capital E, lower N capital
24 C-a-s-e.
25 Q. Let me just interrupt you real quickly.

1 You said that you have the write 37
2 blocker, and that's so that you can ensure there's no
3 tampering, that you aren't tampering with any of the
4 computers or any of the objects that you're
5 examining; is that correct?

6 A. Yes. Whatever device I'm examining, that
7 stays in the original state it's in. Nothing touches
8 or changes anything on that device.

9 Q. And then do you download that information
10 onto your computer?

11 A. Yes. I basically acquire that digital
12 device and put it on my computer and that provides me
13 a platform to conduct my analysis on that.

14 Q. And then you described Encase. Can you
15 tell me what Encase is?

16 A. Encase is just one of the leading
17 softwares that allows me to conduct searches and look
18 for deleted, just pretty much anything I need on that
19 computer, but it allows you to go further than the
20 general user that you can just get online and look at
21 their computer stuff.

22 It allows me to examine all the
23 files that are in the computer history and everything
24 else, whether it's in the allocated space or
25 unallocated space where the general user just can't

1 correct. That's when I actually conducted the exam 39
2 and started the acquisition and it would be --

3 Q. Would your report tell you when Detective
4 Tooley had contacted you to look at it or would that
5 be the same date that you actually did your
6 examination?

7 A. My report would pretty much be when I
8 actually did the acquisition.

9 Q. What was it that Detective Tooley gave
10 you to do a forensic analysis on?

11 A. She gave me a digital thumb drive.

12 Q. And what information did you have
13 regarding that digital thumb drive at the time that
14 you were given --

15 A. She just basically said that she received
16 a thumb drive from a roommate of the person that she
17 was investigating and that thumb drive was turned
18 over to her and she was looking to corroborate what
19 that person had done, instructed what was possibly on
20 that drive.

21 Q. So you believe that your analysis of that
22 thumb drive would have been on February 18 of 2010?

23 A. Yes.

24 Q. And that would have been thumb drive that
25 you had received from Detective Tooley?

1 get to. 38

2 Q. When you're doing a computer -- forensic
3 computer analysis as it pertains to your position at
4 Metro, what are you looking for when you're using
5 Encase; what are you looking to find on the computer
6 or the other items?

7 A. Well, every case is different, but like,
8 for example, on this case I'm looking to corroborate
9 what the detective has asked me to look for. And in
10 this case it was child pornography images. I'm
11 looking for any evidence that pertains to child
12 pornography.

13 Q. Let's go to this particular case. You
14 said that the detective contacted you. And who would
15 that detective have been?

16 A. Detective Shannon Tooley.

17 Q. Do you know what date it was that
18 Detective Tooley would have contacted you?

19 A. I'd have to look at my report.

20 Q. Do you have a copy of your report with
21 you?

22 A. Not that one.

23 Q. Not this one? This one? You need this
24 one?

25 A. I think it was February 18, if I'm

1 A. Yes. 40

2 Q. If you can walk through us, if you can,
3 how you, once you got that thumb drive, kind of walk
4 through the steps that you took and then what you
5 identified on that particular thumb drive.

6 A. Okay. Once the thumb drive is acquired,
7 after that the computer basically, the software
8 basically does a verification to make sure that
9 everything that was taken from that drive was copied
10 bit by bit. So it's like a digital fingerprint. So
11 that way it's an exact copy of that drive.

12 So once I start working on that I
13 do what's called a signature analysis and that makes
14 sure that it identifies the extensions and that
15 everything that is possibly an image or a different
16 type of file is put in that category.

17 Once it's verified and I verify
18 that I have a clean acquisition, there's no errors
19 and copied it bit by bit, then I start to do my
20 analysis. And on this one since it was a thumb drive
21 there was not -- it's just -- it's not a lot of
22 stuff.

23 So I'm mainly looking for images
24 first. So Encase, the way it does, it puts all my
25 images, what it believe the images, into a gallery.

1 And immediately once it's acquired and everything I 41
2 start looking at the gallery and start looking for
3 images of what I believe to be child pornography.
4 Q. So this EnCase shows you all these
5 different images, like thumbnails of different
6 images?
7 A. It will show me -- it puts them in just a
8 gallery view of just like collages of pictures of
9 what is on that computer.
10 Q. And that's what happened when you looked
11 at the thumb drive, you got these images or this
12 gallery --
13 A. Yes.
14 Q. -- of images on it?
15 You said that you were looking for
16 child porn, that that was the information you had
17 had. Can you tell us some of things that you found
18 on that thumb drive when those images came up?
19 A. I found images of what I believed to be
20 child porn. I found images of regular pornography
21 and some images of bestiality and some images of
22 identification cards; Nevada driver's license, a
23 bachelor certificate of accomplishment, and just some
24 other basic IDs, Social Security card.
25 Q. So on this thumb drive you found

1 A. If I recall, 56. 43
2 Q. So out of this image gallery, 56 images
3 were of child porn?
4 A. Yes.
5
6 (State's Proposed Exhibit 1 through 15
7 marked for identification.)
8
9 MS. MONROE: If I could, I'm showing
10 Mr. Geller State's Proposed Exhibits 1 through 15.
11 If I might approach the witness,
12 your Honor.
13 THE COURT: Okay.
14 BY MS. MONROE:
15 Q. I'm showing you what's been marked for
16 identification as State's Proposed Exhibits 1 through
17 15.
18 Can you look through those,
19 Detective Ramirez, and tell me if these -- any of
20 these images were on the thumb drive that you saw
21 when you were doing your forensic analysis of the
22 thumb drive.
23 You can look at them to yourself,
24 and then just the ones that you recognize, put them
25 over in a pile so that we'll know which are the ones

1 identifiers, I guess you could say, of a certain 42
2 individual, things that would have belonged to an
3 individual like driver's license, Social Security
4 number, and certificates?
5 A. Yes.
6 Q. What was the name on these various items
7 of identification, that's what I'm calling them, that
8 you found when you looked at that thumb drive?
9 A. Anthony Castaneda.
10 Q. You said that you also had seen adult
11 porn?
12 A. Yes.
13 Q. And then you saw some bestiality?
14 A. Yes.
15 Q. And you also found images of child porn
16 or what in your opinion was child porn?
17 A. Yes.
18 Q. When you were looking to make the
19 determination that you're looking at child porn, what
20 are you looking for?
21 A. I am looking for anybody, any victim or
22 child that's under the age of 16 that's exposing
23 genitalia.
24 Q. And you said you found images of child
25 porn. How many images of child porn did you find?

1 you found on the thumb drive. 44
2 So, for the record, at this
3 moment, and, counsel, he has his report here. I
4 don't know if you want to come up and see this as we
5 go through these.
6 State's Proposed Exhibits 1, 2, 3,
7 4, 5, 6, 9, 10, 11, 13, and 14, you said that you
8 recognized as having come from the thumb drive,
9 correct?
10 A. Yes.
11 Q. Now you're also looking to see if on the
12 thumb drive you saw State's Proposed Exhibits 6, 7,
13 12, and 15?
14 A. I don't see those right offhand. I have
15 seen those. There's a lot of known images, but I
16 don't see those that I bookmarked.
17 Q. So these four you do not think --
18 A. For sure.
19 MR. GELLER: For the record, you said
20 this one for sure?
21 MS. MONROE: State's Proposed Exhibit 15.
22 THE COURT: What about 15?
23 MS. MONROE: He does not recognize that
24 as being on the thumb drive.
25 I'm going to bring this over here

1 so we won't ask him to testify from that. 45
2
3 (Discussion off the record.)
4
5 BY MS. MONROE:
6 Q. So you've identified 15, State's Proposed
7 Exhibit 15, and State's Proposed Exhibit 6, and
8 State's Proposed Exhibit 7.
9 These were not images that you
10 recovered off of the thumb drive?
11 A. Correct.
12 Q. He did identify 12.
13 Now, you have your report in front
14 of you. Do those also have the image file name on
15 them?
16 A. Yes, they do.
17 Q. Let's start in the order that I have them
18 in.
19 MS. MONROE: And, your Honor, I think at
20 this time I would move to admit State's Proposed
21 Exhibits 1 -- they're out of order now.
22 THE COURT: I have 1 through 14,
23 excluding 6 and 7.
24 MS. MONROE: Then those would be the ones
25 that I -- and 15.

1 adult\girlpics\twogirls.jpg. The end extension 47
2 twogirls.jpg, that's what that is named in the
3 computer, whoever created that.
4 So the other part like
5 adult\girlpics, that one is -- the user created that
6 folder.
7 Q. So the twogirls.jpg, I don't understand,
8 does the computer name that?
9 A. Yeah. Whatever they were put on that
10 website for, that's the name that was given to this
11 image.
12 Q. So it's already named even when the --
13 A. At the very end of the name. So if you
14 copied an image and you named it say donna.jpg, it
15 would be .jpg. You don't put the .jpg after the
16 identifier number, but you might put donna. So when
17 this image was downloaded, it was downloaded, the
18 name of it was twogirls, and the .jpg, that's just
19 the extension that the computer responds to it to say
20 this is a picture.
21 Q. So did the original downloader call it
22 twogirls or was that what it was named on the
23 originating source?
24 A. The originating source was twogirls.
25 THE COURT: All right. I understand.

1 THE COURT: I said 1 through 14. 46
2 MS. MONROE: Those would be the ones that
3 I would move to admit at this time.
4 THE COURT: She's moving to admit
5 Exhibits 1 through 14, excluding 6 and 7.
6 Any objection?
7 MR. GELLER: No objection.
8 THE COURT: Exhibits 1 through 14,
9 excluding 6 and 7, whatever those are, so 12 exhibits
10 total will be admitted.
11 (State's Exhibits 1 through 5,
12 8 through 14 admitted into evidence.)
13
14 EXAMINATION
15
16 BY THE COURT:
17 Q. I have a question for the witness, and I
18 hate to interrupt, but she was about to ask you,
19 she's going to refer to them by name.
20 When you guys refer to these
21 images by name or code or whatever, how does that get
22 on there? Who names it? Does the computer name it,
23 does the original -- I don't understand that.
24 A. For example, like the very first one I
25 have is just listed under

1 Thank you. 48
2 Go ahead.
3
4 DIRECT EXAMINATION
5 (Continued)
6
7 BY MS. MONROE:
8 Q. I'm going to show you what's now marked
9 as State's Exhibit No. 1.
10 And, first of all, can you tell me
11 what the image file name is on this case?
12 A. The image file is
13 adult\girlpics\twogirls01.jpg.
14 Q. And that is described -- what is shown in
15 that particular photograph?
16 A. That shows two minors involved in sexual
17 activity. One minor is on her stomach while being
18 penetrated by the male penis with the other minor
19 holding that girl's buttocks and what appears to be
20 semen coming out of her mouth.
21 MR. GELLER: Just for the record, I would
22 object. I ask the witness not to speculate to any
23 particular ages or anything like that. Obviously, he
24 can describe what he sees in the picture, but as to
25 whether or not someone's reached the age of majority
or not, that's something that's speculation.

1 THE COURT: Well, he testified what 49
2 appears to be two minors, so I think in his mind two
3 minors would be under the age 16.
4 THE WITNESS: Under the age 16.
5 THE COURT: Based upon your parameters?
6 THE WITNESS: Based upon my experience of
7 child pornography.
8 THE COURT: When you determine child
9 porn, your parameters are under the age of 16 and
10 exposing genitalia?
11 THE WITNESS: Lewd exposing of genitalia
12 and involving sexual activity.
13 THE COURT: So when you just testified
14 they appeared to be two minors, does that mean under
15 the age of 16?
16 THE WITNESS: Yes.
17 THE COURT: So is your objection to that?
18 MR. GELLER: Yes, Judge. If the witness
19 is testifying that he knows the age is under 16, I
20 think the proper way to produce the evidence would be
21 to say you observed pubic hair, things like that.
22 MS. MONROE: I show the Court State's
23 Exhibit No. 1, and the Court can see if it has any
24 questions that those two girls are under the age of
25 16.

1 THE COURT: So the objection's noted for 50
2 the record. I suppose in his training and experience
3 he can testify what he believes appears to be under
4 the age of 16. Any final decision that needs to be
5 made for the purposes of preliminary hearing will be
6 made by the Court.
7 MS. MONROE: Sounds like probably a good
8 suggestion.
9 BY MS. MONROE:
10 Q. And the Court asked some questions when
11 you're looking for what you consider to be
12 prepubescent. What are you looking for or what are
13 you looking to note that is not present in the
14 pictures when you're looking to see if they're, in
15 your opinion, if they're prepubescent?
16 A. We just pretty much look at the size of
17 the child, and if we can pretty much tell if it's a
18 child under the age of 16 or not.
19 My own personal rules, I always
20 try to go under 12, and because teenagers, you can't
21 really specifically say if they have pubic hair, if
22 they don't have pubic hair. Some people shave the
23 pubic area. So I pretty much try to -- if I look at
24 that picture and that appears to be a child under 12
25 to me, then to me that's a child.

1 Q. And, now, so -- and the Court kind of 51
2 asked you this, but the name of the twogirls01.jpg, I
3 believe your testimony was that's the name on the
4 image, so whoever actually circulated that image into
5 the Internet for people to download, that would have
6 been the name it was under?
7 A. Correct.
8 Q. Now, can you tell from your analysis of
9 the thumb drive where this particular picture was
10 found on that thumb drive?
11 A. Yes.
12 Q. Where was that?
13 A. That was found in the folder
14 adult\girlpics.
15 Q. And so there was a folder with that name,
16 that's where that particular photo came out of?
17 A. Correct.
18 Q. Now, showing you State's No. 2.
19 You said you found this photograph
20 on the thumb drive?
21 A. Correct.
22 Q. What was the file name that State's
23 Exhibit No. 2 was listed under?
24 A. The file name is adult\girlpics\, I'll
25 spell it, g-i-r-l-o-n-d-i-c-k 0C.bmp.

1 Q. Is it 0C or 06? 52
2 A. I'm sorry, 06.
3 Q. Can you describe for us what State's
4 Exhibit No. 2 shows.
5 A. That appears to be an image of a person I
6 believe is under the age of 16. There's a male penis
7 in front of her mouth and what I believe to be semen
8 from that male penis all over her mouth.
9 Q. And when you say -- you said a child.
10 Can you tell if the child is a
11 female or male?
12 A. Female.
13 Q. Now let's go to State's Exhibit No. 3.
14 Can you tell me -- that was one of
15 the ones you said you located on the thumb drive?
16 A. Correct.
17 Q. And can you tell me what the file name on
18 State's Exhibit No. 3 is?
19 A. That is adult\girlpics\, I'll spell it
20 again, g-i-r-l-o-n-d-i-c-k 0B.jpg.
21 Q. 0p or bmp?
22 A. This is jpg.
23 MS. MONROE: Then, Your Honor, I'll be
24 moving to amend that, because we have bmp.
25

53

1 BY MS. MONROE:

2 Q. What does State's Exhibit No. 3 show?

3 A. That shows what appears to be a female

4 under the age of 16 years of age. She has a -- both

5 hands on a male penis and the male penis is in her

6 mouth.

7 Q. Was this also in that folder girlpics, as

8 we discussed?

9 A. Yes.

10 Q. In fact, did all of these pictures come

11 out of a folder on that thumb drive entitled

12 girlpics?

13 A. Yes.

14 Q. Showing you State's Exhibit No. 4.

15 You said that came from the thumb

16 drive?

17 A. Correct.

18 Q. And what was the file name on that

19 photograph?

20 A. Adult\girlpics\ capital letters NEW,

21 N-S-W, dash 22.jpg.

22 Q. And what did that image show?

23 A. That appears to be a female under the age

24 of 16, and there's a male penis penetrating her

25 vagina.

54

1 Q. Now, does this show any heads or any

2 features at all?

3 A. No.

4 Q. It's a close up, correct?

5 A. Correct.

6 Q. What was it about this picture that led

7 you to believe that this was a prepubescent child?

8 A. Through my experience in Internet crimes

9 against children I've seen this image on numerous

10 cases.

11 Q. Let's go to State's Exhibit No. 5.

12 What was the file image name of

13 State's Exhibit No. 5?

14 A. Adult\girlpics\twogirls.jpg.

15 Q. And what did that image show?

16 A. That image shows what appears to be two

17 females under the age of 16 both performing oral sex

18 on an adult male.

19 Q. Now, this picture's kind of cloudy. Does

20 it show up better when you were looking at it on the

21 image that you saw on the thumb drive?

22 A. Yes.

23 Q. State's Exhibit -- I'll be going to Count

24 8 for purposes of the Criminal Complaint, and the

25 first ones, I was going through orders.

55

1 THE COURT: We're going to Exhibit 8?

2 MS. MONROE: Exhibit 8, which will now be

3 Count 8.

4 BY MS. MONROE:

5 Q. So showing you what's been marked as

6 State's Exhibit No. 8.

7 Can you tell me what that file

8 name is?

9 That one you did not have, I'm

10 sorry.

11 I think No. 8 was one he did not

12 have. I'll use another witness for those.

13 Let's go to State's Exhibit No. 9.

14 That image is under adult\girlpics\ capital letters

15 GIRL69.jpg. Can you describe this image?

16 A. That is an image of what appears to be a

17 female under the age of 16 laying on top of that

18 adult male with penis in her mouth while the adult

19 male appears to be performing cunnilingus on her.

20 Q. State's Exhibit No. 10.

21 MS. MONROE: I need to withdraw the

22 admission of 10 and 11 because it looks like he's not

23 finding those as well.

24 THE COURT: 10 and 11.

25 MS. MONROE: I'll withdraw for purposes

56

1 of this witness now State's Exhibits 10, 11, and 9 as

2 well.

3 THE COURT: Wait, hold on.

4 MS. MONROE: I'll withdraw at this point

5 because this is not the witness that can identify

6 them.

7 THE COURT: 8 he didn't have on the thumb

8 drive, but 9 he did.

9 MS. MONROE: So it would be 8, 10, and

10 11, I believe that I will withdraw. Well, 10 and 11

11 I'm going to withdraw at this time through this

12 witness.

13 THE COURT: Correct. 8 we still have

14 kind of admitted, but no foundation or anything laid

15 through him, so I think it's in limbo.

16 MS. MONROE: The ones that are in limbo

17 I'll have the other witnesses when we continue will

18 be testifying as to those.

19 BY MS. MONROE:

20 Q. So State's Exhibit No. 12.

21 A. I have it under adult\girlpics capital

22 NEW dash 47.jpg.

23 Q. This is 12. Okay.

24 So describe for me -- give me

25 again what you have it listed as.

1 A. Adult\girlpics\ capital NEW, N-E-W, dash 57
2 47.jpg.
3 MS. MONROE: So I'll have to amend that
4 count as well.
5 THE COURT: That's as to Count 11.
6 MS. MONROE: Correct.
7 No, I'm sorry, we're on Count 12
8 right now.
9 THE COURT: But that picture that you
10 just -- oh, no, that's little.
11 47, but with small caps is what's
12 alleged in your Count 11.
13 MS. MONROE: You're right, it is.
14 THE COURT: He just referenced it's all
15 caps NEW, but 47. So I don't know how you want to --
16 I'm just saying, it might be as to Count 11.
17 MS. MONROE: It's marked as State's
18 Exhibit 12, but it would go to Count 11. We'll just
19 do that.
20 BY MS. MONROE:
21 Q. Can you describe for me then State's
22 Exhibit No. 12 under NEW-47.jpg?
23 A. That's an image of what appears to be a
24 female under the age of 16. She has a male penis in
25 her hand touching the base of her mouth.

1 to be identified by another witness. 59
2 BY MS. MONROE:
3 Q. Now, these particular -- you just have
4 your -- so these were the images that you located
5 from the thumb drive, correct?
6 A. Correct.
7 Q. Now, after you had identified those
8 exhibits that we've admitted as child porn, what was
9 the next thing that you did?
10 A. I bookmarked those images and then just
11 did a basic report and turned all the information
12 over to Detective Tooley.
13 Q. When you say bookmarked, I'm not quite
14 sure what that is. What do you mean when you
15 bookmark the images?
16 A. Bookmarking is where I select an image, I
17 put a checkmark on it, and it puts that image with
18 all the information over into a report.
19 Q. Now, are you able to determine from the
20 thumb drive when those different things, items, the
21 personal information, and those pictures that we've
22 seen that have been admitted, when those would have
23 been put on the thumb drive?
24 A. It will give me dates and times of file
25 created and last accessed, but that just tells me

1 Q. And does she have both hands -- can you 58
2 tell if she has both hands --
3 A. Yes, both hands.
4 Q. State's Exhibit No. 13, Count 12 of the
5 Amended Criminal Complaint.
6 So showing you State's Exhibit
7 No. 13. What is the file name on that one, the image
8 file name?
9 A. File name is adult\girlpics\ capital
10 letters EURO dash 001.jpg.
11 Q. And can you describe for the record what
12 State's Exhibit No. 13 reflects?
13 A. It reflects six separate images of --
14 sorry, five separate images of what appears to be a
15 female under the age of 16. One image she's
16 performing oral sex on a male penis. Second image
17 she's performing oral sex while holding the penis.
18 Third image she's on all fours, naked, exposing her
19 genitalia and anus. Next pic she's laying on her
20 back with a male penis in her mouth. And the last
21 pic she's being penetrated anally from a male penis.
22 Q. You want to go ahead and see if you can
23 find State's Exhibit 14 for me?
24 A. That I do not have.
25 MS. MONROE: I will withdraw Exhibit 14

1 when it was put on that computer or on that thumb 60
2 drive.
3 Q. Let's go with the personal information
4 that you said that belonged to Anthony Castaneda.
5 When were those items put on that
6 thumb drive?
7 A. My report shows a file created date of
8 December 1 of '09.
9 Q. And when you say a file created date, I'm
10 sorry, not being computer literate I'm not real sure
11 what that means. What does that mean?
12 A. That just means that that's when that
13 was -- that image was put on that thumb drive.
14 Q. And those were those various items; the
15 Social Security card, the driver's license, the
16 certificates, were those all put on the same date or
17 were they put on at different dates?
18 A. Same date.
19 Q. I'm sorry, what was that date?
20 A. December 1 of 2008.
21 Q. Now, what about the girlpics, the
22 different exhibits that you have shown us and that
23 we've admitted that you recovered on the thumb drive;
24 do you have when those would have been put onto that
25 thumb drive?

1 A. Yes. And I have November 25 of '08. 61
 2 Q. November 25 of '08. That would have been
 3 before all of Mr. Castaneda's personal information
 4 was put onto the thumb drive, correct?
 5 A. Correct.
 6 Q. And all of those pics, all of those
 7 girlpics that we've looked at today in court, they
 8 were all put there on -- in November of '08?
 9 A. Yes.
 10 Q. And you said you found 56 images. We
 11 only really looked at probably about 10 that you were
 12 able to identify, and we didn't put them all in.
 13 Were you able to tell if all of
 14 those 56 images would have been entered at the same
 15 time?
 16 A. It appears that all these were on
 17 November 25 of '08.
 18 Q. Did you find any other files on the thumb
 19 drive or with that software that you were using or
 20 were you just pulling up images on that thumb drive?
 21 A. I was pretty much just looking for
 22 images, but I also looked into what's called the
 23 unallocated area where it won't have file names or
 24 extensions, but it will show what images were on that
 25 thumb drive and then were deleted.

1 Q. What did you find when you looked at 62
 2 that?
 3 A. I pretty much found some pornography,
 4 bestiality, and some of these images of child
 5 pornography.
 6 Q. Does that mean some of the child
 7 pornography had been put on the thumb drive, but then
 8 deleted at some point?
 9 A. Yes.
 10 Q. Does it say when they -- were you able to
 11 determine when they would have been deleted?
 12 A. No. Once it goes into unallocated,
 13 that's just an open area that doesn't get any
 14 identifiers.
 15 Q. Now, were you present when a search
 16 warrant was served at Mr. Castaneda's residence?
 17 A. Yes.
 18 Q. Do you remember what day it was that that
 19 search warrant was served?
 20 A. I'd have to look at the report.
 21 Q. Your report?
 22 A. No, for the search warrant it would be
 23 Detective Tooley.
 24 Q. I'm going to show you Detective Tooley's
 25 Declaration of Warrant Summons.

1 Could you review that and see if 63
 2 that refreshes your recollection as to what date the
 3 search warrant was served.
 4 A. That would be on April 7 of 2010.
 5 Q. And the address was 2205 Beverly Way in
 6 Las Vegas, Clark County, Nevada?
 7 A. Correct.
 8 Q. Now, you weren't responsible for
 9 obtaining the search warrant in any way; is that
 10 correct?
 11 A. Correct.
 12 Q. That would have been Detective Tooley?
 13 A. Yes.
 14 Q. So what was your role in going to that
 15 location when she had the -- when she actually had
 16 obtained a search warrant for that residence?
 17 A. Once the residence is secured and safe,
 18 then we enter, and my role would have been just to do
 19 a computer forensics preview of any of the digital
 20 media that we find there.
 21 Q. So when you went into the residence did
 22 you find any digital media that you were going to
 23 conduct a preview on?
 24 A. Yes, I did, a, what I believe was a
 25 shuttle. It's just called a shuttle. It was a mini

1 computer. 64
 2 Q. A shuttle?
 3 A. It's just a name.
 4 THE COURT: It was a shuttle means a
 5 what?
 6 THE WITNESS: It's just a name for a
 7 computer. It's just a computer. It's just the box
 8 that it's in. We call it a shuttle.
 9 BY MS. MONROE:
 10 Q. Was that the only computer that you
 11 actually looked at or previewed when you went to that
 12 location?
 13 A. Yes.
 14 Q. And when you preview it, what exactly do
 15 you do?
 16 A. Basically, I take my laptop and I attach
 17 it with my write blocker to the hard drive that's in
 18 that computer. So, basically, I pull the case cover
 19 off of that computer and then I attach my write
 20 blockers to that computer so, again, not to tamper
 21 with any of the evidence and no writing to that
 22 evidence. And then I just do a basic acquisition of
 23 the computer which just shows me generally what's on
 24 there at the time.
 25 Q. Now, when you did your preview of the

1 shuttle or the little computer, did you find 65
2 anything, any child porn?
3 A. Yes, I did.
4 Q. Once you found the child porn, what was
5 your role; what did you do then?
6 A. As soon as I locate anything that is of
7 evidentiary value, I go ahead and contact the
8 detective and tell them, look, this is containing
9 contraband, what you were looking for.
10 Q. And when you say you contacted the
11 detective, who would that have been?
12 A. Detective Tooley.
13 Q. And why would Detective Tooley be the one
14 that you contact?
15 A. She's the assigned investigator for that
16 case.
17 Q. So when you found child porn on this
18 shuttle, I'll call it a shuttle, you then just
19 basically let the detective, Detective Tooley know,
20 and you shut it all down, and was that computer taken
21 into evidence?
22 A. I let the detective know, and I left it
23 up for -- because she was doing an interview. So
24 when she came back in the residence is when I
25 informed her that there was child pornography on that

1 A. I'm not sure if it was previewed, but I 67
2 know it was left there, so to me that would tell me
3 most likely yes.
4 Q. And then you said there were two other
5 computers that were looked at. Where were those
6 computers located?
7 A. Another computer was in the living room,
8 and then there was an additional room that was in the
9 back of the house. It was kind of like an addition
10 area. They were all pretty much in the general area
11 of the living room.
12 Q. And you didn't preview those other two?
13 A. No.
14 Q. Do you know who previewed those other
15 two?
16 A. That would have been Detective Ehlers and
17 I want to say Detective Tafoya (phonetic).
18 Q. And so once they're previewed, then a
19 determination, if there's child porn found, the
20 determination is made to let the lead detective know
21 and that person will be responsible for impounding
22 those computers?
23 A. Yes.
24 Q. Do you know how many computers were taken
25 out of the residence to be examined later?

1 computer. 66
2 Q. Where was the computer that you looked at
3 located in the residence?
4 A. When you walk into the house it was on
5 the -- to my left of the residence, which was by the
6 kitchen area. So that would have been the
7 northwestern area of the house.
8 Q. But by the kitchen area?
9 A. Yes.
10 Q. And then did you see other computers in
11 the residence, even though you may not have previewed
12 them, did you locate other computers in the
13 residence?
14 A. Yes.
15 Q. Now, how many other computers were
16 previewed, if you know?
17 A. I think there was a computer that was
18 actually left there that was looked at that was a
19 college student's. And then there was two other
20 computers that were actually looked at.
21 Q. The computer that you thought was the
22 college student's, where was that located?
23 A. That was located in the first bedroom
24 that you enter on the right.
25 Q. Was that previewed?

1 A. I believe two were taken to be examined. 68
2 It could have been three. I'm not a hundred percent
3 sure.
4 Q. You know that the one that you previewed
5 would have been taken?
6 A. Yes.
7 Q. And there may have been another one or
8 two others that may have been taken?
9 A. Yes.
10 Q. To your knowledge was child porn found on
11 any other computers other than the one that you
12 previewed?
13 A. Yes.
14 Q. After you preview it and find it, what is
15 your role after it's turned over to the lead
16 detective?
17 A. After that it's turned over to the lead
18 detective, who's responsible for the chain of custody
19 impounding the computers, and after that they just go
20 through it and it gets submitted to our sergeant for
21 analysis.
22 Q. Now, did you play any role in the
23 analysis of the two, possibly three computers that
24 would have been taken from the Beverly residence?
25 A. No.

69

1 Q. Did you ever come into contact with a
2 person identified as Anthony Castaneda?

3 A. Yes, I did.

4 Q. When was that?

5 A. That was actually at the house at the
6 search warrant, day of the search warrant.

7 Q. And you said that -- I believe you said
8 that Tooley was out doing an interview?

9 A. Yes.

10 Q. And who was the person that she was
11 interviewing?

12 A. Mr. Castaneda.

13 Q. And then at some point Mr. Castaneda was
14 brought back into the house?

15 A. Yes.

16 Q. And that was when you saw him or at least
17 to identify him?

18 A. Yes.

19 Q. Do you see Mr. Castaneda, the person that
20 was brought into the residence when you conducted --
21 after you conducted your search warrant, do you see
22 that person here in court today?

23 A. Yes, I do.

24 Q. What I need you to do is describe an
25 article of clothing that person has on and where that

71

1 in this particular case, Detective Ramirez?

2 A. Yes.

3 MS. MONROE: I'll pass the witness, your
4 Honor.

5 THE COURT: Cross-examination.
6 MR. GELLER: Thank you, Judge.

7 CROSS-EXAMINATION

8

9 BY MR. GELLER:

10 Q. And, just to clarify, from his statement
11 he acknowledged that those were children, but did not
12 say that he was responsible for putting those picture
13 on?

14 A. No, he did not.

15 Q. You testified during direct examination
16 about the file creation dates. I'd like to make a
17 distinction. If I have a digital camera, let's say,
18 for example, I were to take a picture of, say, the
19 stapler that's on the desk here, would that digital
20 camera essentially put that information as to when
21 the picture was taken and embed that into the file?

22 A. No.

23 Q. So there would be no creation date
24 associated with when a picture was actually taken by
25 a digital camera?

70

1 person is located here in the courtroom.

2 A. Mr. Castaneda is sitting on the bench
3 right there, and he's wearing a blue smock top with
4 glasses, a little facial hair, and baldheaded and some
5 grayish hair on his head.

6 MS. MONROE: May the record reflect the
7 identification of the defendant?

8 THE COURT: Yes.

9 BY MS. MONROE:

10 Q. Did you ever have or show Mr. Castaneda
11 anything that you had recovered or located in the
12 residence on the computers?

13 A. Yes, I did.

14 Q. And how did that come up?

15 A. Detective Tooley entered the residence,
16 and I told her that I had found some images of what I
17 believed to be child pornography. She informed
18 Mr. Castaneda, and I can't remember exactly what he
19 said, but then -- so I said, well, I'm looking at
20 your computer through mine.

21 So I turned my laptop, and I said,
22 this is what's on your computer, and it was some of
23 the images, and he says, oh, yeah, those are kids.
24 And then he just said I'm sorry and that was all.

25 Q. Was that the extent of your involvement

72

1 A. No.

2 Q. So the creation dates that you testified
3 to, I believe you said were November of 2008; is that
4 correct?

5 A. Yes.

6 Q. And were those creation dates, did they
7 come down to the hour, minute, and second?

8 A. Yes.

9 Q. Are they all identical?

10 A. To the minutes, yes; seconds, no.

11 Q. And I'm going to have to ask you just for
12 in the interest of speed, we'll go through this
13 Count 1 through 15, if you could just give me that
14 information starting with Count 1 as to the --

15 THE COURT: You mean the exhibit?

16 MR. GELLER: I can give you a copy of the
17 Complaint.

18 THE WITNESS: I'd have to see the actual
19 image, because mine are numbered different than
20 yours.

21 BY MR. GELLER:

22 Q. Would it be possible if I give you the
23 file name, can you do it that way?

24 A. Yes.

25 MS. MONROE: Remember, he didn't have all

73

1 of them.

2 MR. GELLER: Right, but my understanding

3 is that he subsequently looked into the creation

4 dates.

5 THE WITNESS: On the ones that I said

6 that I identified as the ones that I saw.

7 BY MR. GELLER:

8 Q. Okay. So if you could start with the

9 first one you have and state the file name for the

10 record and give me the creation date.

11 A. The first file name that I have is

12 adult\girlpics\twogirls.jpg.

13 Q. What would --

14 THE COURT: Hold on. Without an 01, just

15 twogirls, right?

16 THE WITNESS: Yeah.

17 THE COURT: So that's Exhibit 5.

18 MS. MONROE: I don't think so. There are

19 more images on this than were admitted.

20 THE COURT: On what?

21 MS. MONROE: On his report. He's looking

22 at numerous images, and not all of them --

23 THE COURT: Here's the exhibits. They're

24 labeled on the back. So why don't we just start, for

25 sake of Exhibit 1, and you can skip, since they all

75

1 NEW-22.jpg?

2 A. File created 11-25-08, time 04:02:07 a.m.

3 Q. File creation for twogirls.jpg?

4 A. File created date 11-25-08, time

5 04:01:28 a.m.

6 Q. Do you have file the creation dated for

7 EURO-002.jpg?

8 THE COURT: Wait, hold on. I don't think

9 that's one we admitted.

10 MS. MONROE: It wasn't.

11 BY MR. GELLER:

12 Q. Okay. Do you have the file creation

13 dated for NEW-05?

14 MS. MONROE: That's Count 7, and I think

15 we withdrew 07.

16 THE WITNESS: I'm at No. 9.

17 THE COURT: Exhibit 9?

18 THE WITNESS: Yes.

19 BY MR. GELLER:

20 Q. Do you have a file creation for girl69?

21 A. Yes.

22 Q. What is that?

23 A. That is 11-25-08, time 04:01:38 a.m.

24 Q. Do you have a file creation date for

25 NEW-43?

74

1 came from the file adult\girlpics\ and just give us

2 file name, the tail end.

3 MR. GELLER: I didn't want to mess up.

4 Just read the file name; is that how we want to do

5 it?

6 THE COURT: I have as Exhibit 1 file name

7 twogirls01.jpg. What's the file creation date?

8 THE WITNESS: File creation date is

9 11-25-08, time is 04:01:28 a.m., 28 seconds.

10 BY MR. GELLER:

11 Q. All right. If you can move on to the

12 next one you were responsible for recovering.

13 MS. MONROE: Why don't you give him the

14 name on it.

15 MR. GELLER: Certainly.

16 Girlsondick06.bmp.

17 THE COURT: That's Exhibit 2.

18 MR. GELLER: Yes. Girlsondick06.bmp.

19 THE WITNESS: File created 11-25-08, time

20 04:01:42 a.m.

21 BY MR. GELLER:

22 Q. And you testified about girlondick08.jpg.

23 A. File created date 11-25-08, time

24 04:01:42 a.m.

25 Q. Do you have the file creation date for

76

1 THE COURT: Hold on. I think that was

2 withdrawn.

3 MR. GELLER: It may have been. Actually,

4 I did write down 10 and 11 withdrawn. It was a

5 little confusing for me.

6 MS. MONROE: It was confusing for me.

7 MR. GELLER: I'll move on to the one

8 featured in Count 12, which would be EURO-001.jpg.

9 MS. MONROE: I think that's Exhibit 13.

10 I think we got a little confused on this.

11 THE WITNESS: No. 12 I have --

12 THE COURT: It would be admitted 13.

13 EURO-001.jpg. Exhibit 13.

14 MS. MONROE: The five images.

15 THE WITNESS: You said EURO-001, correct?

16 THE COURT: Yes.

17 THE WITNESS: That is file created date

18 11-25-08, time 04:01:36 a.m.

19 BY MR. GELLER:

20 Q. Do you have the file creation date

21 NEW-33.jpg?

22 THE COURT: I think that was withdrawn.

23 THE WITNESS: No, my next one is 47,

24 NEW-47.

25 BY MR. GELLER:

1 Q. That's the next one you have? 77
 2 A. The next one.
 3 THE COURT: Exhibit 12 on the back?
 4 THE WITNESS: Yes.
 5 MS. MONROE: That's the one I'll have to
 6 amend, 47?
 7 THE WITNESS: Correct.
 8 THE COURT: Go ahead.
 9 THE WITNESS: File created date is
 10 11-25-08, time is 4:02:11 a.m.
 11 BY MR. GELLER:
 12 Q. Did you have occasion to examine the file
 13 creation dates with respect to child pornography
 14 located on other computers in the residence?
 15 A. No.
 16 Q. Presumably, that information does exist?
 17 A. Yes.
 18 Q. Would it be physically possible if the
 19 flash drives that were seized were actually
 20 manufactured in '09, would it be possible to have
 21 images with this creation date of 2008?
 22 A. Yes.
 23 Q. How is that possible?
 24 A. The last written date could be earlier or
 25 later. What happens is when that file is copied

1 Q. Did you acquire writing dates or written 79
 2 dates?
 3 A. All those dates are last written. The
 4 ones -- the dates that I have are file created date,
 5 last access date, and last written date. Those are
 6 the three main dates that I bookmark and copy.
 7 Q. So the dates that we just went over,
 8 correct me if I'm wrong, those were the creation
 9 dates?
 10 A. Correct.
 11 Q. So that would have been the date that the
 12 photos were originally taken from a digital camera
 13 and put onto somebody's computer?
 14 A. Correct.
 15 Q. Not necessarily Mr. Castaneda's?
 16 A. Correct. Any device. We're not sure
 17 what device at that point. As far as my examination,
 18 all I have is the thumb drive.
 19 Q. And then there's the written date?
 20 A. Correct.
 21 Q. And that would be the date that the files
 22 were transported from another source, such as the
 23 Internet, to Mr. Castaneda's thumb drive or computer?
 24 A. That would be the date that was actually
 25 written originally, and that's why if you copy it

1 over, that's when that date could be from the 78
 2 original one. So that's why you could show, say, an
 3 '06 created date or written date when it was -- when
 4 the created date is, say, even before that.
 5 Q. Let's go back to my stapler analogy, if
 6 we can. If I were to take a digital photograph of
 7 this stapler, let's say in the year 2006, and I put
 8 it onto -- on January 1, 2006, I transfer that image
 9 to a computer.
 10 A. Correct.
 11 Q. So January 1, 2006, that would be the
 12 creation date associated with the picture of that
 13 stapler?
 14 A. Correct.
 15 Q. And if I subsequently transferred that
 16 image to multiple devices on another computer, a
 17 thumb drive, so on and so forth, the original date
 18 that the file was transferred to the computer would
 19 be maintained as the creation date; is that right?
 20 A. The creation date will be maintained.
 21 The last written date will be the one that changed
 22 because that's when you're copying it over.
 23 Q. So there's something called a creation
 24 date and there's something called a written date?
 25 A. Correct.

1 over, it will keep that written date, but it can, 80
 2 like you said, if it was an '06 and now it's '07, and
 3 that thumb drive is bought in '07, but yet it shows
 4 an '06 date, that's why, because that date is from
 5 the original computer. So those last written dates
 6 will be on the -- or should be on whatever computer
 7 that it came from.
 8 Q. So the concept between a creation date
 9 and a written date is backwards?
 10 A. Yeah.
 11 Q. So the date that you just gave me would
 12 be considered the written dates?
 13 A. The dates I gave you, the 11-25-08?
 14 Q. Yes.
 15 A. That is the file created date. That's
 16 when that file was created on that thumb drive.
 17 Q. On the thumb drive.
 18 And then you have something that's
 19 called an access log that you can view associated
 20 with these?
 21 A. Last access.
 22 Q. You say last access. Does the access log
 23 or the last access log only allow you to determine
 24 the most recent time that an image was viewed or does
 25 it allow you to see each and every time an image was

1 viewed? 81

2 A. All that shows you is the last time that

3 thumb drive was accessed, that thumb drive was

4 plugged in somewhere.

5 Q. Just the thumb drive as a whole?

6 A. Correct.

7 Q. So, if I understand correctly, we're

8 going back to the analogy of the picture of the

9 stapler. If I had a picture of a stapler on my

10 computer and opened it up say on the 1st of the

11 month, 15th of the month, and the 30th of the month,

12 you would never be able to tell that?

13 A. No, you could do further analysis, but

14 from what the computer just generally gives you, it

15 will give you these three dates.

16 Q. You mentioned that that can be determined

17 from further analysis. Is that something that Metro

18 does?

19 A. Yes.

20 Q. Was that done in this case to your

21 knowledge that?

22 A. It would be whoever did the actual

23 examination on the computer, and I'm not -- depending

24 on what type of file it is, he might just be able to

25 tell how many times that was opened and not exactly

1 the exact dates that that file was opened. 82

2 Q. Is it standard procedure within Metro to

3 perform that analysis to determine when pictures --

4 A. We pretty much just see if that file was

5 just accessed and get the basic last written,

6 created, and access dates.

7 Q. But it sounds like from your testimony

8 Metro has the capability to determine each and every

9 time it was opened?

10 A. Capability, whether you can get it or

11 not, it depends on the software.

12 Q. In this case the operating system was

13 Windows NT; is that right?

14 A. I'm not sure what operating system he had

15 on those machines because I didn't do the actual

16 computers.

17 Q. With respect to the last access log, were

18 all the dates the same with respect to all of these

19 images?

20 A. Yes.

21 Q. What was the date of the last access?

22 A. The last access, that's the last time the

23 thumb drive was accessed, that was 02-07-2010.

24 Q. If I understand you correctly, and I

25 apologize if I keep repeating myself here, you're not

1 aware of what instances these pictures may have been 83

2 viewed prior?

3 A. No.

4 Q. During your analysis of the computers,

5 did you determine if there were any files that were

6 encrypted on the computer -- on the flash drive

7 rather?

8 A. No.

9 Q. Is that something that typically you will

10 look for, encrypted information?

11 A. I'd be able to see it right away. In

12 this case I didn't see anything that was encrypted.

13 Q. What is it that you can see on the

14 computer that indicated to you that there's encrypted

15 information?

16 A. If I have a zip drive and I try to open

17 the zip drive, it will prompt me for a password.

18 Q. You mentioned that there was also a file

19 path. I believe it was adult\girls, something to

20 that effect?

21 A. Yes.

22 Q. Is your analysis able to determine when

23 that file path was created?

24 A. Not on the thumb drive.

25 Q. Not on the thumb drive?

1 A. No. 84

2 Q. Can it be done with respect to the

3 laptops or desktop computer; for instance, the

4 shuttle?

5 A. That would be hard to say when the actual

6 folder was actually created. You know, you couldn't

7 really pinpoint when that photo was created exactly

8 at this time, so -- and it depends on if that folder

9 was created and moved to other places or -- it would

10 be hard to determine that, when the actual folder

11 was created.

12 Q. When you get this information with

13 respect to a picture, are you simply right clicking

14 on it and hitting properties and reading what else is

15 displayed in properties or is the analysis more in

16 depth than that?

17 A. No, the actual program we use does --

18 that actually pulls up all the dates and times of

19 that picture and it puts them in what's called a

20 gallery so we can view them in their natural state.

21 So we can export the picture, copy

22 out the picture, and then look at it from -- with a

23 different viewer, but technically we pretty much just

24 look at it the way the computer shows it to us and

25 it's supposed to be the way it's seen on his.

85
1 Q. Now, did you have any information with
2 respect to your analysis of the shuttle that that
3 computer had ever been reformatted?

4 A. No.

5 Q. Is that something that Metro can
6 determine?

7 A. We can tell what programs have been on
8 there. Typically, that detective would have looked
9 at the registry files.

10 Q. During the search phase of the
11 investigation, did one of the computers to your
12 knowledge not have a power supply associated with it?

13 A. I'm not sure.

14 Q. If you know, were the images that were on
15 the thumb drive in the exact same file path located
16 on the other computer, the shuttle?

17 A. I believe they were, but, like I said,
18 I'd have to look at the report and verify that.

19 Q. Is that information you have there?

20 A. No. That would be Detective Ehlers.

21 Q. During the course of your investigation,
22 did you come across any information that would
23 suggest Mr. Castaneda was a member of a child
24 pornography website that distributes this type of
25 information?

86
1 A. No.

2 Q. Is that something that Metro investigates
3 on these types of cases?

4 A. On the main computers we would look at
5 all his cookies and all the websites that he did go
6 to. And we do look for just general, we do what's
7 called an Internet history search and see what he's
8 actually gone to, what search terms he's put in for,
9 what he's actually looking for, yes.

10 Q. You're not personally aware of any
11 evidence --

12 A. I didn't conduct that part of the
13 investigation.

14 MR. GELLER: Court's indulgence for just
15 a moment.

16 BY MR. GELLER:

17 Q. Are you aware of what year the shuttle PC
18 was manufactured?

19 A. No.

20 Q. Were you aware of what year the Dell was
21 manufactured?

22 MS. MONROE: Your Honor, I'm going to
23 object. There was no testimony that a Dell computer
24 was found, so --

25 THE COURT: Sustained.

87
1 THE WITNESS: Like I said --

2 THE COURT: There's no question pending.

3 MR. GELLER: I apologize.

4 BY MR. GELLER:

5 Q. What I meant to ask you was are you aware
6 of when the operating system was installed on the
7 shuttle?

8 A. I didn't do the shuttle, and since I did
9 just basic preview, that would be more into my full
10 analysis, then I would do a Windows initialization
11 and see when the operating system was actually
12 installed and the dates and times of that, and that's
13 through the Windows registry also.

14 Q. Is that something that would be normally
15 done by Metro?

16 A. We do that, but not for preview.

17 Q. Were you able to determine during your
18 analysis whether or not the entire folder and file
19 path was copied in one transfer as opposed to the
20 file being placed one by one into that particular
21 folder?

22 A. I would have to be the one that did the
23 actual computer, so . . .

24 MR. GELLER: I apologize, Judge.

25 THE COURT: I think what he testified to

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1 is he only forensically analyzed his drive and only
2 previewed one or two computers in the home.

3 THE WITNESS: I previewed one.

4 THE COURT: One.

5 So he didn't forensically analyze
6 any of the stand-alones or any of the laptops. I
7 think your questions are more directed at the
8 forensic analysis of those computers, not previews.

9 MR. GELLER: I think you're right. We'll
10 pass the witness.

11 THE COURT: I have one question.

12 EXAMINATION

13 BY THE COURT:

14 Q. On the flash drive that you forensically
15 analyzed, you said you found identifier images and
16 then you found these other pornography, child
17 pornography and bestiality images, I think you said.

18 Did you find any other types of
19 images, generic images, vacation images, family
20 images, anything?

21 A. There's pretty much I'd have to look at
22 the whole drive again or the thumb drive again.
23 Typically, you'll have Windows based images.

24 Q. Right, those sample things?

1 A. Yeah. 89
2 Q. Any other more personalized images that
3 could be attributed to an owner?
4 A. Just the images of the ID cards that I
5 found, driver's license.
6 Q. Other than those?
7 A. No, I don't think I found any documents.
8 Typically, I would look for
9 documents, personal resumés and things like that, and
10 the only thing I found was the certificates for his
11 degree.
12 Q. So other than the, what we're calling the
13 identifier images, other than the pornographic images
14 and the sample images that the computer puts on there
15 or whatever, there was no other images that you can
16 remember in that gallery?
17 A. Not just the general stuff. I'd have to
18 go back and actually look at it and see.
19 Q. But you don't remember anything?
20 A. No.
21 THE COURT: All right. Redirect.
22
23
24
25 REDIRECT EXAMINATION

1 the true date that that file was actually put on that 91
2 computer.
3 Q. And do you have the written dates?
4 A. Yes.
5 Q. And I don't think -- we didn't go through
6 those, did we?
7 A. No.
8 Q. Those are different from the created
9 dates?
10 A. Yes.
11 Q. Let's go through the written dates then.
12 A. The first one I have is Exhibit No. 1,
13 and it's twogirls01.jpg, and the last written date is
14 08-09-07 with a time of 7:29:14 a.m.
15 Exhibit No. 2 I have it as
16 girlondick06.bmp. That is last written 08-13-07,
17 time 10:07:54 p.m.
18 Exhibit No. 3 I have as
19 girlondick08.jpg, last written 08-13-07, time
20 10:09:00 p.m.
21 Exhibit No. 4 I have as capital
22 NEW-22.jpg, last written 08-11-07, time 01:03:18 a.m.
23 Exhibit No. 5 I have as
24 twogirls.jpg. Last written date is 08-09-07, time
25 7:30:54 a.m.

1 BY MS. MONROE: 90
2 Q. Just a couple, because I got a little
3 confused on the creation date and the written date.
4 What is the creation date? Not
5 this specific. What is it in general; what's the
6 creation date?
7 A. It's just basically when that file was
8 created.
9 Q. When you say when that file was created,
10 that would have been the person who was actually
11 photographing the child in person and then putting
12 that picture out there; is that what you mean by the
13 creation date?
14 A. No, on his machine.
15 Q. On his machine. So when -- if that's
16 Mr. Castaneda's thumb drive with his identifiers on
17 it, the creation date is the date that he would have
18 downloaded those images onto that thumb drive?
19 A. They were put on that machine or that
20 thumb drive, yes.
21 Q. And then there was a written date, and
22 what was that?
23 A. A written date is -- it's kind of
24 strange. People get confused with the file created
25 date and the last written date. The written date is

1 Exhibit No. 9 I have as capital 92
2 GYRL69.jpg. Last written time is 08-09-07, time is
3 6:29:02 a.m.
4 Exhibit No. 13 I have as
5 EURO-001.jpg. Last written is 02-07-10, time
6 10:03:54 p.m.
7 In Exhibit No. 12 I have as
8 capital NEW-47.jpg. Last written is 08-11-07, time
9 is 01:15:20 a.m.
10 Q. So when you say the written dates on the
11 computer, that's the time that they would have
12 actually been downloaded onto a computer, not on this
13 flash drive?
14 A. Correct.
15 Q. And then the created dates are the dates
16 that those photographs would have been downloaded
17 onto the thumb drive or flash drive?
18 A. Correct.
19 Q. And I think that is all that I had for
20 you.
21 Let me ask you this. You said
22 that you were familiar with some of these images.
23 Why is that?
24 A. Just through the training and through the
25 amount of cases that we've gone through and what we

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1 do is we send all the images we find on the computer
 2 that we believe are of child pornography and we send
 3 them to the National Center For Missing And Exploited
 4 Children. They have a database there and they also
 5 physically look at the images and they identify which
 6 of those images are known images, which images are
 7 series, and which are of minor children.

8 Q. So some of these images you've actually
 9 seen in other investigations?

10 A. Correct.

11 Q. So how would somebody go about getting
 12 these images to download onto their computers, series
 13 of these images that you've seen on more than one
 14 occasion?

15 A. Most popular right now is through Live
 16 Wire, but there are other -- you can go to Russian
 17 sites that are not under our control in the States.
 18 So you can go to UK sites, .RU, .UK sites and
 19 download some of these images.

20 Q. Now, I know you did not do the forensic
 21 analysis of the actual computers, but the person, if
 22 you were the one doing it, would you have been able
 23 to tell how these sites would have been downloaded on
 24 the computer? Does the computer store that
 25 information?

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1 A. I would have just been able to tell what
 2 sites he actually went to.

3 Q. You can tell that on the computer?

4 A. If I'm searching for -- if that's in my
 5 search warrant of what I need to look for, then yes,
 6 I would look for that. If that's what I'm asked to
 7 look for.

8 Q. Now, the identifiers that we talked
 9 about, identifiers that you said also contained
 10 Mr. Castaneda's information, what exactly, what
 11 identifiers did you actually find?

12 Look at your images and go through
 13 exactly what images you found.

14 A. I found one image that contained three
 15 identification cards. One was his Nevada
 16 identification card. The other was a Rebel card. A
 17 University of Nevada Las Vegas card. And his faculty
 18 staff ID card. And another one was the Social
 19 Security card with the name Anthony Castaneda.

20 Q. Now, on those three can you tell what the
 21 creation date is on those?

22 A. The file created date on those was 12-01
 23 of '08.

24 Q. What about the written date?

25 A. Last written date was 4-25 of '06, time

95

1 11:38:01.

2 THE COURT: What was the written date?

3 THE WITNESS: 4-25 of '06.

4 And I bookmarked two other
 5 documents. One was a California State, Fresno,
 6 Degree of Bachelor of Science to Mr. Anthony
 7 Castaneda. And that last written date was also
 8 4-25-06 with a time of 11:2 -- I'm sorry,
 9 11:02:34 a.m.

10 BY MS. MONROE:

11 Q. What was the creation date?

12 A. 4-25 of '06.

13 Q. So that document went on that thumb drive
 14 on the 4-28-06?

15 A. 4-25 of '06, but it actually went on --
 16 the file created date on that was 12-01-08.

17 Q. I thought that was the creation date?

18 A. I'm sorry, the creation date is 12-01-08,
 19 and the last written was 4-25 of '06.

20 Q. Then what was the other identifier?

21 A. The last identifier was an Army diploma.

22 Q. Is that also in the defendant's name?

23 A. Yes.

24 Q. What is the creation date on that?

25 A. The creation date, file created date was

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1 12-01-08, time 02:57:27 a.m. The last written date
 2 was 4-25-06, time 11:03:36 a.m.

3 Q. When you say the last written date, I
 4 thought that was just one date. What do you mean the
 5 last written date?

6 A. The last written date is basically when
 7 it was put on the actual computer.

8 Q. So it's kind of the written date, it's
 9 not the last written date?

10 A. They just list it as the last written
 11 date.

12 MS. MONROE: All right. That's all I
 13 have. I'll pass the witness.

14 THE COURT: Any other questions?

15

16 RE-CROSS-EXAMINATION

17 BY MR. GELLER:

18 Q. I just wanted you to reconcile, maybe the
 19 created date are misnomers because the dates that you
 20 just gave me or you gave us, it sounds to me like the
 21 created date is more recent in time than the written
 22 date?

23 A. Correct.

24 Q. So would you say those are just misnomers
 25 because that's kind of confusing?

1 A. The last written date, if it's different 97
2 than the file created date, means that that file was
3 copied or moved. So in this case I'm investigating a
4 thumb drive. So when I see that date, that's exactly
5 what it tells me. If I see a date that's way before
6 the created date, that just tells me, okay, that file
7 was definitely moved from another computer to this.
8 Q. So when I see the word created, I could
9 probably input copied or moved to ease my
10 understanding?
11 A. Written would be copied and moved.
12 Created would be that's when that was created on that
13 thumb drive, on that device, whatever the device is.
14 NR: GELLER: Thank you. No further
15 questions.
16 MS. MONROE: Nothing.
17 THE COURT: Thank you very much.
18
19 (Witness excused)
20
21 Did you talk to your witnesses
22 about when you want to resume on Thursday?
23 MS. MONROE: Let me talk to them real
24 quick.
25

1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP 99
2 COUNTY OF CLARK, STATE OF NEVADA
3
4 STATE OF NEVADA,
5 Plaintiff,
6 vs.
7 ANTHONY CASTANEDA,
8 Defendant.
9
10
11 STATE OF NEVADA } SS
12 COUNTY OF CLARK }
13
14 I, Gerri De Lucca, a Certified Shorthand
15 Reporter within and for the County of Clark and the
16 State of Nevada, do hereby certify:
17 That REPORTER'S TRANSCRIPT OF PROCEEDINGS
18 was reported in open court pursuant to NRS 3.360
19 regarding the above proceedings in Las Vegas Justice
20 Court, 200 Lewis Avenue, Las Vegas, Nevada.
21 That said TRANSCRIPT:
22 X Does not contain the Social Security
23 number of any person.
24 _____ Contains the Social Security number
25 of a person.

1 (Discussion off the record.) 98
2
3 THE COURT: These are the more
4 significant witnesses. I thought he was supposed to
5 be the easy one.
6 MS. MONROE: He was.
7 THE COURT: I suggest we start at 1.
8 Okay, thank you.
9 MS. MONROE: Thank you, your Honor.
10
11 (Preliminary hearing continued to
12 Thursday, April 14, 2011 at 1:00 p.m.)
13
14 ---000---
15 ATTEST: Full, true and accurate transcript of
16 proceedings. *Gerri De Lucca*
17 GERRI DE LUCCA, C.C.R. NO. 82
18
19
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1 ---000--- 100
2 ATTEST: I further certify that I am not interested
3 in the events of this action. *Gerri De Lucca*
4 GERRI DE LUCCA, C.C.R. NO. 82
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Exhibit 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

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EVENT #: 100208-1406

SPECIFIC CRIME: POSSESSION CHILD PORNOGRAPHY

DATE OCCURRED:

TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS

CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: TAMMY HINES

DOB: 11-18-67

SOCIAL SECURITY #:

RACE:

SEX:

HEIGHT:

WEIGHT:

HAIR:

EYES:

WORK SCHEDULE:

DAYS OFF:

HOME ADDRESS: 5576 W. ROCHELLE #10D, LV NV
89103

HOME PHONE: 702-771-9600 - Cell

WORK ADDRESS:

WORK PHONE:

BEST PLACE TO CONTACT:

BEST TIME TO CONTACT:

The following is the transcription of a tape-recorded interview conducted by DETECTIVE TOOLEY, P# 6224, LVMPD ICAC Detail, on FEBRUARY 8, 2010 at 1027 hours.

Q: Operator, this is Detective Tooley, P. number 6224, conducting interview under event 100208-1406. The date is... February 8th, 2010. Time is approximately 1027 AM. Place of interview is in my vehicle outside of 620 Belrose. I'm speaking with Tammy Hines, H-I-N-E-S. Her date of birth is 11-18-67. She resides at 5576 West Rochelle Avenue, apartment number 10D, as in David, Las Vegas Nevada 89103. Her cell phone number is 771-9600. Um... Tammy, can you tell me why we're talking today?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

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EVENT #: 100208-1406

STATEMENT OF: TAMMY HINES

A: I was (sighing)... living from November 23rd until – November 25th, 2009 until February 3rd, 2010 at 2205 Beverly Way, Las Vegas, Nevada 89104, with a gentleman named Anthony Castaneda (spelling not given). Um, I–it was only supposed to be for a few short days, but he had lost his job and was short on money and he asked if we would help him out with rent, etc, etc. Uh, couldn't wait to hurry up and find my place, which I did and I moved on February 3rd. In my move, I wound up with his flash drive in the midst of my stuff. Didn't realize it until Saturday, which would be the 6th of, uh, February 2010, and I actually figured I had it and I was gonna use it–

Q: What did this, uh, flash drive look like?

A: –It is a eight gig flash drive with red on it and silver and black, uh with a little clip piece on the end. Um...in opening the flash drive, it has all sorts of information, birth certificate, identification, all of his prominent information, even things with Houston, Texas, his military experience–

Q: What's his name again?

A: –Anthony Castaneda. Um...Also in there are a lot of files of pornography, adult pornography, pornography with animals, um, and pornography with children.

Q: When you say files were these, um, folders that had, um–were they titled something–

A: –They're folders and each of them are titled. (Mumbling) There's two of them, one's titled girls or girlie, um, I can't remember the exact way but you would know that

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these are not adult files on those actual files. I will tell you I did look at the files because I have four, four daughters...two, they're 18, one is 13, one is seven, and I was-I was-I needed to know if they were any of my children in any of those, which there are none.

Q: Ok.

A: However, there are small children, small children that don't even have boobs developed, or hair on their vaginas. They're standing there naked. Um, there's children with, uh, dresses on with no underwear, their skirts up. There's a-the one girl in particular I remember her face, uh, she has long blonde hair, um, very young, no boobs, no hair developed and has a penis in her face, has also one in her mouth, and I was horrified looking at these-

Q: Are these two separate images one with the penis to her face and one with the penis in her mouth? (Both talking)

A: Yeah, yeah, yeah.

Q: And she had blonde hair you said?

A: Blonde hair, long hair, very young child. I-I-have never-

Q: How old would you say-based on your-you-you said you have four daughters-how old would you say she is?

A: No more than eight.

Q: Ok.

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STATEMENT OF: TAMMY HINES

A: If that.

Q: Did you see her genitals?

A: Um...yes. There's pictures of her laying on the bed naked. Um, there's pictures of her um, on her knees with her butt in the air. Yes, there-it's very graphic. I'm very sick at what I saw.

Q: Ok. So, other than the, um...(mumbling) just, uh recap a little bit. You said you-there's-there's definitely-you (mumbling) two images where, um, a blonde haired girl approximately eight years old is, uh, is she standing or kneeling or laying down with the-with the penis in the picture?

A: I can-I don't really remember.

Q: Ok. But one of the pictures has a penis next to her face?

A: Yes.

Q: And the other picture its-the penis is in her mouth?

A: Yes.

Q: Can you see the adult in it?

A: No.

Q: Ok, just his penis?

A: Just his penis.

Q: Ok. And then another image you described is a girl-is it the same girl or different girl or you're not sure?

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STATEMENT OF: TAMMY HINES

A: Um-

Q: The one where she's, uh, on her knees, uh, with her butt in the air?

A: A lot of-a lot of these pictures are of this one girl. There are other girls in there, but I believe the one laying on the bed is-is her as well.

Q: Ok. And when you say she's on the knees with her butt in the air, are her genitals--

A: --Yes--

Q: --Exposed?

A: Yes.

Q: So, and then another image you said-where there was a girl standing with her dress pulled up?

A: There's a girl sitting on what resembles a step with her, she's wearing I believe it's a red flowered dress with no underwear on, and its pulled up and her genitals are exposed.

Q: Ok. Are her legs spread open or just (Both talking)

A: Open, open.

Q: Ok. Um...How many images would you say there were on that-in that one-was it that folder that was titled girls, girlie or something?

A: It's the girlie or girls or something, and there are hundreds of pictures.

Q: Ok, are they all similar pictures?

A: Similar in-in-yeah, they are, they're--

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Q: Are most-are most-are most of the pictures of children, um, with their genitals exposed, and or engaged in sexual acts, or--

A: --Yeah, yes.

Q: Ok. Alright. And...you said also that there was also folders of adult pornography as well and bestiality?

A: Yes.

Q: Ok. Um, are there any other pictures that stood out in your mind, that you can remember?

A: No, none that I can think of. But I-I'm so sick about this, I can't even focus on anything more. I-I-I don't remember anything

Q: How do you know Anthony?

A: I met Anthony when I was with my children, um, my-at a weekly, uh, about two years ago on, uh, West Tropicana. And-And-when, um, let me see...West Tropicana located across from the Wild Wild West Hotel and Casino--

Q: Ok.

A: And, uh, I met him and all the kids became close with him, and I should have-all the red flags should have come up because everybody calls him Uncle Tony and he's always buying the kids things, always having candy. I should have put two and two together, but I...had my blinders on.

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STATEMENT OF: TAMMY HINES

Q: Ok. Um, these images that you saw, did they look, uh, dated? Like, did they-did it look like current pictures, like today? Like if you would have taken (sic) a picture of your daughter, or do they like they may be a little bit older or taken from the Internet?

A: Um...if I had to guess I would think that they were taken from the Internet, but I-I don't think that they're-it's not of anyone I know or that knows him personally. I would think it's something that he either got from somebody else or downloaded from the Internet.

Q: Ok. In any of the pictures do you notice any, um, any writing on any of the pictures like letters--

A: --No.

Q: Ok. Um--

A: There's a brick wall on-in the background on one of them. Um, nothing that I can really stands out except that brick wall. That brick wall drives-drove me crazy, I don't know what it was.

Q: And then, back to, like, how old you think the pictures look. Um, do you think they look like they were taken in the last couple of years, they look a little bit older? Just by, like, the clothes or the coloring of the picture?

A: Um...I'm not sure.

Q: Ok. That's ok. Um...So, Anthony's house, it-it's a-it's-it's a-is it a one story or two story?

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A: Anthony's is a one story house--

Q: --How many bedrooms does it have?

A: It has three bedrooms. He has a-his main computer-he defines himself as a computer engineer, he used to work for Unisys for many years. Um, he has a desktop is his main computer, and he also has four laptops in his house.

Q: Ok. Where is the desktop located?

A: The desktop is located in his living room on the closest entrance to the kitchen, and he has two other laptops out in the living room as well. Um, one where the bar sits, one next to bar, and then he has one in the front bedroom that's the closest to the front door, and one in his bedroom.

Q: Ok. And...do you know th-do you know what kind of laptops they are, like what brands, or are they just different ones?

A: Um, different ones. But no, I don't. I don't really know.

Q: And when you were living with him which computer did he use primarily?

A: Primarily its his l-his desktop that he sits at. And he's up all hours of the night.

Q: Ok. And, uh, so it's a three bedroom house, um, does it-how many bathrooms does it have?

A: It has two.

Q: Ok. Are there any, uh, security screen doors on the front door, or?

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STATEMENT OF: TAMMY HINES

A: There's just a screen door on the front door and nothing, I mean it doesn't lock, doesn't, it's kinda rigid (Both talking)

Q: Ok. And, uh, any dogs or cats, or?

A: No dogs, no cats.

Q: Ok. And as far as you know, does he have any weapons?

A: No. Not to my knowledge he doesn't.

Q: Ok. Um--

A: --I know he's ex-military. Um, I don't know too much about that except that he was, like, in the medical side of that. Uh, something with helicopters and airplanes as well.

Q: Ok. And you said, um, on the thumb when you opened it up it had personal identifiers on him, such as--

A: --Such as birth certificate, driver's license, social security card. Um, it has a lot of certificates of his classes he's completed. Um, such as his, uh, uh, he was a not a-- no I don't know that it was a paramedic, he was an EMT, he had different classes in computers. It's like he has pictures of all of his certificates on there.

Q: Ok. And do you know Anthony's date of birth?

A: I know Anthony's month and...date, but I do not recall his year off the top of my head (Both talking).

Q: Ok. What's his month and date?

A: April 24th.

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Q: And about how old is he?

A: He's-he tells everyone 52, but do the math, it doesn't look right on his birth certificate. Uh, I-cause if I were to remember I would think it said the year 1952 or 54 on his birth certificate.

Q: Ok. So he's in his, probably late 50s, mid 50s?

A: Yes, he is?

Q: Ok. And what kind of car does he drive?

A: He has a red, uh, Astro van that's sitting in the driveway right now with-on axles, because he was trying to fix his breaks that he's been trying to do for two months now.

Q: Ok. And um...

A: The plates are actually Iowa plates, they're not Las Vegas plates.

Q: Does he own the residence at Beverly Way or does he-

A: -No, he rents.

Q: Ok. And does anybody else live with him?

A: Um, not anymore. But I know that people are getting ready to move in. His friend Peggy and the three girls will be moving in there with him by the end of this month.

Q: Ok. Do you know Peggy's last name?

A: Uh, I do. Jackson.

Q: Peggy Jackson?

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- A: Peggy Carney (spelling not given) Jackson is what she goes by.
- Q: Ok. And, um, how old are her girls?
- A: One is 18, her name is Mariah (spelling not given), she's pregnant and due this month in February, and the other two girls' names are Allie and Angie, and one is 14 and one is 12.
- Q: Ok. And when are they supposed to move in that you know?
- A: The end of this month. At the end of February.
- Q: Ok. And--
- A: --Peggy needs major surgery and she is unable to upkeep her place and everything with having the three girls, so Tony is gonna have her move in with him.
- Q: Ok. Um, when you walk in the house which room is Tony's?
- A: When you walk in the house, you're directly looking at the living room, so you would turn to the right and his bedroom is the last door on the left.
- Q: Ok. Alright, I think that's all the questions I have. Um, (mumbling) the statement...

THIS VOLUNTARY STATEMENT WAS COMPLETED AT 620 BELROSE ON THE 8TH DAY OF FEBRUARY, 2010 AT 1039 HOURS.

ST:rl
(Reviewed by Claudia Sutton, P. #7863)

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APPELLANT'S APPENDIX VOLUME I PAGES 001-248

PHILIP J. KOHN Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 CATHERINE CORTEZ MASTO Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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CATHERINE CORTEZ MASTO	AUDREY M CONWAY
STEVEN S. OWENS	HOWARD S. BROOKS

ANTHONY CASTANEDA
370 E. Harmon #H305
Las Vegas, NV 89169

BY [Signature]
Employee, Clark County Public Defender's Office

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Respondent.

Electronically Filed
Jun 03 2014 08:47 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME I PAGES 001-248

Counsel for Respondent

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Case No. 64515

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FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

MAR 4 9 50 AM '11

1 THE STATE OF NEVADA,

2
3 Plaintiff,

4 -vs-

5 ANTHONY CASTANEDA,

6 Defendant.

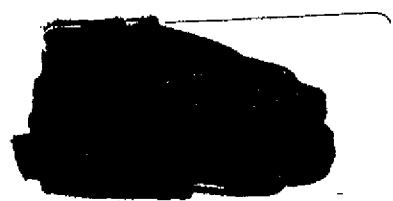
JUSTICE
LAS VEGAS, NEVADA
BY _____

DEPUTY CASE NO: 11F03995X

DEPT NO: 12

FILED UNDER SEAL

8
9 All materials, except the Criminal Complaint, are being filed under seal in obedience
10 to Section 239B.030 of the Nevada Revised Statutes and pursuant to the Order issued by the
11 Honorable Douglas E. Smith, signed December 28, 2006.
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FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

MAR 4 9 50 AM '11

1 THE STATE OF NEVADA,

2
3 Plaintiff,

4 -vs-

5 ANTHONY CASTANEDA,

6 Defendant.

JUSTICE COURT
LAS VEGAS, NEVADA
BY _____

DEPUTY CLERK CASE NO: 11F03995X

DEPT NO: 12

CRIMINAL COMPLAINT

7
8
9 The Defendant above named having committed the crime of POSSESSION OF
10 VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Felony -
11 NRS 200.700, 200.730), in the manner following, to-wit: That the said Defendant, on or
12 between November 25, 2008 and April 7, 2010, at and within the County of Clark, State of
13 Nevada,

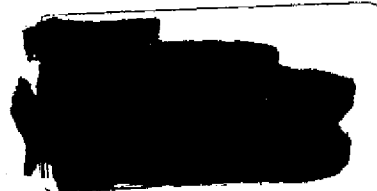
14 COUNT 1

15 did then and there feloniously, knowingly and willfully, have in his possession a
16 film, photograph, or other visual presentation depicting a person under the age of 16 years as
17 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
18 in or simulate sexual conduct, to-wit: Image File Name: 2 girls01.jpg, described as: Image
19 depicts two nude prepubescent female children. One child is lying on her stomach with her
20 buttocks in the air. There is a nude adult male who is penetrating the child's genitals with his
21 penis and his left thumb in between the child's buttocks. The other child is positioned to the
22 left of the first child and has her left arm draped around the first child. The second child's left
23 hand is on the first child's right buttock's cheek. The second child's head is positioned over
24 the buttocks' of the first child. The second child has her mouth open with what appears to be
25 ejaculate dripping out.

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1 COUNT 2

2 did then and there feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: girlondick06.bmp, described as:
6 Image depicts a prepubescent female child pictured from the neck up. There is an adult
7 male's penis next to the child's mouth. There is ejaculate coming from the penis and on the
8 child's mouth, chin and cheek.

9 COUNT 3

10 did then and there feloniously, knowingly and willfully, have in his possession a
11 film, photograph, or other visual presentation depicting a person under the age of 16 years as
12 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
13 in or simulate sexual conduct, to-wit: Image File Name: girlondick08.bmp, described as:
14 Image depicts a partial view of a nude adult male and a prepubescent female child from the
15 neck up. The adult male has his left hand on his penis and has the tip of his penis inserted
16 into the child's mouth. The child has her hands on either side of the penis.

17 COUNT 4

18 did then and there feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: NEW-22.JPG, described as: Image
22 depicts an adult male penetrating the vagina of a prepubescent child. The image appears to
23 be shot from a close distance and neither shows the heads nor the majority of either person's
24 torso.

25 COUNT 5

26 did then and there feloniously, knowingly and willfully, have in his possession a
27 film, photograph, or other visual presentation depicting a person under the age of 16 years as
28 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage

1 in or simulate sexual conduct, to-wit: Image File Name: 2girls.jpg, described as: Image
2 depicts two nude prepubescent children and a nude adult male, standing, visible from the
3 lower stomach down. The children are positioned on either side of the adult male. Both
4 children are performing fellatio on the adult male.

5 COUNT 6

6 did then and there feloniously, knowingly and willfully, have in his possession a
7 film, photograph, or other visual presentation depicting a person under the age of 16 years as
8 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
9 in or simulate sexual conduct, to-wit: Image File Name: euro-002.jpg, described as: This
10 image has 6 images depicting a prepubescent female child with blonde hair. The first image
11 depicts the child laying on a bed with pink pants pulled down to her knees and a black dog
12 collar around her neck. The second image depicts the child nude, holding her legs open
13 exposing her genitals. The third image depicts the child on the bed leaning against a nude
14 adult male who has his arm placed around the child. The fourth image depicts an adult male
15 straddling the child with his penis next to her mouth. The fifth image depicts the child on her
16 stomach with the adult male placing his penis between the cheeks of the child's buttocks.
17 The last image depicts the adult male penetrating the child's vagina with his penis. The child
18 is positioned on her back with her hands covering her eyes.

19 COUNT 7

20 did then and there feloniously, knowingly and willfully, have in his possession a
21 film, photograph, or other visual presentation depicting a person under the age of 16 years as
22 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
23 in or simulate sexual conduct, to-wit: Image File Name: new-05, described as: This image
24 has 7 images within. The first image depicts 3 clothed prepubescent female children standing
25 with their arms around each others shoulders. Two of the images show a prepubescent
26 female child (different child in each image) performing fellatio on an adult male. One image
27 depicts a nude prepubescent female child lying on her back with her legs spread open. There
28 is a second prepubescent female child with her mouth near the first child's vagina. Another

1 image depicts a nude prepubescent female child lying face down on a bed with her buttocks
2 raised up exposing her genitals. One image depicts a female child lying on the bed with what
3 appears to be ejaculate on her face. Another image depicts an adult male inserting his penis
4 into the vagina of a prepubescent child.

5 COUNT 8

6 did then and there feloniously, knowingly and willfully, have in his possession a
7 film, photograph, or other visual presentation depicting a person under the age of 16 years as
8 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
9 in or simulate sexual conduct, to-wit: Image File Name: new-35, described as: This image
10 depicts a nude prepubescent female child performing fellatio on an adult male. Also, the
11 child is inserting a pink phallic shaped device into her vagina.

12 COUNT 9

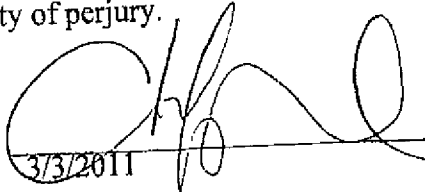
13 did then and there feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: girl69, described as: This image
17 depicts a nude adult male lying on his back with a nude prepubescent female child lying,
18 face down, on his stomach in the opposite direction. The adult has his penis inside the child's
19 mouth and is performing cunnilingus on the child.

20 COUNT 10

21 did then and there feloniously, knowingly and willfully, have in his possession a
22 film, photograph, or other visual presentation depicting a person under the age of 16 years as
23 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
24 in or simulate sexual conduct, to-wit: Image File Name: new-43, described as: Image depicts
25 a prepubescent female child with long blonde hair seen from the neck up. The child's hands
26 are positioned on either side of an adult's penis. The adult has his penis inserted into the
27 mouth of the child.

28 ///

1 All of which is contrary to the form, force and effect of Statutes in such cases made
2 and provided and against the peace and dignity of the State of Nevada. Said Complainant
3 makes this declaration subject to the penalty of perjury.
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FILED IN OPEN COURT

DATE:

APR 11 2011

CLERK:

Sweetbay

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ANTHONY CASTANEDA,
#2799593

Defendant.

CASE NO: 11F03995X

DEPT NO: 12

AMENDED

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Felony - NRS 200.700, 200.730) in the manner following, to-wit: That the said Defendant, on or between November 25, 2008 and April 7, 2010, at and within the County of Clark, State of Nevada,

COUNT 1

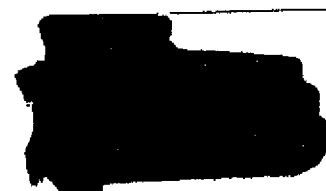
did, then and there, feloniously, knowingly and willfully, have in his possession a film, photograph, or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage in or simulate sexual conduct, to-wit: Image File Name: 2 girls01.jpg, described as: Image depicts two nude prepubescent female children. One child is lying on her stomach with her buttocks in the air. There is a nude adult male who is penetrating the child's genitals with his penis and his left thumb in between the child's buttocks. The other child is positioned to the left of the first child and has her left arm draped around the first child. The second child's left hand is on the first child's right buttock's cheek. The second child's head is positioned over the buttocks' of the first child. The second child has her mouth open with what appears to be ejaculate dripping out.

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1 COUNT 2

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: girlondick06.bmp, described as:
6 Image depicts a prepubescent female child pictured from the neck up. There is an adult
7 male's penis next to the child's mouth. There is ejaculate coming from the penis and on the
8 child's mouth, chin and cheek.

9 COUNT 3

10 did, then and there, feloniously, knowingly and willfully, have in his possession a
11 film, photograph, or other visual presentation depicting a person under the age of 16 years as
12 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
13 in or simulate sexual conduct, to-wit: Image File Name: girlondick08.bmp, described as:
14 Image depicts a partial view of a nude adult male and a prepubescent female child from the
15 neck up. The adult male has his left hand on his penis and has the tip of his penis inserted
16 into the child's mouth. The child has her hands on either side of the penis.

17 COUNT 4

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: NEW-22.JPG, described as: Image
22 depicts an adult male penetrating the vagina of a prepubescent child. The image appears to
23 be shot from a close distance and neither shows the heads nor the majority of either person's
24 torso.

25 COUNT 5

26 did, then and there, feloniously, knowingly and willfully, have in his possession a
27 film, photograph, or other visual presentation depicting a person under the age of 16 years as
28 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage

1 in or simulate sexual conduct, to-wit: Image File Name: 2girls.jpg, described as: Image
2 depicts two nude prepubescent children and a nude adult male, standing, visible from the
3 lower stomach down. The children are positioned on either side of the adult male. Both
4 children are performing fellatio on the adult male.

5 COUNT 6

6 did, then and there, feloniously, knowingly and willfully, have in his possession a
7 film, photograph, or other visual presentation depicting a person under the age of 16 years as
8 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
9 in or simulate sexual conduct, to-wit: Image File Name: euro-002.jpg, described as: This
10 image has 6 images depicting a prepubescent female child with blonde hair. The first image
11 depicts the child laying on a bed with pink pants pulled down to her knees and a black dog
12 collar around her neck. The second image depicts the child nude, holding her legs open
13 exposing her genitals. The third image depicts the child on the bed leaning against a nude
14 adult male who has his arm placed around the child. The fourth image depicts an adult male
15 straddling the child with his penis next to her mouth. The fifth image depicts the child on her
16 stomach with the adult male placing his penis between the cheeks of the child's buttocks.
17 The last image depicts the adult male penetrating the child's vagina with his penis. The child
18 is positioned on her back with her hands covering her eyes.

19 COUNT 7

20 did, then and there, feloniously, knowingly and willfully, have in his possession a
21 film, photograph, or other visual presentation depicting a person under the age of 16 years as
22 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
23 in or simulate sexual conduct, to-wit: Image File Name: new-05, described as: This image
24 has 7 images within. The first image depicts 3 clothed prepubescent female children standing
25 with their arms around each others shoulders. Two of the images show a prepubescent
26 female child (different child in each image) performing fellatio on an adult male. One image
27 depicts a nude prepubescent female child lying on her back with her legs spread open. There
28 is a second prepubescent female child with her mouth near the first child's vagina. Another

1 image depicts a nude prepubescent female child lying face down on a bed with her buttocks
2 raised up exposing her genitals. One image depicts a female child lying on the bed with what
3 appears to be ejaculate on her face. Another image depicts an adult male inserting his penis
4 into the vagina of a prepubescent child.

5 COUNT 8

6 did, then and there, feloniously, knowingly and willfully, have in his possession a
7 film, photograph, or other visual presentation depicting a person under the age of 16 years as
8 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
9 in or simulate sexual conduct, to-wit: Image File Name: new-35, described as: This image
10 depicts a nude prepubescent female child performing fellatio on an adult male. Also, the
11 child is inserting a pink phallic shaped device into her vagina.

12 COUNT 9

13 did, then and there, feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: girl69, described as: This image
17 depicts a nude adult male lying on his back with a nude prepubescent female child lying,
18 face down, on his stomach in the opposite direction. The adult has his penis inside the child's
19 mouth and is performing cunnilingus on the child.

20 COUNT 10

21 did, then and there, feloniously, knowingly and willfully, have in his possession a
22 film, photograph, or other visual presentation depicting a person under the age of 16 years as
23 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
24 in or simulate sexual conduct, to-wit: Image File Name: new-43, described as: Image depicts
25 a prepubescent female child with long blonde hair seen from the neck up. The child's hands
26 are positioned on either side of an adult's penis. The adult has his penis inserted into the
27 mouth of the child.

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1 COUNT 11

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: new 47.jpg, described as: Image
6 depicts prepubescent female child with her hands on an adult penis and the penis is next to
7 the prepubescent female's mouth.

8 COUNT 12

9 did, then and there, feloniously, knowingly and willfully, have in his possession a
10 film, photograph, or other visual presentation depicting a person under the age of 16 years as
11 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
12 in or simulate sexual conduct, to-wit: Image File Name: euro-001.jpg described as: This
13 image has 5 images depicting a prepubescent female child with darker blonde hair. The first
14 image depicts the child with an adult penis in her mouth and an adult hand on the penis. The
15 second image depicts the child nude with her hands around an adult penis and the child's
16 mouth is on the penis. The third image depicts the child on all fours with her buttocks facing
17 the camera. The child is nude with her buttocks and genitalia exposed. The fourth image
18 depicts the child lying on her back with an adult male straddling the child and his penis is in
19 the child's mouth. The fifth image depicts a close up of an adult penis and the penis is
20 penetrating the anal opening of the child.

21 COUNT 13

22 did, then and there, feloniously, knowingly and willfully, have in his possession a
23 film, photograph, or other visual presentation depicting a person under the age of 16 years as
24 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
25 in or simulate sexual conduct, to-wit: Image File Name: new-33.jpg described as: Image
26 depicts 2 prepubescent children with their faces and mouths near or touching an adult male
27 penis. The image is a picture of the children from the neck up. One of the prepubescent
28 children is a part of the NCMEC identified series IM.

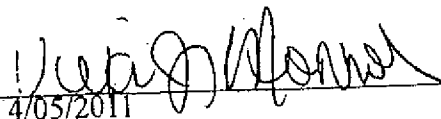
1
2 COUNT 14

3 did, then and there, feloniously, knowingly and willfully, have in his possession a
4 film, photograph, or other visual presentation depicting a person under the age of 16 years as
5 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
6 in or simulate sexual conduct, to-wit: Image File Name: new-38.jpg, described as: This
7 image is of a prepubescent Asian female child positioned in front of a Caucasian adult male
8 with the adult male penis touching the child's mouth with what appears to be ejaculate
9 dripping from the penis. Also noted on the adult male's abdominal area are the words CP
10 REAL.

11 COUNT 15

12 did, then and there, feloniously, knowingly and willfully, have in his possession a
13 film, photograph, or other visual presentation depicting a person under the age of 16 years as
14 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
15 in or simulate sexual conduct, to-wit: Image File Name: new-44.jpg, described as: This
16 image depicts the head and face of a prepubescent female with an adult male positioned in
17 front of her and his penis is inserted into the child's mouth. This image is part of the
18 NCMEC identified series Cbaby.

19 All of which is contrary to the form, force and effect of Statutes in such cases made
20 and provided and against the peace and dignity of the State of Nevada. Said Complainant
21 makes this declaration subject to the penalty of perjury.

22
23 
24
25
26

4/05/2011

27 DA#11F03995X/hjc/SVU
28 LVMPD EV#1002081406
(TK12)

RIM
IMAGED

JUSTICE COURT, LAS VEGAS TOWNSHIP

STATE VS. CASTANEDA, ANTHONY

CASE NO. 11F03995X

PAGE: 1

DATE, JUDGE
OFFICERS OF COURT
PRESENT

APPEARANCES - HEARING

CONTINUED TO:

MARCH 4, 2011	CRIMINAL COMPLAINT FILED; COUNTS 1-10: POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD	JE
MARCH 8, 2011 D. SULLIVAN	DEFENDANT NOT PRESENT IN COURT ARREST WARRANT ISSUED - BAIL SET: COUNT 1 -10: SET IN COURT PER COUNT	jmc
MARCH 14, 2011 D. SULLIVAN A. STEGE, DA C. KLUEVER, PD APPOINTED G. DELUCCA, CR S. WESTBAY, CLK	INITIAL ARRAIGNMENT DEFENDANT PRESENT IN COURT **IN CUSTODY ** DEFENDANT ADVISED OF CHARGES / WAIVES READING OF COMPLAINT PUBLIC DEFENDER APPOINTED TO REPRESENT THE DEFENDANT RE-SET BAIL: 10,000/10,000 PER COUNT PRELIMINARY HEARING SET DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	03/28/11 9:30AM #12 DP
MARCH 28, 2011 D. SULLIVAN V. MONROE, DA E. BALLOU, PD G. DELUCCA, CR S. WESTBAY, CLK	TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN COURT ** IN CUSTODY ** ORAL HILL MOTION TO CONTINUE BY STATE - NO OBJECTION BY DEFENSE WITNESS, SHANNON TOOLEY (P#6224) NOT AVAILABLE THIS DATE PER STATE, OFFER MADE BUT POSSIBLE AMENDED COMPLAINT TO BE FILED TO ADD ADDITIONAL CHARGES MOTION TO CONTINUE GRANTED PRELIMINARY HEARING DATE RESET DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF	4/11/11 9:30AM #12 SW
	CASE FORWARDED TO APR 18 2011 DISTRICT COURT CLERK'S OFFICE	

JUSTICE COURT, LAS VEGAS TOWNSHIP

STATE VS. CASTANEDA, ANTHONY

CASE NO. 11F03995X

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DATE, JUDGE
OFFICERS OF COURT
PRESENT

APPEARANCES - HEARING

CONTINUED TO:

APRIL 11, 2011
D. SULLIVAN
V. MONROE, DA
W. GELLER, PD
G. DELUCCA, CR
S. WESTBAY, CLK

TIME SET FOR PRELIMINARY HEARING
DEFENDANT PRESENT IN COURT **IN CUSTODY**
STATE FILES AMENDED COMPLAINT IN OPEN COURT:
COUNT 1 - 15 - POSSESSION OF VISUAL PRESENTATION DEPICTING
SEXUAL CONDUCT OF A CHILD
MOTION TO EXCLUDE WITNESSES BY DEFENSE -- MOTION GRANTED
STATE'S WITNESSES:
TAMI HINES, TESTIFIES UNDER OATH AND IDENTIFIES THE DEFENDANT IN
OPEN COURT
DETECTIVE VICENTE RAMIREZ, TESTIFIES UNDER OATH AND IDENTIFIES
THE DEFENDANT IN OPEN COURT
STATE'S PROPOSED EXHIBITS 1 - 5 & 7 - 14 ADMITTED WITH NO OBJECTION
EXHIBIT # 10, 11 & 14 ADMISSION WITHDRAWN BY STATE AT THIS TIME
MATTER CONTINUED BY COURT DUE TO CONGESTED CALENDAR
DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF

4/14/11 1:00PM #12

| SW

APRIL 14, 2011
D. SULLIVAN
V. MONROE, DA
W. GELLER, PD
G. DELUCCA, CR
S. WESTBAY, CLK

TIME SET FOR CONTINUED PRELIMINARY HEARING
DEFENDANT PRESENT IN COURT **IN CUSTODY**
MOTION TO EXCLUDE WITNESSES BY DEFENSE - MOTION GRANTED
STATE'S WITNESSES:
DETECTIVE PAUL EHLERS, TESTIFIES UNDER OATH
DETECTIVE SHANNON TOOLEY, TESTIFIES UNDER OATH AND IDENTIFIES
THE DEFENDANT IN OPEN COURT
STATE'S EXHIBITS #6, 8, 10, 11, 14 & 15 OFFERED AND ADMITTED WITHOUT
OBJECTION BY DEFENSE
MOTION BY STATE TO AMEND COMPLAINT BY INTERLINEATION (SPECIFIC
FILE NAMES WITHIN SPECIFIC COUNTS- NO OBJECTION BY DEFENSE
COURT STRIKES LAST SENTENCE IN COUNT 13 & 15
AMENDMENTS GRANTED
STATE RESTS

DEFENDANT ADVISED OF HIS STATUTORY RIGHT TO MAKE A SWORN OR
UNSWORN STATEMENT, TO WAIVE MAKING A STATEMENT, AND/OR OF
HIS RIGHT TO CALL WITNESSES - DEFENDANT WAIVES HIS RIGHT
DEFENSE RESTS

SUBMITTED BY BOTH PARTIES WITHOUT ARGUMENT
COURT FINDS THAT THE STATE HAS MET THEIR BURDEN OF PROOF AT
PRELIMINARY HEARING
DEFENDANT BOUND OVER TO DISTRICT COURT AS CHARGED
DEFENDANT TO APPEAR IN THE LOWER LEVEL ARRAIGNMENT
COURTROOM A
DATE SET

DEFENDANT REMANDED TO THE CUSTODY OF THE SHERIFF
CASE #

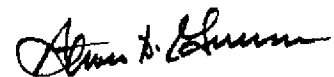
4/21/11 9AM
DCA

SW

CASE FORWARDED TO

APR 18 2011

DISTRICT COURT
CLERK'S OFFICE


CLERK OF THE COURT

INFO

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
VICKI J. MONROE
Chief Deputy District Attorney
Nevada Bar #003776
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**I.A. 04/21/2011
9:00 A.M.**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PUBLIC DEFENDER

THE STATE OF NEVADA,
Plaintiff,

-vs-

ANTHONY CASTANEDA,
#2799593
Defendant.

Case No: C272657-1
Dept No: I

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That **ANTHONY CASTANEDA**, the Defendant above named, having committed the crime of **POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD** (Category B Felony - NRS 200.700, 200.730) in the manner following, to-wit: That the said Defendant, on or between November 25, 2008 and April 7, 2010, at and within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

//

//

1 COUNT 1

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: 2 girls01.jpg, described as: Image
6 depicts two nude prepubescent female children. One child is lying on her stomach with her
7 buttocks in the air. There is a nude adult male who is penetrating the child's genitals with his
8 penis and his left thumb in between the child's buttocks. The other child is positioned to the
9 left of the first child and has her left arm draped around the first child. The second child's left
10 hand is on the first child's right buttock's cheek. The second child's head is positioned over
11 the buttocks' of the first child. The second child has her mouth open with what appears to be
12 ejaculate dripping out.

13 COUNT 2

14 did, then and there, feloniously, knowingly and willfully, have in his possession a
15 film, photograph, or other visual presentation depicting a person under the age of 16 years as
16 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
17 in or simulate sexual conduct, to-wit: Image File Name: girlondick06.bmp, described as:
18 Image depicts a prepubescent female child pictured from the neck up. There is an adult
19 male's penis next to the child's mouth. There is ejaculate coming from the penis and on the
20 child's mouth, chin and cheek.

21 COUNT 3

22 did, then and there, feloniously, knowingly and willfully, have in his possession a
23 film, photograph, or other visual presentation depicting a person under the age of 16 years as
24 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
25 in or simulate sexual conduct, to-wit: Image File Name: girlondick08.jpg, described as:
26 Image depicts a partial view of a nude adult male and a prepubescent female child from the
27 neck up. The adult male has his left hand on his penis and has the tip of his penis inserted
28 into the child's mouth. The child has her hands on either side of the penis.

1 COUNT 4.

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: NEW-22.JPG, described as: Image
6 depicts an adult male penetrating the vagina of a prepubescent child. The image appears to
7 be shot from a close distance and neither shows the heads nor the majority of either person's
8 torso.

9 COUNT 5

10 did, then and there, feloniously, knowingly and willfully, have in his possession a
11 film, photograph, or other visual presentation depicting a person under the age of 16 years as
12 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
13 in or simulate sexual conduct, to-wit: Image File Name: 2girls.jpg, described as: Image
14 depicts two nude prepubescent children and a nude adult male, standing, visible from the
15 lower stomach down. The children are positioned on either side of the adult male. Both
16 children are performing fellatio on the adult male.

17 COUNT 6

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: euro-002.jpg, described as: This
22 image has 6 images depicting a prepubescent female child with blonde hair. The first image
23 depicts the child laying on a bed with pink pants pulled down to her knees and a black dog
24 collar around her neck. The second image depicts the child nude, holding her legs open
25 exposing her genitals. The third image depicts the child on the bed leaning against a nude
26 adult male who has his arm placed around the child. The fourth image depicts an adult male
27 straddling the child with his penis next to her mouth. The fifth image depicts the child on her
28 stomach with the adult male placing his penis between the cheeks of the child's buttocks.

1 The last image depicts the adult male penetrating the child's vagina with his penis. The child
2 is positioned on her back with her hands covering her eyes.

3 COUNT 7

4 did, then and there, feloniously, knowingly and willfully, have in his possession a
5 film, photograph, or other visual presentation depicting a person under the age of 16 years as
6 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
7 in or simulate sexual conduct, to-wit: Image File Name: new-05.jpg, described as: This
8 image has 7 images within. The first image depicts 3 clothed prepubescent female children
9 standing with their arms around each others shoulders. Two of the images show a
10 prepubescent female child (different child in each image) performing fellatio on an adult
11 male. One image depicts a nude prepubescent female child lying on her back with her legs
12 spread open. There is a second prepubescent female child with her mouth near the first
13 child's vagina. Another image depicts a nude prepubescent female child lying face down on
14 a bed with her buttocks raised up exposing her genitals. One image depicts a female child
15 lying on the bed with what appears to be ejaculate on her face. Another image depicts an
16 adult male inserting his penis into the vagina of a prepubescent child.

17 COUNT 8

18 did, then and there, feloniously, knowingly and willfully, have in his possession a
19 film, photograph, or other visual presentation depicting a person under the age of 16 years as
20 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
21 in or simulate sexual conduct, to-wit: Image File Name: new-35.jpg, described as: This
22 image depicts a nude prepubescent female child performing fellatio on an adult male. Also,
23 the child is inserting a pink phallic shaped device into her vagina.

24 COUNT 9

25 did, then and there, feloniously, knowingly and willfully, have in his possession a
26 film, photograph, or other visual presentation depicting a person under the age of 16 years as
27 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
28 in or simulate sexual conduct, to-wit: Image File Name: GIRL69.jpg, described as: This

1 image depicts a nude adult male lying on his back with a nude prepubescent female child
2 lying, face down, on his stomach in the opposite direction. The adult has his penis inside the
3 child's mouth and is performing cunnilingus on the child.

4 COUNT 10

5 did, then and there, feloniously, knowingly and willfully, have in his possession a
6 film, photograph, or other visual presentation depicting a person under the age of 16 years as
7 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
8 in or simulate sexual conduct, to-wit: Image File Name: new-43.jpg, described as: Image
9 depicts a prepubescent female child with long blonde hair seen from the neck up. The child's
10 hands are positioned on either side of an adult's penis. The adult has his penis inserted into
11 the mouth of the child.

12 COUNT 11

13 did, then and there, feloniously, knowingly and willfully, have in his possession a
14 film, photograph, or other visual presentation depicting a person under the age of 16 years as
15 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
16 in or simulate sexual conduct, to-wit: Image File Name: NEW-47.jpg, described as: Image
17 depicts prepubescent female child with her hands on an adult penis and the penis is next to
18 the prepubescent female's mouth.

19 COUNT 12

20 did, then and there, feloniously, knowingly and willfully, have in his possession a
21 film, photograph, or other visual presentation depicting a person under the age of 16 years as
22 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
23 in or simulate sexual conduct, to-wit: Image File Name: EURO-001.jpg described as: This
24 image has 5 images depicting a prepubescent female child with darker blonde hair. The first
25 image depicts the child with an adult penis in her mouth and an adult hand on the penis. The
26 second image depicts the child nude with her hands around an adult penis and the child's
27 mouth is on the penis. The third image depicts the child on all fours with her buttocks facing
28 the camera. The child is nude with her buttocks and genitalia exposed. The fourth image

1 depicts the child lying on her back with an adult male straddling the child and his penis is in
2 the child's mouth. The fifth image depicts a close up of an adult penis and the penis is
3 penetrating the anal opening of the child.

4 COUNT 13

5 did, then and there, feloniously, knowingly and willfully, have in his possession a
6 film, photograph, or other visual presentation depicting a person under the age of 16 years as
7 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
8 in or simulate sexual conduct, to-wit: Image File Name: new.jpg described as: Image
9 depicts 2 prepubescent children with their faces and mouths near or touching an adult male
10 penis. The image is a picture of the children from the neck up.

11 COUNT 14

12 did, then and there, feloniously, knowingly and willfully, have in his possession a
13 film, photograph, or other visual presentation depicting a person under the age of 16 years as
14 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
15 in or simulate sexual conduct, to-wit: Image File Name: carved image unnamed file.jpg,
16 described as: This image is of a prepubescent Asian female child positioned in front of a
17 Caucasian adult male with the adult male penis touching the child's mouth with what
18 appears to be ejaculate dripping from the penis. Also noted on the adult male's abdominal
19 area are the words CP REAL.

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1 COUNT 15

2 did, then and there, feloniously, knowingly and willfully, have in his possession a
3 film, photograph, or other visual presentation depicting a person under the age of 16 years as
4 the subject of a sexual portrayal or engaging in, or simulating, or assisting others to engage
5 in or simulate sexual conduct, to-wit: Image File Name: new-44.jpg, described as: This
6 image depicts the head and face of a prepubescent female with an adult male positioned in
7 front of her and his penis is inserted into the child's mouth.

8 DAVID ROGER
9 DISTRICT ATTORNEY
Nevada Bar #002781

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11 BY /s/ VICKI J. MONROE
12 VICKI J. MONROE
13 Chief Deputy District Attorney
14 Nevada Bar #003776
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1 Names of witnesses known to the District Attorney's Office at the time of filing this
2 Information are as follows:

3 BERRETT; LVMPD#04972

4 BRANDON; LVMPD#09631

5 BRISTETLOS, ALEX; FBI

6 CARPENTER; LVMPD#05003

7 CODY; LVMPD#07294

8 EHLERS; LVMPD#04215

9 HINES, TAMI; 5795 W. FLAMINGO RD. #167, LVN 89103

10 PORTRIDGE, SHAWNA; FBI

11 RAMIREZ; LVMPD#04916

12 ROWE; LVMPD#03727

13 SHUMATE; LVMPD#08980

14 SMITH; LVMPD#03571

15 SOLOMON; LVMPD#08458

16 TAFOYA; LVMPD#04435

17 TOOLEY; LVMPD#06224

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28 LVMPD EV#1002081406
(TK12)

ORIGINAL

FILED

0205
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

APR 21 3 07 PM '11

Alan L. Shuman
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

ANTHONY CASTANEDA,

Defendant.

CASE NO. C272657X

DEPT. NO. 1

DATE: May 2nd, 2011
TIME: 9:00 a.m.

MOTION FOR OWN RECOGNIZANCE RELEASE, OR, IN THE ALTERNATIVE,
FOR SETTING OF REASONABLE BAIL

COMES NOW, the Defendant, ANTHONY CASTANEDA, by and through his attorney, WARREN J. GELLER, Deputy Public Defender, and moves this Honorable Court for an order releasing the Defendant from custody on his own recognizance or, in the alternative, for the setting of bail in a reasonable amount.

This Motion is based upon the attached Declaration of Counsel, any documents attached hereto, argument of Counsel and any information provided to the Court at the time set for hearing this motion.

DATED this 21st of April, 2011.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By

Warren J. Geller
WARREN J. GELLER, #10047
Deputy Public Defender

C-11-272657-1
MORR
Motion for Own Recognizance Release/Set
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APR 21 2011

CLERK OF THE COURT

DECLARATION

WARREN J. GELLER makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. That Mr. Castaneda's bail is presently set at \$100,000.

3. Mr. Castaneda's SCOPE reveals that he is a 55 year old man (by the time this motion will be argued) and has no criminal record.

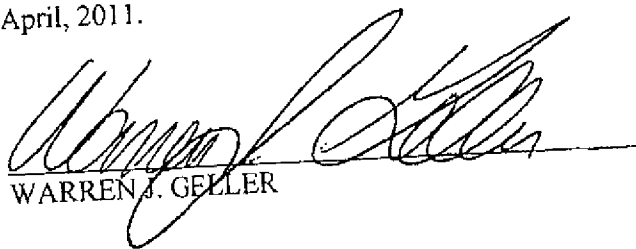
4. During the preliminary hearing in this case law enforcement testified that a warrant was executed on Mr. Castaneda's home on February 18th, 2010, which Mr. Castaneda was aware of as he was at the residence at that time and gave a taped statement to police. Mr. Castaneda was NOT arrested on the date the search was executed. In fact, Mr. Castaneda was not arrested until over a year later on March 10th, 2011. During the preliminary hearing law enforcement testified that there was no indication that during the year between the search and the arrest Mr. Castaneda attempted to flee the justice system. This speaks volumes about his lack of flight risk as he faces a 1-6 year prison sentence for each allegation under Nevada law. More persuasively, however, is the fact that Mr. Castaneda never fled the jurisdiction notwithstanding the fact that, according to law enforcement testimony at the preliminary hearing, an agent of the Federal Bureau of Investigation was present during the search. This would give Mr. Castaneda reason to suspect he could be prosecuted under 18 U.S.C. 1466A, which carries a five year minimum federal prison sentence for each count. Simply put, if Mr. Castaneda wanted to flee, he would have long since left the jurisdiction.

5. Mr. Castaneda is not a threat to the community. During the preliminary hearing law enforcement testified that upon discovering purported child pornography an inquiry was made to see if Castaneda had made any sexual advances on any of the minor females residing at his residence. Law enforcement testified that no such sexual advances were reported by any of these minors.

1 6. Mr. Castaneda has local family, including his son, whom he may return to
2 upon his release. Mr. Castaneda is more than happy to comply with house arrest, intensive
3 supervision, and/or a no contact order with respect to his accusers.

4 I declare under penalty of perjury that the foregoing is true and correct. (NRS
5 53.045).

6 EXECUTED this 21st day of April, 2011.

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9 WARREN J. GELLER

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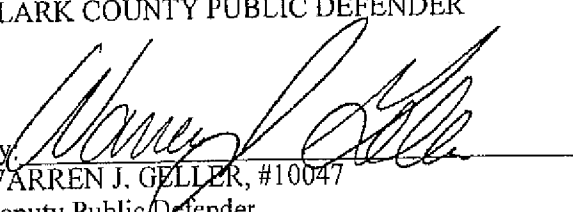
NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion For Own
Recognizance Release, Or, In The Alternative, For Setting Of Reasonable Bail will be heard on 2nd
day of May, 2011, at 9:00 a.m. in Department No. I Clark County District Court.

DATED this 21st day of April, 2011.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 
WARREN J. GELLER, #10047
Deputy Public Defender

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RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Motion For Own Recognizance
Release, Or, In The Alternative, For Setting Of Reasonable Bail is hereby acknowledged this
21 day of April, 2011.

CLARK COUNTY DISTRICT ATTORNEY

By 

CASE NO. C272657

DEPT. NO. 12

ORIGINAL

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,
Plaintiff,

vs.
ANTHONY CASTANEDA,
Defendant.

Case No. 11F03995X

VOLUME I

REPORTER'S TRANSCRIPT
OF
PRELIMINARY HEARING

BEFORE THE HONORABLE DIANA L. SULLIVAN
JUSTICE OF THE PEACE

TAKEN ON MONDAY, APRIL 11, 2011
AT 9:30 A.M.

APPEARANCES:

For the State: VICKI J. MONROE
Deputy District Attorney

For the Defendant: WARREN J. GELLER
Deputy Public Defender

Reported by: Gerri De Lucca, C.C.R. #82
Official Court Reporter

EXHIBITS

Marked Admitted

State's Exhibits 1 through 15: 43

State's Exhibits 1 through 15: 46

State's Exhibits 8 through 14: 46

MAY 3 2 45 PM '11

Ann L. Sullivan
CLERK OF THE COURT

C-11-272657-1

TRAN
Reporters Transcript
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Examination by The Court: 29

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VICENTE RAMIREZ

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Examination by the Court: 88

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MAY - 3 2011

CLERK OF THE COURT

LAS VEGAS, NEVADA, MONDAY, APRIL 11, 2011

THE COURT: This is the date and time set
for the preliminary hearing of Anthony Castaneda,
11F03995. Is the State ready to proceed?

MS. MONROE: Yes, your Honor.

THE COURT: Defense ready to proceed?

MR. GELLER: Yes, Judge.

THE COURT: Mr. Geller, we have filed an
Amended Criminal Complaint. Do you have a copy of
that?

MR. GELLER: I do.

THE COURT: All right. Miss Monroe, you
can call your first witness.

MS. MONROE: Thank you, your Honor. The
State would call Tami Hines.

THE CLERK: Please have a seat.

Please state your first and your
last name and spell both for the record.

THE WITNESS: Tami Hines, T-a-m-i,
H-i-n-e-s.

THE COURT: Thank you.

You may proceed.

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CLERK OF THE COURT

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5
1 TAMI HINES, having been first duly sworn to
2 testify to the truth, the whole truth, and nothing
3 but the truth, testified as follows:

4
5 DIRECT EXAMINATION

6 BY MS. MONROE:

7 Q. Miss Hines, do you know the defendant in
8 this case, Anthony Castaneda?

9 A. Yes, I do.

10 Q. How is it that you know Mr. Castaneda?

11 A. I met Mr. Castaneda a couple years ago
12 over at a weekly I was staying at, a Budget Suites,
13 and I lived with him for two periods in the past
14 couple years.

15 Q. And, for the record, do you see
16 Mr. Castaneda here in court?

17 A. Yes, I do.

18 Q. What I'd like you to do is describe where
19 he's located in the courtroom and an article of
20 clothing that he has on so that the Court will know
21 who it is you're referring to.

22 A. Mr. Castaneda is wearing, I guess, the
23 blue jump suit and his glasses and he's sitting next
24 to, I guess, his attorney.

25 MS. MONROE: Let the record reflect the

7
1 A. Yes, I was.

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(Overlapping speakers)

THE COURT: You can't talk over each
other. Even though you may be anticipating the tail
end of her question, let her get her question out
before you give your answer.

THE WITNESS: Okay.

BY MS. MONROE:

Q. Where were you and Mr. Castaneda living
in '09?

A. He had a house on East Sahara. I forgot
the name of the street. It's behind PT's Pub across
from one of the casinos. I don't remember the name
of the street. I'm sorry.

Q. Approximately how long did you live with
him that first time?

A. The first time was probably three or four
months.

Q. Now, you said there was a second time --

A. Yes.

Q. -- that you -- let me finish.

There was a second time that you,
again, you and your daughters moved in with

6
1 identification of the defendant.

2 THE COURT: Yes.

3 BY MS. MONROE:

4 Q. You said that you had lived with him.
5 Did you have a relationship with
6 him?

7 A. No.

8 Q. When you say you lived with him for
9 approximately two times, when exactly would have been
10 the first time that you would have lived with him?

11 A. The first time was when my stepdad was
12 terminally ill. I was a single mother. My husband
13 just took off to go back east to Maryland. I was in
14 and out of the hospital all the time with my stepdad
15 and Mr. Castaneda was there.

16 My twins at the time were 17, my
17 daughter was 12, and my other one was six. So they
18 were pretty much taking care of -- my older twins
19 taking care of the younger ones while I was in and
20 out of the hospital a lot, and that was in '07.

21 Q. And then where were you living?

22 A. I'm sorry, I take that back. It was in
23 '09. My dad passed away April 23 of 2009.

24 Q. So around April of '09 you were living
25 with Mr. Castaneda?

8
1 Mr. Castaneda. About when did that happen?

2 A. The end of November 2009 until
3 February 2010.

4 Q. And where was that residence located?

5 A. The same place.

6 Q. 2205 Beverly Way in Las Vegas, Clark
7 County, Nevada?

8 A. Yes, ma'am.

9 Q. So the residence that you lived in in '09
10 and then again in '010, it was the same residence?

11 A. Yes.

12 Q. Was that a house?

13 A. Yes.

14 Q. And do you remember when in November;
15 would it have been before or around the time of
16 Thanksgiving of '09 that you would have moved in
17 there?

18 A. A few days before Thanksgiving. I
19 believe it was November 23.

20 Q. And then you said you moved out in
21 February of '010. Do you remember when it was
22 exactly in February that you moved out?

23 A. I believe it was the 7th. My boyfriend
24 had also lived with us at that period of time between
25 November and February as well.

1 Q. Now, after you left the defendant's 9
2 residence where did you, your boyfriend, and your
3 family move to?
4 And I don't need an address. Let
5 me rephrase that. Did your boyfriend and daughters
6 move to a different location?
7 A. Yes. We moved to a condo approximately
8 Flamingo and Lindell.
9 Q. Now, you said you had moved out on the
10 7th. Is it possible you could have moved out a
11 couple days before that?
12 A. I suppose, but I don't really think so.
13 Q. At some point did you locate an item that
14 belonged to Mr. Castaneda?
15 A. Yes.
16 Q. And what was the item that you located,
17 that you found?
18 A. A flash drive, a red flash drive.
19 Q. And where was it located when you found
20 it?
21 A. In one of my totes.
22 Q. And did you have a computer at that time?
23 A. I had a laptop, a small laptop, yes.
24 Q. And was the flash drive found in that
25 tote that contained your laptop?

11
1 Q. Did you go look at the flash drive
2 yourself?
3 A. I did.
4 Q. What did you see on the flash drive?
5 A. I was -- the first couple things on the
6 flash drive was Mr. Castaneda's license, Social
7 Security card, birth record, military records, and
8 then it went into pictures of children.
9 Q. When you say pictures of children, can
10 you tell me exactly what you mean?
11 A. It's very emotional. Children that were
12 performing things on adults.
13 Q. Sexual activities?
14 A. Yes.
15 Q. Now, how many of these pictures did you
16 actually look at?
17 A. To be honest with you, I looked at
18 everything because I wanted to make sure my children
19 weren't on it.
20 Q. And did you check to see if your children
21 were on it?
22 A. Yes, I did.
23 Q. Did you find any pictures of your
24 children?
25 A. No, ma'am.

10
1 A. No.
2 Q. It was found in a separate tote?
3 A. Yes.
4 Q. Do you know how that flash drive got into
5 your tote when you had left Mr. Castaneda's
6 residence?
7 A. No, but I have -- at that time my
8 daughter used to hijack Mr. Castaneda's keys, even
9 took them to school one day. She was always very
10 hands-on and into things. That's the only thing I
11 can think of how it wound up in my stuff.
12 Q. When you found the flash drive did you
13 know right away that it belonged to Mr. Castaneda?
14 A. No.
15 Q. What did you do with the flash drive when
16 you found it?
17 A. Actually, I'm not the one that found it.
18 My boyfriend found it. He had then -- I was watching
19 a movie, sitting on the sofa. I had fallen asleep
20 watching a movie. And he told me that he had found
21 this flash drive and that he picked it up and went to
22 put it in the computer, wanted to upload stuff for
23 himself. He had awakened me and was devastated by
24 what he saw and told me that I needed to come look at
25 this flash drive myself.

12
1 Q. After you -- so you had that flash drive
2 in your possession, at least as far as you knew, from
3 the time you had left Mr. Castaneda's residence until
4 your boyfriend found it?
5 A. Yes.
6 Q. After you had looked at the photos or the
7 pictures of the children that upset you, what did you
8 do?
9 A. I had a parole officer that I had met
10 through my sister before, and her name is Officer
11 Worthington, and I called her on her phone and I said
12 to her, I have something horrible in my possession
13 that I need to give to someone. I don't know who or
14 what or where to do this.
15 And she said, come meet me and I
16 will get the proper chain of command, whatever we
17 have to do, and while I was there they couldn't take
18 it from me because it had to go through a chain of
19 command.
20 Q. Let me interrupt you real quickly.
21 You said they couldn't take it
22 from you. When you called this Officer Worthington,
23 what did you do?
24 A. Went to her office off of Rancho and
25 Melrose.

1 Q. Did you show Officer Worthington what was 13
2 on the flash drive?
3 A. No. She would not look at it.
4 Q. And basically had she contacted someone
5 else who then arrived at her office?
6 A. Her supervisor contacted SVU, I believe,
7 and spoke to a Detective Tooley, and Detective Tooley
8 told them that she would be there, wait for her, and
9 I would go downstairs to meet her, they would let me
10 know when she was there.
11 Q. Did that happen?
12 A. Yes.
13 Q. And so you came into contact with
14 Detective Tooley, and what did you do when you came
15 into contact with her?
16 A. I met her at her vehicle on the curb, and
17 I handed her the flash drive. And she asked if we
18 could voice record an interview, and I said
19 absolutely, and that's where we proceeded to do.
20 Q. So you gave a statement at that time that
21 was tape recorded?
22 A. Yes.
23 Q. And then you also gave her the flash
24 drive?
25 A. Yes.

1 Q. Now, you had lived at Mr. Castaneda's 14
2 house for about three months at this time?
3 A. Yes.
4 Q. Right before the discovery of the flash
5 drive did you have access to his computers?
6 A. Yes.
7 Q. How many computers did he have in his
8 house that you had access to?
9 A. The main one that I used, there was one
10 that I would get onto. My children had access to a
11 few of the other ones.
12 Q. And was it password protected or how did
13 you get onto the one that you would usually use?
14 A. Password connected.
15 Q. And did he give you the password?
16 A. Yes.
17 Q. What was the password that he gave you?
18 A. I believe it was Girls something.
19 THE COURT: What was it?
20 THE WITNESS: Girls, G-i-r-l-s, and some
21 numbers behind it or whatever. It was a -- not a
22 laptop. It was -- it was a laptop, I'm sorry, not a
23 hard drive. His hard drive he used for his business.
24 BY MS. MONROE:
25 Q. So you would never get on his hard

1 drive -- 15
2 A. No.
3 Q. -- or the big computer?
4 A. No.
5 Q. How many big computers did he have in his
6 residence that you knew about?
7 A. I knew about the one that he had out in
8 his living room, and I knew about the one that he had
9 in his bedroom. Those were the only big ones I knew
10 about. All the others were laptops.
11 Q. And did you have access to the bigger
12 computer in his bedroom?
13 A. No.
14 Q. Did you have access to the bigger
15 computer in the living room?
16 A. Define having access.
17 Q. Were you able to use it?
18 A. No.
19 Q. Do you know if your girls were able to
20 use either of those two computers?
21 A. My girls mainly used the laptop. Had
22 they been on the hard drive before, yes, but that was
23 to help him if he was out of the house and had a
24 problem with his work and needed her to get to the
25 computer to get information from him is the only time

1 they used it. 16
2 Q. And how many laptops did he have in the
3 house that you were aware of?
4 A. One, two, three.
5 Q. And you accessed one of those laptops?
6 A. Yes.
7 Q. And did you access all three of them or
8 just one of them?
9 A. Mainly the one.
10 Q. Where was that laptop kept?
11 A. In the living room.
12 Q. And then where were the other two laptops
13 kept?
14 A. They were actually -- the living room is
15 the main place that every one was at.
16 Q. All three laptops would have been in the
17 living room?
18 A. One of the laptops was in my daughter's
19 bedroom, which was the first bedroom there was one.
20 And I have to back up for a second, I'm sorry. There
21 was a hard drive in the living room that I did use
22 all the time. It was not the laptop. They were at
23 alternate ends of the room.
24 Q. Did you ever download any child porn
25 while you were in the residence?

1 A. No. 17
 2 MS. MONROE: At this time I'll pass the
 3 witness.
 4 THE COURT: Cross-examination.
 5
 6 CROSS-EXAMINATION
 7 BY MR. GELLER:
 8 Q. Ma'am, first I'd like to clarify a little
 9 bit with respect to the computers and what room.
 10 You made reference to a computer
 11 being in Mr. Castaneda's bedroom; is that correct?
 12 A. Yes.
 13 Q. Could you please articulate what that
 14 computer looked like and where in the bedroom it was
 15 located?
 16 A. There was a little table in his bedroom
 17 that had a monitor and just a hard drive on it and a
 18 keyboard, but I had never seen Mr. Castaneda on that
 19 computer. I just know it existed.
 20 Q. And so you had an occasion to be in his
 21 bedroom before so you could observe that?
 22 A. I walked in there taking laundry and
 23 setting it on his bed. I mean nothing more than
 24 that, yes.
 25 Q. And physically what did that computer

1 look like. Was it black, was it -- 18
 2 A. Black.
 3 Q. Do you recall the manufacturer?
 4 A. No, sir.
 5 Q. And then you made reference to there was
 6 also two also desktop computers, if I understand you
 7 correctly, in the main area?
 8 A. In the main area, yes.
 9 Q. And could you describe -- first of all,
 10 let's start with one and where it was and then we'll
 11 go on to the next one.
 12 A. Mr. Castaneda is a computer analyst, so
 13 computers is his life. On the wall closest to the
 14 kitchen he had his large desktop with his big monitor
 15 and desk.
 16 Q. Do you recall the manufacturer of that
 17 computer?
 18 A. No.
 19 Q. Could you describe its color or size or
 20 anything along those lines?
 21 A. All I remember is black. I really don't
 22 remember.
 23 Q. And is that one of the computers that you
 24 on occasion had an opportunity to access?
 25 A. No.

1 Q. And did your children have occasion to 19
 2 access that computer?
 3 A. Only when Mr. Castaneda asked them to.
 4 Q. To your knowledge?
 5 A. To my knowledge.
 6 Q. So it's possible they could have accessed
 7 it without your knowledge?
 8 A. Okay.
 9 Q. Is that true?
 10 A. Sure. Anything's possible, I suppose.
 11 Q. You made a reference to another desktop
 12 computer. Could you describe where that was located?
 13 A. It was located on the opposite end of the
 14 room closest to the bar area that leads to the
 15 outside to the pool.
 16 Q. What color was that computer?
 17 A. Black.
 18 Q. Do you recall the manufacturer of that
 19 computer?
 20 A. No, I don't.
 21 Q. Have you ever had access to it?
 22 A. Yes.
 23 Q. And have you personally used the
 24 computer?
 25 A. Yes.

1 Q. Would that be the same with your children 20
 2 as well, they had access to it?
 3 A. Yes.
 4 Q. You made reference to the fact that it
 5 was password protected prior.
 6 Does Dogcat123, does that sound
 7 like the password?
 8 A. That was one of them, but there was
 9 another -- I don't know. Mr. Castaneda changed codes
 10 all the time, so sometimes he would tell the girls
 11 what it was, but there was something with a girl
 12 princess or something different. I don't remember.
 13 Q. And so we now discussed three desktop
 14 style computers. You also made reference to the
 15 existence of one or two laptops; is that correct?
 16 A. Two laptops.
 17 Q. Two laptops, okay.
 18 Would it be fair to say that the
 19 location of those laptops varied just depending on
 20 where they were set down or whether they were
 21 stationary or at a desk?
 22 A. One was on a rolling cart that mainly
 23 stayed in the living room where the futon sofa was.
 24 The other one he had moved into the bedroom where my
 25 twins were at the time and into a desk. There was a

1 desk that sat there. He set up the monitor and I 21
 2 mean he set up the laptop for them and the speakers
 3 and stuff.
 4 Q. So the one that's in your twins' room,
 5 could you please describe that one to the best of
 6 your ability.
 7 A. It was a black laptop.
 8 Q. Do you know the manufacturer?
 9 A. No, I don't.
 10 Q. Then with respect to the other one that
 11 was in the rolling cart that you described as near
 12 the futon, could you describe that one?
 13 A. It's a laptop. I'm sorry, I'm not
 14 computer savvy to know all the details about it.
 15 Q. Would it refresh your recollection, was
 16 it possibly gray, does that sound right?
 17 A. In the living room, correct.
 18 Q. So now I believe we've discussed three
 19 desktop computers and two laptops in total.
 20 Other than those were there any
 21 other computers in the house that you were aware of?
 22 A. Yes.
 23 Q. Which computer would this be?
 24 A. My boyfriend and I also had a laptop
 25 there as well. Two of them ourselves. One we put in

1 Q. You had previously testified that you had 23
 2 lived on two separate occasions with Mr. Castaneda.
 3 What was the first time that you
 4 moved out, roughly, when was that date?
 5 A. June.
 6 Q. Of which year?
 7 A. 2009.
 8 Q. What were the circumstances that caused
 9 you to leave?
 10 A. It was a financial circumstance at the
 11 time.
 12 Q. Was there any conflict between you or any
 13 of your family and Mr. Castaneda?
 14 A. No.
 15 Q. Was there any conflict between you and
 16 the landlord?
 17 A. Tony never told the landlord that we were
 18 there staying, so the landlord had a problem when he
 19 came in and found out that the children and I were
 20 there, but at that point in my life I was always in
 21 and out.
 22 I mean I just lost my stepdad, who
 23 was more dad to me than my dad could have ever been.
 24 It was very emotional. That period of time was kind
 25 of a -- I felt safe because my children had an adult

1 the pawn shop for a period of time to get a little 22
 2 bit of extra money, and the other one was a gray
 3 laptop that we used on a regular basis as well.
 4 Q. Of the five computers that you referenced
 5 belonged to Mr. Castaneda, were they all in areas
 6 that were accessible to everyone?
 7 What I mean by that, not where
 8 doors were locked otherwise making entry impossible.
 9 A. Yes.
 10 Q. So they were all in general areas; is
 11 that correct?
 12 A. Yes.
 13 Q. And, to the best of your knowledge, the
 14 passwords were the same on all computers?
 15 A. No.
 16 Q. So you're saying dogcat123 was the
 17 password for which computers?
 18 A. I really don't remember. I have to
 19 really think. I'm sorry. It's been a little over a
 20 year.
 21 Q. Understandable.
 22 A. I would think the dogcat123 was actually
 23 the computer to his main computer, to his main -- but
 24 it always changed, so I couldn't tell you on a
 25 regular basis.

1 in the house at the time. They weren't by 24
 2 themselves. And I did what I had to do and
 3 just . . .
 4 Q. I'd like to bring you forward to the
 5 second time you moved out of Mr. Castaneda's house.
 6 What events took place that caused
 7 you to leave that second time?
 8 A. When Mike and I and the girls moved in in
 9 November --
 10 Q. For the record, would Mike be your
 11 boyfriend?
 12 A. Yes, Michael Landau, I'm sorry. He was
 13 my boyfriend at the time.
 14 We moved into, at the end of
 15 November, to Mr. Castaneda's. And we -- Mike was
 16 waiting for his disability, his large back pay of
 17 disability. At that time Mr. Castaneda also got laid
 18 off from his job, so he was only living on what do
 19 you call it?
 20 Q. Unemployment?
 21 A. Unemployment, yes.
 22 Receiving his 400 a week. And he
 23 couldn't make his bills, so we made an agreement we
 24 would pay \$500 a month to help him out. This was an
 25 offer he had asked us about. It was kind of, you

1 know, an uncomfortable scenario because I guess Mike 25
2 and Tony sometimes had some altercations.
3 Q. What was the nature of those arguments?
4 A. Probably me. I have no idea. I really
5 don't.
6 Q. Did you have a romantic relationship with
7 Mr. Castaneda?
8 A. Never.
9 Q. When you say probably you, could you
10 elaborate on that?
11 A. Tony didn't like me, but that didn't
12 matter, I mean he thought that -- I don't really know
13 how to word this. I believe in a structured
14 environment for my children. I believe if they want
15 something, they ask me for it. If they need
16 something, tell me and I'll be happy to get it for
17 them.
18 Mr. Castaneda was more like the
19 uncle that would go above and beyond, and I wouldn't
20 exactly like that because I want them to know that
21 their mom is where they turn to. They don't need to
22 turn to anyone else and ask them for something.
23 So we kind of had disagreements
24 about that often. I'm not -- Mr. Castaneda was a
25 very giving man, you know, he loves children, and --

1 A. Yes, I did. I forgot about that.
2 Q. What was the basis for that eviction
3 letter?
4 A. Claiming that we agreed upon a certain
5 amount of monetary money and that we weren't
6 complying with that, and he had changed the monetary
7 amount.
8 Q. So when you previously testified that he
9 had never asked you to leave, you were just mistaken;
10 is that correct?
11 A. Yes.
12 Q. And did you ever have an argument with
13 Mr. Castaneda about the disagreement with respect to
14 the rent?
15 A. Absolutely.
16 Q. How often did you all argue about that,
17 roughly?
18 A. We argued about it once. I contacted my
19 attorney and told him about this bogus eviction
20 letter based on the fact that he knew that my
21 boyfriend got his disability checks on a monthly
22 basis, but it was the third Wednesday of the month.
23 And that was a verbal agreement
24 that was made. Well, the fifth of the month I can't
25 guarantee that, you know, you're going to get your

1 but to me I wanted, I guess you could say, the 26
2 control of what my children get and what they didn't
3 get.
4 Q. And did that conflict eventually blow up
5 to the point where you decided to leave or were you
6 asked to leave?
7 A. No. No, because Mr. Castaneda knew that
8 as soon as Mike got his disability money we were
9 planning on renting a condo.
10 Q. So is that what ultimately caused you to
11 leave?
12 A. That Mike got his back disability money,
13 absolutely, yes.
14 Q. Anything else that motivated that
15 decision?
16 A. No.
17 Q. And at any point in time did he ask you
18 to leave, he being Mr. Castaneda?
19 A. Mr. Castaneda was kind of worried about
20 his landlord was down his throat again because he had
21 people living there, but what his landlord didn't
22 realize was that he wouldn't be able to afford living
23 there unless he had some help, so . . .
24 Q. At any point in time did you receive an
25 eviction letter from Mr. Castaneda?

1 money the third week of the month. This was the 28
2 whole problem was he needed it by the first and we
3 only had it the third week of the month.
4 Q. So by the time you finally left
5 Mr. Castaneda's house would it be fair to say you
6 were no longer on good terms?
7 A. I never spoke to him after that. Just
8 had no interest to. We weren't on bad terms.
9 MR. GELLER: Court's indulgence.
10 BY MR. GELLER:
11 Q. Did you ever observe Mr. Castaneda on the
12 laptop that was located near the futon?
13 A. Yes.
14 Q. Did you observe him on that laptop on a
15 regular basis?
16 A. He was always updating files, updating
17 maintenance things, you know, just regular updates.
18 I never really noticed all the time, but . . .
19 Q. Did Mr. Castaneda inform you that he
20 didn't really want you to stay there anymore, but he
21 was doing you a favor given your circumstances?
22 A. No.
23 MR. GELLER: That's all I have.
24 THE COURT: I have a question before
25 redirect.

EXAMINATION

29

BY THE COURT:

Q. How long a time passed between the time you and your boyfriend and your kids moved out to the time that the flash drive was found in your tote?

A. Roughly, a couple weeks. I don't believe it was any more than that. We didn't unpack everything when we first moved, so . . .

Q. That was going to be my next question.

Was this tote something that you used on a regular basis or was it something that still had some items packed in there from when you moved out of his house; what was the circumstances about around the tote?

A. Still had some items like some clothes in it that we didn't use on a regular basis. It wasn't something that we were in all the time.

Q. So what was the circumstances surrounding your boyfriend finding the flash drive?

A. I guess he was --

Q. I don't want you to guess.

A. I don't know.

Q. All you know is that he found the flash drive in the tote?

A. Yes, correct.

of November until sometime in January and then he said, oh, by the way, you should have been paying me this?

A. Yes.

Q. But you had paid him \$500 for at least one month?

A. Yes.

Q. Now, you said that he was -- that Mr. Castaneda was always on his computers updating files?

A. Mm-hmm.

Q. Is that a yes?

A. Yes, ma'am.

Q. And would these have been all of these various computers that were throughout the house?

A. Yes.

Q. Now, were you working at that time?

A. No.

Q. So were you always in the house or would you leave the house?

A. I would leave the house. I mean Mike and I would take the kids and go places and do things, so I wasn't always in the house.

Q. So you didn't -- there may have been times when Mr. Castaneda may have had access to his

THE COURT: All right. Redirect.

MS. MONROE: Thank you.

REDIRECT EXAMINATION

BY MS. MONROE:

Q. When was this eviction letter that you received from the defendant that you were asked about on cross-examination?

A. I believe it was in January.

Q. And when did the disagreement about the amount of money you were to pay monthly, when did that happen?

A. At the same time, after he proceeded to hand me that letter.

Q. And what was the difference?

You said you agreed to pay 500 a month. What was the difference; what was the amount?

A. He wanted 600 a month. The 500 a month was supposed to include our utilities too, okay. That was an agreement that was originally made with Mike, Tony, and myself. Unfortunately, we were stupid. We didn't get anything in writing. Mr. Castaneda said that the agreement was 600 a month plus half of each of the utilities.

Q. So you had lived there from about the end

computers that you weren't present or you wouldn't have known about?

A. Yes.

Q. And then you had your own room in the house, your own bedroom?

A. Yes.

Q. And did your children, they had their own bedroom?

A. Yes.

Q. And Mr. Castaneda had his own bedroom?

A. Yes.

Q. And when you went to sleep you don't know if Mr. Castaneda was accessing his computers at that time; would that be fair to say?

A. Mr. Castaneda did a lot of his work on the East Coast, so he was always up weird hours. He could be on the computer in the middle of the night sometimes and then early morning probably down for a little bit until he got his business calls or whatever, but the late night was a very common thing for him to be on the computers.

Q. Let me ask you this. You said you had access to the big computer in the living room. That was the only one you used, correct?

A. The one that is closest to the bar, yes.

1 Q. And how many times do you think you 33
2 accessed that computer from the time you moved in in
3 November until you left in February?
4 A. Very little. The main thing I did on the
5 computer was play the game Zooma.
6 MS. MONROE: That's all I have, your
7 Honor.
8 THE COURT: Do you have any questions
9 based upon my questions?
10 MR. GELLER: No, Judge.
11 THE COURT: Thank you very much,
12 Miss Hines.
13
14 (Witness excused)
15
16 Call your next witness.
17 MS. MONROE: Detective Ramirez.
18 THE CLERK: Please have a seat.
19 Please state your first and your
20 last name and spell both for the record.
21 THE WITNESS: First name is Vicente,
22 V-i-c-e-n-t-e. Last name is Ramirez, R-a-m-i-r-e-z.
23 THE COURT: Thank you. You can proceed.
24 MS. MONROE: Thank you, your Honor.
25

1 A. Basically, just doing the investigations 35
2 on sexually exploited children.
3 Q. When you talk about computer analysis,
4 you just formed that unit, what do you do as a
5 computer analyst?
6 A. We conduct forensic examinations of
7 computers. We've done that since '99, but they just
8 consolidated everybody together.
9 Q. What kind of training did you have to get
10 to the point where you could start doing forensic
11 analysis of computers?
12 A. We've had training everywhere from what's
13 called EnCase training. That's the forensic software
14 tool that we use. Just A Plus Training, Network Plus
15 Training, NCSC training, Microsoft training, training
16 at the Community College for those, and FBI training
17 through the National Center For Missing And Exploited
18 Children, Cyber Training.
19 So it's a continuous amount of
20 training to keep up with all the updates of all the
21 software and everything else.
22 Q. Now, how many computers do you think that
23 you have actually done a forensic analysis on since
24 you've been assigned to that unit?
25 A. Well over a thousand.

1 V I C E N T E R A M I R E Z, having been first duly 34
2 sworn to testify to the truth, the whole truth, and
3 nothing but the truth, testified as follows:
4
5 DIRECT EXAMINATION
6 BY MS. MONROE:
7 Q. Detective Ramirez, where are you
8 presently employed?
9 A. Las Vegas Metropolitan Police Department.
10 Q. And how long have you been with LVMPD?
11 A. 16 years.
12 Q. What unit are you presently assigned to?
13 A. The computer forensic lab.
14 Q. And how long have you been with the
15 computer forensic lab?
16 A. Well, we just started. It's part of the
17 Internet crimes, so that's been since '98, but we
18 just formed the lab itself last year.
19 Q. You've been with Internet crimes since
20 1998?
21 A. Sexual assault '98 and Internet crimes
22 '99.
23 Q. Can you tell the Court what Internet
24 crimes consists of; what is your job with Internet
25 crimes?

1 Q. Now, does that also include analysis of 36
2 flash drives --
3 A. Yes.
4 Q. -- or thumb drives?
5 A. Any digital device.
6 Q. And can you just basically walk me
7 through how you would do an analysis on a computer or
8 a thumb drive if you received it and were asked to do
9 an analysis of it?
10 A. Once I get my device, I prepare my
11 forensic machine, which I have to wipe my hard drive
12 first to make sure there's no remnants of any other
13 case that I worked on.
14 Once I do that then I basically
15 get the device and I use my write blocker, on this
16 one it's a Tableau write blocker, and I connect my
17 write blocker to the device, to my machine, and that
18 ensures that there's absolutely no tampering of the
19 evidence.
20 It says in the same state. I'm
21 able to read it, and I'm able to do what's called an
22 acquisition using EnCase. And, for the record,
23 En Case is spelled capital E, lower N capital
24 C-a-s-e.
25 Q. Let me just interrupt you real quickly.

1 You said that you have the write 37
2 blocker, and that's so that you can ensure there's no
3 tampering, that you aren't tampering with any of the
4 computers or any of the objects that you're
5 examining; is that correct?

6 A. Yes. Whatever device I'm examining, that
7 stays in the original state it's in. Nothing touches
8 or changes anything on that device.

9 Q. And then do you download that information
10 onto your computer?

11 A. Yes. I basically acquire that digital
12 device and put it on my computer and that provides me
13 a platform to conduct my analysis on that.

14 Q. And then you described Encase. Can you
15 tell me what Encase is?

16 A. Encase is just one of the leading
17 softwares that allows me to conduct searches and look
18 for deleted, just pretty much anything I need on that
19 computer, but it allows you to go further than the
20 general user that you can just get online and look at
21 their computer stuff.

22 It allows me to examine all the
23 files that are in the computer history and everything
24 else, whether it's in the allocated space or
25 unallocated space where the general user just can't

1 correct. That's when I actually conducted the exam 39
2 and started the acquisition and it would be --

3 Q. Would your report tell you when Detective
4 Tooley had contacted you to look at it or would that
5 be the same date that you actually did your
6 examination?

7 A. My report would pretty much be when I
8 actually did the acquisition.

9 Q. What was it that Detective Tooley gave
10 you to do a forensic analysis on?

11 A. She gave me a digital thumb drive.

12 Q. And what information did you have
13 regarding that digital thumb drive at the time that
14 you were given --

15 A. She just basically said that she received
16 a thumb drive from a roommate of the person that she
17 was investigating and that thumb drive was turned
18 over to her and she was looking to corroborate what
19 that person had done, instructed what was possibly on
20 that drive.

21 Q. So you believe that your analysis of that
22 thumb drive would have been on February 18 of 2010?

23 A. Yes.

24 Q. And that would have been thumb drive that
25 you had received from Detective Tooley?

1 get to. 38

2 Q. When you're doing a computer -- forensic
3 computer analysis as it pertains to your position at
4 Metro, what are you looking for when you're using
5 Encase; what are you looking to find on the computer
6 or the other items?

7 A. Well, every case is different, but like,
8 for example, on this case I'm looking to corroborate
9 what the detective has asked me to look for. And in
10 this case it was child pornography images. I'm
11 looking for any evidence that pertains to child
12 pornography.

13 Q. Let's go to this particular case. You
14 said that the detective contacted you. And who would
15 that detective have been?

16 A. Detective Shannon Tooley.

17 Q. Do you know what date it was that
18 Detective Tooley would have contacted you?

19 A. I'd have to look at my report.

20 Q. Do you have a copy of your report with
21 you?

22 A. Not that one.

23 Q. Not this one? This one? You need this
24 one?

25 A. I think it was February 18, if I'm

1 A. Yes. 40

2 Q. If you can walk through us, if you can,
3 how you, once you got that thumb drive, kind of walk
4 through the steps that you took and then what you
5 identified on that particular thumb drive.

6 A. Okay. Once the thumb drive is acquired,
7 after that the computer basically, the software
8 basically does a verification to make sure that
9 everything that was taken from that drive was copied
10 bit by bit. So it's like a digital fingerprint. So
11 that way it's an exact copy of that drive.

12 So once I start working on that I
13 do what's called a signature analysis and that makes
14 sure that it identifies the extensions and that
15 everything that is possibly an image or a different
16 type of file is put in that category.

17 Once it's verified and I verify
18 that I have a clean acquisition, there's no errors
19 and copied it bit by bit, then I start to do my
20 analysis. And on this one since it was a thumb drive
21 there was not -- it's just -- it's not a lot of
22 stuff.

23 So I'm mainly looking for images
24 first. So Encase, the way it does, it puts all my
25 images, what it believe the images, into a gallery.

1 And immediately once it's acquired and everything I 41
 2 start looking at the gallery and start looking for
 3 images of what I believe to be child pornography.
 4 Q. So this EnCase shows you all these
 5 different images, like thumbnails of different
 6 images?
 7 A. It will show me -- it puts them in just a
 8 gallery view of just like collages of pictures of
 9 what is on that computer.
 10 Q. And that's what happened when you looked
 11 at the thumb drive, you got these images or this
 12 gallery --
 13 A. Yes.
 14 Q. -- of images on it?
 15 You said that you were looking for
 16 child porn, that that was the information you had
 17 had. Can you tell me some of things that you found
 18 on that thumb drive when those images came up?
 19 A. I found images of what I believed to be
 20 child porn. I found images of regular pornography
 21 and some images of bestiality and some images of
 22 identification cards; Nevada driver's license, a
 23 bachelor certificate of accomplishment, and just some
 24 other basic IDs, Social Security card.
 25 Q. So on this thumb drive you found

1 identifiers, I guess you could say, of a certain 42
 2 individual, things that would have belonged to an
 3 individual like driver's license, Social Security
 4 number, and certificates?
 5 A. Yes.
 6 Q. What was the name on these various items
 7 of identification, that's what I'm calling them, that
 8 you found when you looked at that thumb drive?
 9 A. Anthony Castaneda.
 10 Q. You said that you also had seen adult
 11 porn?
 12 A. Yes.
 13 Q. And then you saw some bestiality?
 14 A. Yes.
 15 Q. And you also found images of child porn
 16 or what in your opinion was child porn?
 17 A. Yes.
 18 Q. When you were looking to make the
 19 determination that you're looking at child porn, what
 20 are you looking for?
 21 A. I am looking for anybody, any victim or
 22 child that's under the age of 16 that's exposing
 23 genitalia.
 24 Q. And you said you found images of child
 25 porn. How many images of child porn did you find?

1 A. If I recall, 56. 43
 2 Q. So out of this image gallery, 56 images
 3 were of child porn?
 4 A. Yes.
 5
 6 (State's Proposed Exhibit 1 through 15
 7 marked for identification.)
 8
 9 MS. MONROE: If I could, I'm showing
 10 Mr. Geller State's Proposed Exhibits 1 through 15.
 11 If I might approach the witness,
 12 your Honor.
 13 THE COURT: Okay.
 14 BY MS. MONROE:
 15 Q. I'm showing you what's been marked for
 16 identification as State's Proposed Exhibits 1 through
 17 15.
 18 Can you look through those,
 19 Detective Ramirez, and tell me if these -- any of
 20 these images were on the thumb drive that you saw
 21 when you were doing your forensic analysis of the
 22 thumb drive.
 23 You can look at them to yourself,
 24 and then just the ones that you recognize, put them
 25 over in a pile so that we'll know which are the ones

1 you found on the thumb drive. 44
 2 So, for the record, at this
 3 moment, and, counsel, he has his report here. I
 4 don't know if you want to come up and see this as we
 5 go through these.
 6 State's Proposed Exhibits 1, 2, 3,
 7 4, 5, 8, 9, 10, 11, 13, and 14, you said that you
 8 recognized as having come from the thumb drive,
 9 correct?
 10 A. Yes.
 11 Q. Now you're also looking to see if on the
 12 thumb drive you saw State's Proposed Exhibits 6, 7,
 13 12, and 15?
 14 A. I don't see those right offhand. I have
 15 seen those. There's a lot of known images, but I
 16 don't see those that I bookmarked.
 17 Q. So these four you do not think --
 18 A. For sure.
 19 MR. GELLER: For the record, you said
 20 this one for sure?
 21 MS. MONROE: State's Proposed Exhibit 15.
 22 THE COURT: What about 15?
 23 MS. MONROE: He does not recognize that
 24 as being on the thumb drive.
 25 I'm going to bring this over here

1 so we won't ask him to testify from that.

2 (Discussion off the record.)

3 BY MS. MONROE:

4 Q. So you've identified 15, State's Proposed
5 Exhibit 15, and State's Proposed Exhibit 6, and
6 State's Proposed Exhibit 7.

7 These were not images that you
8 recovered off of the thumb drive?

9 A. Correct.

10 Q. He did identify 12.

11 Now, you have your report in front
12 of you. Do those also have the image file name on
13 them?

14 A. Yes, they do.

15 Q. Let's start in the order that I have them
16 in.

17 MS. MONROE: And, your Honor, I think at
18 this time I would move to admit State's Proposed
19 Exhibits 1 -- they're out of order now.

20 THE COURT: I have 1 through 14,
21 excluding 6 and 7.

22 MS. MONROE: Then those would be the ones
23 that I -- and 15.

1 adult\girlpics\twogirls.jpg. The end extension
2 twogirls.jpg, that's what that is named in the
3 computer, whoever created that.

4 So the other part like
5 adult\girlpics, that one is -- the user created that
6 folder.

7 Q. So the twogirls.jpg, I don't understand,
8 does the computer name that?

9 A. Yeah. Whatever they were put on that
10 website for, that's the name that was given to this
11 image.

12 Q. So it's already named even when the --

13 A. At the very end of the name. So if you
14 copied an image and you named it say donna.jpg, it
15 would be .jpg. You don't put the .jpg after the
16 identifier number, but you might put donna. So when
17 this image was downloaded, it was downloaded, the
18 name of it was twogirls, and the .jpg, that's just
19 the extension that the computer responds to it to say
20 this is a picture.

21 Q. So did the original downloader call it
22 twogirls or was that what it was named on the
23 originating source?

24 A. The originating source was twogirls.

25 THE COURT: All right. I understand.

1 THE COURT: I said 1 through 14.

2 MS. MONROE: Those would be the ones that
3 I would move to admit at this time.

4 THE COURT: She's moving to admit
5 Exhibits 1 through 14, excluding 6 and 7.

6 Any objection?

7 MR. GELLER: No objection.

8 THE COURT: Exhibits 1 through 14,
9 excluding 6 and 7, whatever those are, so 12 exhibits
10 total will be admitted.

11 (State's Exhibits 1 through 5,
12 8 through 14 admitted into evidence.)

13 EXAMINATION

14 BY THE COURT:

15 Q. I have a question for the witness, and I
16 hate to interrupt, but she was about to ask you,
17 she's going to refer to them by name.

18 When you guys refer to these
19 images by name or code or whatever, how does that get
20 on there? Who names it? Does the computer name it,
21 does the original -- I don't understand that.

22 A. For example, like the very first one I
23 have is just listed under

1 Thank you.

2 Go ahead.

3 DIRECT EXAMINATION
4 (Continued)

5 BY MS. MONROE:

6 Q. I'm going to show you what's now marked
7 as State's Exhibit No. 1.

8 And, first of all, can you tell me
9 what the image file name is on this case?

10 A. The image file is
11 adult\girlpics\twogirls01.jpg.

12 Q. And that is described -- what is shown in
13 that particular photograph?

14 A. That shows two minors involved in sexual
15 activity. One minor is on her stomach while being
16 penetrated by the male penis with the other minor
17 holding that girl's buttocks and what appears to be
18 semen coming out of her mouth.

19 MR. GELLER: Just for the record, I would
20 object. I ask the witness not to speculate to any
21 particular ages or anything like that. Obviously, he
22 can describe what he sees in the picture, but as to
23 whether or not someone's reached the age of majority
24 or not, that's something that's speculation.

1 THE COURT: Well, he testified what 49
2 appears to be two minors, so I think in his mind two
3 minors would be under the age 16.
4 THE WITNESS: Under the age 16.
5 THE COURT: Based upon your parameters?
6 THE WITNESS: Based upon my experience of
7 child pornography.
8 THE COURT: When you determine child
9 porn, your parameters are under the age of 16 and
10 exposing genitalia?
11 THE WITNESS: Lewd exposing of genitalia
12 and involving sexual activity.
13 THE COURT: So when you just testified
14 they appeared to be two minors, does that mean under
15 the age of 16?
16 THE WITNESS: Yes.
17 THE COURT: So is your objection to that?
18 MR. GELLER: Yes, Judge. If the witness
19 is testifying that he knows the age is under 16, I
20 think the proper way to produce the evidence would be
21 to say you observed pubic hair, things like that.
22 MS. MONROE: I show the Court State's
23 Exhibit No. 1, and the Court can see if it has any
24 questions that those two girls are under the age of
25 16.

1 THE COURT: So the objection's noted for 50
2 the record. I suppose in his training and experience
3 he can testify what he believes appears to be under
4 the age of 16. Any final decision that needs to be
5 made for the purposes of preliminary hearing will be
6 made by the Court.
7 MS. MONROE: Sounds like probably a good
8 suggestion.
9 BY MS. MONROE:
10 Q. And the Court asked some questions when
11 you're looking for what you consider to be
12 prepubescent. What are you looking for or what are
13 you looking to note that is not present in the
14 pictures when you're looking to see if they're, in
15 your opinion, if they're prepubescent?
16 A. We just pretty much look at the size of
17 the child, and if we can pretty much tell if it's a
18 child under the age of 16 or not.
19 My own personal rules, I always
20 try to go under 12, and because teenagers, you can't
21 really specifically say if they have pubic hair, if
22 they don't have pubic hair. Some people shave the
23 pubic area. So I pretty much try to -- if I look at
24 that picture and that appears to be a child under 12
25 to me, then to me that's a child.

1 Q. And, now, so -- and the Court kind of 51
2 asked you this, but the name of the twogirls01.jpg, I
3 believe your testimony was that's the name on the
4 image, so whoever actually circulated that image into
5 the Internet for people to download, that would have
6 been the name it was under?
7 A. Correct.
8 Q. Now, can you tell from your analysis of
9 the thumb drive where this particular picture was
10 found on that thumb drive?
11 A. Yes.
12 Q. Where was that?
13 A. That was found in the folder
14 adult\girlpics.
15 Q. And so there was a folder with that name,
16 that's where that particular photo came out of?
17 A. Correct.
18 Q. Now, showing you State's No. 2.
19 You said you found this photograph
20 on the thumb drive?
21 A. Correct.
22 Q. What was the file name that State's
23 Exhibit No. 2 was listed under?
24 A. The file name is adult\girlpics\, I'll
25 spell it, g-i-r-l-o-n-d-i-c-k 0C.bmp.

1 Q. Is it 0C or 06? 52
2 A. I'm sorry, 06.
3 Q. Can you describe for us what State's
4 Exhibit No. 2 shows.
5 A. That appears to be an image of a person I
6 believe is under the age of 16. There's a male penis
7 in front of her mouth and what I believe to be semen
8 from that male penis all over her mouth.
9 Q. And when you say -- you said a child.
10 Can you tell if the child is a
11 female or male?
12 A. Female.
13 Q. Now let's go to State's Exhibit No. 3.
14 Can you tell me -- that was one of
15 the ones you said you located on the thumb drive?
16 A. Correct.
17 Q. And can you tell me what the file name on
18 State's Exhibit No. 3 is?
19 A. That is adult\girlpics\, I'll spell it
20 again, g-i-r-l-o-n-d-i-c-k 08.jpg.
21 Q. Jp or bmp?
22 A. This is jpg.
23 MS. MONROE: Then, your Honor, I'll be
24 moving to amend that, because we have bmp.
25

THE COURT: We're going to Exhibit 8?
MS. MONROE: Exhibit 8, which will now be

Count 8.

BY MS. MONROE:

Q. So showing you what's been marked as
State's Exhibit No. 8.

Can you tell me what that file
name is?

That one you did not have, I'm
sorry.

I think No. 8 was one he did not
have. I'll use another witness for those.

Let's go to State's Exhibit No. 9.
That image is under adult\girlpics\ capital letters
GIRL69.jpg. Can you describe this image?

A. That is an image of what appears to be a
female under the age of 16 laying on top of that
adult male with penis in her mouth while the adult
male appears to be performing cunnilingus on her.

Q. State's Exhibit No. 10.

MS. MONROE: I need to withdraw the
admission of 10 and 11 because it looks like he's not
finding those as well.

THE COURT: 10 and 11.

MS. MONROE: I'll withdraw for purposes

BY MS. MONROE:

Q. What does State's Exhibit No. 3 show?

A. That shows what appears to be a female
under the age of 16 years of age. She has a -- both
hands on a male penis and the male penis is in her
mouth.

Q. Was this also in that folder girlpics, as
we discussed?

A. Yes.

Q. In fact, did all of these pictures come
out of a folder on that thumb drive entitled
girlpics?

A. Yes.

Q. Showing you State's Exhibit No. 4.
You said that came from the thumb
drive?

A. Correct.

Q. And what was the file name on that
photograph?

A. Adult\girlpics\ capital letters NEW,
N-B-W, dash 22.jpg.

Q. And what did that image show?

A. That appears to be a female under the age
of 16, and there's a male penis penetrating her
vagina.

Q. Now, does this show any heads or any
features at all?

A. No.

Q. It's a close up, correct?

A. Correct.

Q. What was it about this picture that led
you to believe that this was a prepubescent child?

A. Through my experience in Internet crimes
against children I've seen this image on numerous
cases.

Q. Let's go to State's Exhibit No. 5.
What was the file image name of
State's Exhibit No. 5?

A. Adult\girlpics\twogirls.jpg.

Q. And what did that image show?

A. That image shows what appears to be two
females under the age of 16 both performing oral sex
on an adult male.

Q. Now, this picture's kind of cloudy. Does
it show up better when you were looking at it on the
image that you saw on the thumb drive?

A. Yes.

Q. State's Exhibit -- I'll be going to Count
8 for purposes of the Criminal Complaint, and the
first ones, I was going through orders.

of this witness now State's Exhibits 10, 11, and 9 as
well.

THE COURT: Wait, hold on.

MS. MONROE: I'll withdraw at this point
because this is not the witness that can identify
them.

THE COURT: 8 he didn't have on the thumb
drive, but 9 he did.

MS. MONROE: So it would be 8, 10, and
11, I believe that I will withdraw. Well, 10 and 11
I'm going to withdraw at this time through this
witness.

THE COURT: Correct. 8 we still have
kind of admitted, but no foundation or anything laid
through him, so I think it's in limbo.

MS. MONROE: The ones that are in limbo
I'll have the other witnesses when we continue will
be testifying as to those.

BY MS. MONROE:

Q. So State's Exhibit No. 12.

A. I have it under adult\girlpics capital
NEW dash 47.jpg.

Q. This is 12. Okay.

So describe for me -- give me
again what you have it listed as.

1 A. Adult\girlpics\ capital NEW, N-B-W, dash 57
2 47.jpg.
3 MS. MONROE: So I'll have to amend that
4 count as well.
5 THE COURT: That's as to Count 11.
6 MS. MONROE: Correct.
7 No, I'm sorry, we're on Count 12
8 right now.
9 THE COURT: But that picture that you
10 just -- oh, no, that's little.
11 47, but with small caps is what's
12 alleged in your Count 11.
13 MS. MONROE: You're right, it is.
14 THE COURT: He just referenced it's all
15 caps NEW, but 47. So I don't know how you want to --
16 I'm just saying, it might be as to Count 11.
17 MS. MONROE: It's marked as State's
18 Exhibit 12, but it would go to Count 11. We'll just
19 do that.
20 BY MS. MONROE:
21 Q. Can you describe for me then State's
22 Exhibit No. 12 under NEW-47.jpg?
23 A. That's an image of what appears to be a
24 female under the age of 16. She has a male penis in
25 her hand touching the base of her mouth.

1 Q. And does she have both hands -- can you 58
2 tell if she has both hands --
3 A. Yes, both hands.
4 Q. State's Exhibit No. 13, Count 12 of the
5 Amended Criminal Complaint.
6 So showing you State's Exhibit
7 No. 13. What is the file name on that one, the image
8 file name?
9 A. File name is adult\girlpics\ capital
10 letters EURO dash 001.jpg.
11 Q. And can you describe for the record what
12 State's Exhibit No. 13 reflects?
13 A. It reflects six separate images of --
14 sorry, five separate images of what appears to be a
15 female under the age of 16. One image she's
16 performing oral sex on a male penis. Second image
17 she's performing oral sex while holding the penis.
18 Third image she's on all fours, naked, exposing her
19 genitalia and anus. Next pic she's laying on her
20 back with a male penis in her mouth. And the last
21 pic she's being penetrated anally from a male penis.
22 Q. You want to go ahead and see if you can
23 find State's Exhibit 14 for me?
24 A. That I do not have.
25 MS. MONROE: I will withdraw Exhibit 14

1 to be identified by another witness.
2 BY MS. MONROE:
3 Q. Now, these particular -- you just have
4 your -- so these were the images that you located
5 from the thumb drive, correct?
6 A. Correct.
7 Q. Now, after you had identified those
8 exhibits that we've admitted as child porn, what was
9 the next thing that you did?
10 A. I bookmarked those images and then just
11 did a basic report and turned all the information
12 over to Detective Tooley.
13 Q. When you say bookmarked, I'm not quite
14 sure what that is. What do you mean when you
15 bookmark the images?
16 A. Bookmarking is where I select an image, I
17 put a checkmark on it, and it puts that image with
18 all the information over into a report.
19 Q. Now, are you able to determine from the
20 thumb drive when those different things, items, the
21 personal information, and those pictures that we've
22 seen that have been admitted, when those would have
23 been put on the thumb drive?
24 A. It will give me dates and times of file
25 created and last accessed, but that just tells me

1 when it was put on that computer or on that thumb 60
2 drive.
3 Q. Let's go with the personal information
4 that you said that belonged to Anthony Castaneda.
5 When were those items put on that
6 thumb drive?
7 A. My report shows a file created date of
8 December 1 of '08.
9 Q. And when you say a file created date, I'm
10 sorry, not being computer literate I'm not real sure
11 what that means. What does that mean?
12 A. That just means that that's when that
13 was -- that image was put on that thumb drive.
14 Q. And those were those various items; the
15 Social Security card, the driver's license, the
16 certificates, were those all put on the same date or
17 were they put on at different dates?
18 A. Same date.
19 Q. I'm sorry, what was that date?
20 A. December 1 of 2008.
21 Q. Now, what about the girlpics, the
22 different exhibits that you have shown us and that
23 we've admitted that you recovered on the thumb drive;
24 do you have when those would have been put onto that
25 thumb drive?

61
A. Yes. And I have November 25 of '08.

Q. November 25 of '08. That would have been before all of Mr. Castaneda's personal information was put onto the thumb drive, correct?

A. Correct.

Q. And all of those pics, all of those girlpics that we've looked at today in court, they were all put there on -- in November of '08?

A. Yes.

Q. And you said you found 56 images. We only really looked at probably about 10 that you were able to identify, and we didn't put them all in.

Were you able to tell if all of those 56 images would have been entered at the same time?

A. It appears that all these were on November 25 of '08.

Q. Did you find any other files on the thumb drive or with that software that you were using or were you just pulling up images on that thumb drive?

A. I was pretty much just looking for images, but I also looked into what's called the unallocated area where it won't have file names or extensions, but it will show what images were on that thumb drive and then were deleted.

Could you review that and see if that refreshes your recollection as to what date the search warrant was served.

A. That would be on April 7 of 2010.

Q. And the address was 2205 Beverly Way in Las Vegas, Clark County, Nevada?

A. Correct.

Q. Now, you weren't responsible for obtaining the search warrant in any way; is that correct?

A. Correct.

Q. That would have been Detective Tooley?

A. Yes.

Q. So what was your role in going to that location when she had the -- when she actually had obtained a search warrant for that residence?

A. Once the residence is secured and safe, then we enter, and my role would have been just to do a computer forensics preview of any of the digital media that we find there.

Q. So when you went into the residence did you find any digital media that you were going to conduct a preview on?

A. Yes, I did, a, what I believe was a shuttle. It's just called a shuttle. It was a mini

Q. What did you find when you looked at that?

A. I pretty much found some pornography, bestiality, and some of these images of child pornography.

Q. Does that mean some of the child pornography had been put on the thumb drive, but then deleted at some point?

A. Yes.

Q. Does it say when they -- were you able to determine when they would have been deleted?

A. No. Once it goes into unallocated, that's just an open area that doesn't get any identifiers.

Q. Now, were you present when a search warrant was served at Mr. Castaneda's residence?

A. Yes.

Q. Do you remember what day it was that that search warrant was served?

A. I'd have to look at the report.

Q. Your report?

A. No, for the search warrant it would be Detective Tooley.

Q. I'm going to show you Detective Tooley's Declaration of Warrant Summons.

computer.

Q. A shuttle?

A. It's just a name.

THE COURT: It was a shuttle means a what?

THE WITNESS: It's just a name for a computer. It's just a computer. It's just the box that it's in. We call it a shuttle.

BY MS. MONROE:

Q. Was that the only computer that you actually looked at or previewed when you went to that location?

A. Yes.

Q. And when you preview it, what exactly do you do?

A. Basically, I take my laptop and I attach it with my write blocker to the hard drive that's in that computer. So, basically, I pull the case cover off of that computer and then I attach my write blockers to that computer so, again, not to tamper with any of the evidence and no writing to that evidence. And then I just do a basic acquisition of the computer which just shows me generally what's on there at the time.

Q. Now, when you did your preview of the

1 shuttle or the little computer, did you find 65
 2 anything, any child porn?
 3 A. Yes, I did.
 4 Q. Once you found the child porn, what was
 5 your role; what did you do then?
 6 A. As soon as I locate anything that is of
 7 evidentiary value, I go ahead and contact the
 8 detective and tell them, look, this is containing
 9 contraband, what you were looking for.
 10 Q. And when you say you contacted the
 11 detective, who would that have been?
 12 A. Detective Tooley.
 13 Q. And why would Detective Tooley be the one
 14 that you contact?
 15 A. She's the assigned investigator for that
 16 case.
 17 Q. So when you found child porn on this
 18 shuttle, I'll call it a shuttle, you then just
 19 basically let the detective, Detective Tooley know,
 20 and you shut it all down, and was that computer taken
 21 into evidence?
 22 A. I let the detective know, and I left it
 23 up for -- because she was doing an interview. So
 24 when she came back in the residence is when I
 25 informed her that there was child pornography on that

1 A. I'm not sure if it was previewed, but I 67
 2 know it was left there, so to me that would tell me
 3 most likely yes.
 4 Q. And then you said there were two other
 5 computers that were looked at. Where were those
 6 computers located?
 7 A. Another computer was in the living room,
 8 and then there was an additional room that was in the
 9 back of the house. It was kind of like an addition
 10 area. They were all pretty much in the general area
 11 of the living room.
 12 Q. And you didn't preview those other two?
 13 A. No.
 14 Q. Do you know who previewed those other
 15 two?
 16 A. That would have been Detective Ehlers and
 17 I want to say Detective Tafoya (phonetic).
 18 Q. And so once they're previewed, then a
 19 determination, if there's child porn found, the
 20 determination is made to let the lead detective know
 21 and that person will be responsible for impounding
 22 those computers?
 23 A. Yes.
 24 Q. Do you know how many computers were taken
 25 out of the residence to be examined later?

1 computer. 66
 2 Q. Where was the computer that you looked at
 3 located in the residence?
 4 A. When you walk into the house it was on
 5 the -- to my left of the residence, which was by the
 6 kitchen area. So that would have been the
 7 northwestern area of the house.
 8 Q. But by the kitchen area?
 9 A. Yes.
 10 Q. And then did you see other computers in
 11 the residence, even though you may not have previewed
 12 them, did you locate other computers in the
 13 residence?
 14 A. Yes.
 15 Q. Now, how many other computers were
 16 previewed, if you know?
 17 A. I think there was a computer that was
 18 actually left there that was looked at that was a
 19 college student's. And then there was two other
 20 computers that were actually looked at.
 21 Q. The computer that you thought was the
 22 college student's, where was that located?
 23 A. That was located in the first bedroom
 24 that you enter on the right.
 25 Q. Was that previewed?

1 A. I believe two were taken to be examined. 68
 2 It could have been three. I'm not a hundred percent
 3 sure.
 4 Q. You know that the one that you previewed
 5 would have been taken?
 6 A. Yes.
 7 Q. And there may have been another one or
 8 two others that may have been taken?
 9 A. Yes.
 10 Q. To your knowledge was child porn found on
 11 any other computers other than the one that you
 12 previewed?
 13 A. Yes.
 14 Q. After you preview it and find it, what is
 15 your role after it's turned over to the lead
 16 detective?
 17 A. After that it's turned over to the lead
 18 detective, who's responsible for the chain of custody
 19 impounding the computers, and after that they just go
 20 through it and it gets submitted to our sergeant for
 21 analysis.
 22 Q. Now, did you play any role in the
 23 analysis of the two, possibly three computers that
 24 would have been taken from the Beverly residence?
 25 A. No.

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1 Q. Did you ever come into contact with a
2 person identified as Anthony Castaneda?

3 A. Yes, I did.

4 Q. When was that?

5 A. That was actually at the house at the
6 search warrant, day of the search warrant.

7 Q. And you said that -- I believe you said
8 that Tooley was out doing an interview?

9 A. Yes.

10 Q. And who was the person that she was
11 interviewing?

12 A. Mr. Castaneda.

13 Q. And then at some point Mr. Castaneda was
14 brought back into the house?

15 A. Yes.

16 Q. And that was when you saw him or at least
17 to identify him?

18 A. Yes.

19 Q. Do you see Mr. Castaneda, the person that
20 was brought into the residence when you conducted --
21 after you conducted your search warrant, do you see
22 that person here in court today?

23 A. Yes, I do.

24 Q. What I need you to do is describe an
25 article of clothing that person has on and where that

71

1 in this particular case, Detective Ramirez?

2 A. Yes.

3 MS. MONROE: I'll pass the witness, your
4 Honor.

5 THE COURT: Cross-examination.

6 MR. GELLER: Thank you, Judge.

7

8 CROSS-EXAMINATION

9 BY MR. GELLER:

10 Q. And, just to clarify, from his statement
11 he acknowledged that those were children, but did not
12 say that he was responsible for putting those picture
13 on?

14 A. No, he did not.

15 Q. You testified during direct examination
16 about the file creation dates. I'd like to make a
17 distinction. If I have a digital camera, let's say,
18 for example, I were to take a picture of, say, the
19 stapler that's on the desk here, would that digital
20 camera essentially put that information as to when
21 the picture was taken and embed that into the file?

22 A. No.

23 Q. So there would be no creation date
24 associated with when a picture was actually taken by
25 a digital camera?

70

1 person is located here in the courtroom.

2 A. Mr. Castaneda is sitting on the bench
3 right there, and he's wearing a blue smock top with
4 glasses, a little facial hair, and baldheaded and some
5 grayish hair on his head.

6 MS. MONROE: May the record reflect the
7 identification of the defendant?

8 THE COURT: Yes.

9 BY MS. MONROE:

10 Q. Did you ever have or show Mr. Castaneda
11 anything that you had recovered or located in the
12 residence on the computers?

13 A. Yes, I did.

14 Q. And how did that come up?

15 A. Detective Tooley entered the residence,
16 and I told her that I had found some images of what I
17 believed to be child pornography. She informed
18 Mr. Castaneda, and I can't remember exactly what he
19 said, but then -- so I said, well, I'm looking at
20 your computer through mine.

21 So I turned my laptop, and I said,
22 this is what's on your computer, and it was some of
23 the images, and he says, oh, yeah, those are kids.
24 And then he just said I'm sorry and that was all.

25 Q. Was that the extent of your involvement

72

1 A. No.

2 Q. So the creation dates that you testified
3 to, I believe you said were November of 2008; is that
4 correct?

5 A. Yes.

6 Q. And were those creation dates, did they
7 come down to the hour, minute, and second?

8 A. Yes.

9 Q. Are they all identical?

10 A. To the minutes, yes; seconds, no.

11 Q. And I'm going to have to ask you just for
12 in the interest of speed, we'll go through this
13 Count 1 through 15, if you could just give me that
14 information starting with Count 1 as to the --

15 THE COURT: You mean the exhibit?

16 MR. GELLER: I can give you a copy of the
17 Complaint.

18 THE WITNESS: I'd have to see the actual
19 image, because mine are numbered different than
20 yours.

21 BY MR. GELLER:

22 Q. Would it be possible if I give you the
23 file name, can you do it that way?

24 A. Yes.

25 MS. MONROE: Remember, he didn't have all

1 of them. 73

2 MR. GELLER: Right, but my understanding

3 is that he subsequently looked into the creation

4 dates.

5 THE WITNESS: On the ones that I said

6 that I identified as the ones that I saw.

7 BY MR. GELLER:

8 Q. Okay. So if you could start with the

9 first one you have and state the file name for the

10 record and give me the creation date.

11 A. The first file name that I have is

12 adult\girlpics\twogirls.jpg.

13 Q. What would --

14 THE COURT: Hold on. Without an 01, just

15 twogirls, right?

16 THE WITNESS: Yeah.

17 THE COURT: So that's Exhibit 5.

18 MS. MONROE: I don't think so. There are

19 more images on this than were admitted.

20 THE COURT: On what?

21 MS. MONROE: On his report. He's looking

22 at numerous images, and not all of them --

23 THE COURT: Here's the exhibits. They're

24 labeled on the back. So why don't we just start, for

25 sake of Exhibit 1, and you can skip, since they all

1 NEW-22.jpg? 75

2 A. File created 11-25-08, time 04:02:07 a.m.

3 Q. File creation for twogirls.jpg?

4 A. File created date 11-25-08, time

5 04:01:28 a.m.

6 Q. Do you have file the creation dated for

7 EURO-002.jpg?

8 THE COURT: Wait, hold on. I don't think

9 that's one we admitted.

10 MS. MONROE: It wasn't.

11 BY MR. GELLER:

12 Q. Okay. Do you have the file creation

13 dated for NEW-05?

14 MS. MONROE: That's Count 7, and I think

15 we withdrew 07.

16 THE WITNESS: I'm at No. 9.

17 THE COURT: Exhibit 9?

18 THE WITNESS: Yes.

19 BY MR. GELLER:

20 Q. Do you have a file creation for girl69?

21 A. Yes.

22 Q. What is that?

23 A. That is 11-25-08, time 04:01:38 a.m.

24 Q. Do you have a file creation date for

25 NEW-43?

1 came from the file adult\girlpics\ and just give us 74

2 file name, the tail end.

3 MR. GELLER: I didn't want to mess up.

4 Just read the file name; is that how we want to do

5 it?

6 THE COURT: I have as Exhibit 1 file name

7 twogirls01.jpg. What's the file creation date?

8 THE WITNESS: File creation date is

9 11-25-08, time is 04:01:28 a.m., 28 seconds.

10 BY MR. GELLER:

11 Q. All right. If you can move on to the

12 next one you were responsible for recovering.

13 MS. MONROE: Why don't you give him the

14 name on it.

15 MR. GELLER: Certainly.

16 Girlsondick06.bmp.

17 THE COURT: That's Exhibit 2.

18 MR. GELLER: Yes. Girlsondick06.bmp.

19 THE WITNESS: File created 11-25-08, time

20 04:01:42 a.m.

21 BY MR. GELLER:

22 Q. And you testified about girlsondick08.jpg.

23 A. File created date 11-25-08, time

24 04:01:42 a.m.

25 Q. Do you have the file creation date for

1 THE COURT: Hold on. I think that was 76

2 withdrawn.

3 MR. GELLER: It may have been. Actually,

4 I did write down 10 and 11 withdrawn. It was a

5 little confusing for me.

6 MS. MONROE: It was confusing for me.

7 MR. GELLER: I'll move on to the one

8 featured in Count 12, which would be EURO-001.jpg.

9 MS. MONROE: I think that's Exhibit 13.

10 I think we got a little confused on this.

11 THE WITNESS: No. 12 I have --

12 THE COURT: It would be admitted 13.

13 EURO-001.jpg, Exhibit 13.

14 MS. MONROE: The five images.

15 THE WITNESS: You said EURO-001, correct?

16 THE COURT: Yes.

17 THE WITNESS: That is file created date

18 11-25-08, time 04:01:36 a.m.

19 BY MR. GELLER:

20 Q. Do you have the file creation date

21 NEW-33.jpg?

22 THE COURT: I think that was withdrawn.

23 THE WITNESS: No, my next one is 47,

24 NEW-47.

25 BY MR. GELLER:

Q. That's the next one you have?

A. The next one.

THE COURT: Exhibit 12 on the back?

THE WITNESS: Yes.

MS. MONROE: That's the one I'll have to amend. 477

THE WITNESS: Correct.

THE COURT: Go ahead.

THE WITNESS: File created date is 11-25-08, time is 4:02:11 a.m.

BY MR. GELLER:

Q. Did you have occasion to examine the file creation dates with respect to child pornography located on other computers in the residence?

A. No.

Q. Presumably, that information does exist?

A. Yes.

Q. Would it be physically possible if the flash drives that were seized were actually manufactured in '09, would it be possible to have images with this creation date of 2008?

A. Yes.

Q. How is that possible?

A. The last written date could be earlier or later. What happens is when that file is copied

Q. Did you acquire writing dates or written dates?

A. All those dates are last written. The ones -- the dates that I have are file created date, last access date, and last written date. Those are the three main dates that I bookmark and copy.

Q. So the dates that we just went over, correct me if I'm wrong, those were the creation dates?

A. Correct.

Q. So that would have been the date that the photos were originally taken from a digital camera and put onto somebody's computer?

A. Correct.

Q. Not necessarily Mr. Castaneda's?

A. Correct. Any device. We're not sure what device at that point. As far as my examination, all I have is the thumb drive.

Q. And then there's the written date?

A. Correct.

Q. And that would be the date that the files were transported from another source, such as the Internet, to Mr. Castaneda's thumb drive or computer?

A. That would be the date that was actually written originally, and that's why if you copy it

over, that's when that date could be from the original one. So that's why you could show, say, an '06 created date or written date when it was -- when the created date is, say, even before that.

Q. Let's go back to my stapler analogy, if we can. If I were to take a digital photograph of this stapler, let's say in the year 2006, and I put it onto -- on January 1, 2006, I transfer that image to a computer.

A. Correct.

Q. So January 1, 2006, that would be the creation date associated with the picture of that stapler?

A. Correct.

Q. And if I subsequently transferred that image to multiple devices on another computer, a thumb drive, so on and so forth, the original date that the file was transferred to the computer would be maintained as the creation date; is that right?

A. The creation date will be maintained. The last written date will be the one that changed because that's when you're copying it over.

Q. So there's something called a creation date and there's something called a written date?

A. Correct.

over, it will keep that written date, but it can, like you said, if it was an '06 and now it's '07, and that thumb drive is bought in '07, but yet it shows an '06 date, that's why, because that date is from the original computer. So those last written dates will be on the -- or should be on whatever computer that it came from.

Q. So the concept between a creation date and a written date is backwards?

A. Yeah.

Q. So the date that you just gave me would be considered the written dates?

A. The dates I gave you, the 11-25-08?

Q. Yes.

A. That is the file created date. That's when that file was created on that thumb drive.

Q. On the thumb drive.

And then you have something that's called an access log that you can view associated with these?

A. Last access.

Q. You say last access. Does the access log or the last access log only allow you to determine the most recent time that an image was viewed or does it allow you to see each and every time an image was

1 viewed? 81

2 A. All that shows you is the last time that

3 thumb drive was accessed, that thumb drive was

4 plugged in somewhere.

5 Q. Just the thumb drive as a whole?

6 A. Correct.

7 Q. So, if I understand correctly, we're

8 going back to the analogy of the picture of the

9 stapler. If I had a picture of a stapler on my

10 computer and opened it up say on the 1st of the

11 month, 15th of the month, and the 30th of the month,

12 you would never be able to tell that?

13 A. No, you could do further analysis, but

14 from what the computer just generally gives you, it

15 will give you these three dates.

16 Q. You mentioned that that can be determined

17 from further analysis. Is that something that Metro

18 does?

19 A. Yes.

20 Q. Was that done in this case to your

21 knowledge that?

22 A. It would be whoever did the actual

23 examination on the computer, and I'm not -- depending

24 on what type of file it is, he might just be able to

25 tell how many times that was opened and not exactly

1 the exact dates that that file was opened. 82

2 Q. Is it standard procedure within Metro to

3 perform that analysis to determine when pictures --

4 A. We pretty much just see if that file was

5 just accessed and get the basic last written,

6 created, and access dates.

7 Q. But it sounds like from your testimony

8 Metro has the capability to determine each and every

9 time it was opened?

10 A. Capability, whether you can get it or

11 not, it depends on the software.

12 Q. In this case the operating system was

13 Windows NT; is that right?

14 A. I'm not sure what operating system he had

15 on those machines because I didn't do the actual

16 computers.

17 Q. With respect to the last access log, were

18 all the dates the same with respect to all of these

19 images?

20 A. Yes.

21 Q. What was the date of the last access?

22 A. The last access, that's the last time the

23 thumb drive was accessed, that was 02-07-2010.

24 Q. If I understand you correctly, and I

25 apologize if I keep repeating myself here, you're not

1 aware of what instances these pictures may have been 83

2 viewed prior?

3 A. No.

4 Q. During your analysis of the computers,

5 did you determine if there were any files that were

6 encrypted on the computer -- on the flash drive

7 rather?

8 A. No.

9 Q. Is that something that typically you will

10 look for, encrypted information?

11 A. I'd be able to see it right away. In

12 this case I didn't see anything that was encrypted.

13 Q. What is it that you can see on the

14 computer that indicated to you that there's encrypted

15 information?

16 A. If I have a zip drive and I try to open

17 the zip drive, it will prompt me for a password.

18 Q. You mentioned that there was also a file

19 path. I believe it was adult\girls, something to

20 that effect?

21 A. Yes.

22 Q. Is your analysis able to determine when

23 that file path was created?

24 A. Not on the thumb drive.

25 Q. Not on the thumb drive?

1 A. No. 84

2 Q. Can it be done with respect to the

3 laptops or desktop computer; for instance, the

4 shuttle?

5 A. That would be hard to say when the actual

6 folder was actually created. You know, you couldn't

7 really pinpoint when that photo was created exactly

8 at this time, so -- and it depends on if that folder

9 was created and moved to other places or -- it would

10 be hard to determine that, when the actual folder

11 was created.

12 Q. When you get this information with

13 respect to a picture, are you simply right clicking

14 on it and hitting properties and reading what else is

15 displayed in properties or is the analysis more in

16 depth than that?

17 A. No, the actual program we use does --

18 that actually pulls up all the dates and times of

19 that picture and it puts them in what's called a

20 gallery so we can view them in their natural state.

21 So we can export the picture, copy

22 out the picture, and then look at it from -- with a

23 different viewer, but technically we pretty much just

24 look at it the way the computer shows it to us and

25 it's supposed to be the way it's seen on his.

1 Q. Now, did you have any information with
2 respect to your analysis of the shuttle that that
3 computer had ever been reformatted?

4 A. No.

5 Q. Is that something that Metro can
6 determine?

7 A. We can tell what programs have been on
8 there. Typically, that detective would have looked
9 at the registry files.

10 Q. During the search phase of the
11 investigation, did one of the computers to your
12 knowledge not have a power supply associated with it?

13 A. I'm not sure.

14 Q. If you know, were the images that were on
15 the thumb drive in the exact same file path located
16 on the other computer, the shuttle?

17 A. I believe they were, but, like I said,
18 I'd have to look at the report and verify that.

19 Q. Is that information you have there?

20 A. No. That would be Detective Ehlers.

21 Q. During the course of your investigation,
22 did you come across any information that would
23 suggest Mr. Castaneda was a member of a child
24 pornography website that distributes this type of
25 information?

1 A. No.

2 Q. Is that something that Metro investigates
3 on these types of cases?

4 A. On the main computers we would look at
5 all his cookies and all the websites that he did go
6 to. And we do look for just general, we do what's
7 called an Internet history search and see what he's
8 actually gone to, what search terms he's put in for,
9 what he's actually looking for, yes.

10 Q. You're not personally aware of any
11 evidence --

12 A. I didn't conduct that part of the
13 investigation.

14 MR. GELLER: Court's indulgence for just
15 a moment.

16 BY MR. GELLER:

17 Q. Are you aware of what year the shuttle PC
18 was manufactured?

19 A. No.

20 Q. Were you aware of what year the Dell was
21 manufactured?

22 MS. MONROE: Your Honor, I'm going to
23 object. There was no testimony that a Dell computer
24 was found, so --

25 THE COURT: Sustained.

1 THE WITNESS: Like I said --

2 THE COURT: There's no question pending.

3 MR. GELLER: I apologize.

4 BY MR. GELLER:

5 Q. What I meant to ask you was are you aware
6 of when the operating system was installed on the
7 shuttle?

8 A. I didn't do the shuttle, and since I did
9 just basic preview, that would be more into my full
10 analysis, then I would do a Windows initialization
11 and see when the operating system was actually
12 installed and the dates and times of that, and that's
13 through the Windows registry also.

14 Q. Is that something that would be normally
15 done by Metro?

16 A. We do that, but not for preview.

17 Q. Were you able to determine during your
18 analysis whether or not the entire folder and file
19 path was copied in one transfer as opposed to the
20 file being placed one by one into that particular
21 folder?

22 A. I would have to be the one that did the
23 actual computer, so . . .

24 MR. GELLER: I apologize, Judge.

25 THE COURT: I think what he testified to

1 is he only forensically analyzed his drive and only
2 previewed one or two computers in the home.

3 THE WITNESS: I previewed one.

4 THE COURT: One.

5 So he didn't forensically analyze
6 any of the stand-alones or any of the laptops. I
7 think your questions are more directed at the
8 forensic analysis of those computers, not previews.

9 MR. GELLER: I think you're right. We'll
10 pass the witness.

11 THE COURT: I have one question.

12 EXAMINATION

13 BY THE COURT:

14 Q. On the flash drive that you forensically
15 analyzed, you said you found identifier images and
16 then you found these other pornography, child
17 pornography and bestiality images, I think you said.

18 Did you find any other types of
19 images, generic images, vacation images, family
20 images, anything?

21 A. There's pretty much I'd have to look at
22 the whole drive again or the thumb drive again.
23 Typically, you'll have Windows based images.

24 Q. Right, those sample things?

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1 A. Yeah.

2 Q. Any other more personalized images that

3 could be attributed to an owner?

4 A. Just the images of the ID cards that I

5 found, driver's license.

6 Q. Other than those?

7 A. No, I don't think I found any documents.

8 Typically, I would look for

9 documents, personal resumés and things like that, and

10 the only thing I found was the certificates for his

11 degree.

12 Q. So other than the, what we're calling the

13 identifier images, other than the pornographic images

14 and the sample images that the computer puts on there

15 or whatever, there was no other images that you can

16 remember in that gallery?

17 A. Not just the general stuff. I'd have to

18 go back and actually look at it and see.

19 Q. But you don't remember anything?

20 A. No.

21 THE COURT: All right. Redirect.

22

23

24

25 REDIRECT EXAMINATION

91

1 the true date that that file was actually put on that

2 computer.

3 Q. And do you have the written dates?

4 A. Yes.

5 Q. And I don't think -- we didn't go through

6 those, did we?

7 A. No.

8 Q. Those are different from the created

9 dates?

10 A. Yes.

11 Q. Let's go through the written dates then.

12 A. The first one I have is Exhibit No. 1,

13 and it's twogirls01.jpg, and the last written date is

14 08-09-07 with a time of 7:29:14 a.m.

15 Exhibit No. 2 I have it as

16 girlondick06.bmp. That is last written 08-13-07,

17 time 10:07:54 p.m.

18 Exhibit No. 3 I have as

19 girlondick08.jpg, last written 08-13-07, time

20 10:09:00 p.m.

21 Exhibit No. 4 I have as capital

22 NEW-22.jpg, last written 08-11-07, time 01:03:18 a.m.

23 Exhibit No. 5 I have as

24 twogirls.jpg. Last written date is 08-09-07, time

25 7:30:54 a.m.

90

1 BY MS. MONROE:

2 Q. Just a couple, because I got a little

3 confused on the creation date and the written date.

4 What is the creation date? Not

5 this specific. What is it in general; what's the

6 creation date?

7 A. It's just basically when that file was

8 created.

9 Q. When you say when that file was created,

10 that would have been the person who was actually

11 photographing the child in person and then putting

12 that picture out there; is that what you mean by the

13 creation date?

14 A. No, on his machine.

15 Q. On his machine. So when -- if that's

16 Mr. Castaneda's thumb drive with his identifiers on

17 it, the creation date is the date that he would have

18 downloaded those images onto that thumb drive?

19 A. They were put on that machine or that

20 thumb drive, yes.

21 Q. And then there was a written date, and

22 what was that?

23 A. A written date is -- it's kind of

24 strange. People get confused with the file created

25 date and the last written date. The written date is

92

1 Exhibit No. 9 I have as capital

2 GIRL69.jpg. Last written time is 08-09-07, time is

3 6:29:02 a.m.

4 Exhibit No. 13 I have as

5 EURO-001.jpg. Last written is 02-07-10, time

6 10:03:54 p.m.

7 In Exhibit No. 12 I have as

8 capital NEW-47.jpg. Last written is 08-11-07, time

9 is 01:15:20 a.m.

10 Q. So when you say the written dates on the

11 computer, that's the time that they would have

12 actually been downloaded onto a computer, not on this

13 flash drive?

14 A. Correct.

15 Q. And then the created dates are the dates

16 that these photographs would have been downloaded

17 onto the thumb drive or flash drive?

18 A. Correct.

19 Q. And I think that is all that I had for

20 you.

21 Let me ask you this. You said

22 that you were familiar with some of these images.

23 Why is that?

24 A. Just through the training and through the

25 amount of cases that we've gone through and what we

1 do is we send all the images we find on the computer 93
2 that we believe are of child pornography and we send
3 them to the National Center For Missing And Exploited
4 Children. They have a database there and they also
5 physically look at the images and they identify which
6 of those images are known images, which images are
7 series, and which are of minor children.

8 Q. So some of these images you've actually
9 seen in other investigations?

10 A. Correct.

11 Q. So how would somebody go about getting
12 these images to download onto their computers, series
13 of these images that you've seen on more than one
14 occasion?

15 A. Most popular right now is through Line
16 Wire, but there are other -- you can go to Russian
17 sites that are not under our control in the States.
18 So you can go to UK sites, .RU, .UK sites and
19 download some of these images.

20 Q. Now, I know you did not do the forensic
21 analysis of the actual computers, but the person, if
22 you were the one doing it, would you have been able
23 to tell how these sites would have been downloaded on
24 the computer? Does the computer store that
25 information?

1 11:38:01.

2 THE COURT: What was the written date?
3 THE WITNESS: 4-25 of '06.

4 And I bookmarked two other
5 documents. One was a California State, Fresno,
6 Degree of Bachelor of Science to Mr. Anthony
7 Castaneda. And that last written date was also
8 4-25-06 with a time of 11:2 -- I'm sorry,
9 11:02:34 a.m.

10 BY MS. MONROE:

11 Q. What was the creation date?

12 A. 4-25 of '06.

13 Q. So that document went on that thumb drive
14 on the 4-28-06?

15 A. 4-25 of '06, but it actually went on --
16 the file created date on that was 12-01-08.

17 Q. I thought that was the creation date?

18 A. I'm sorry, the creation date is 12-01-08,
19 and the last written was 4-25 of '06.

20 Q. Then what was the other identifier?

21 A. The last identifier was an Army diploma.

22 Q. Is that also in the defendant's name?

23 A. Yes.

24 Q. What is the creation date on that?

25 A. The creation date, file created date was

1 A. I would have just been able to tell what 94
2 sites he actually went to.

3 Q. You can tell that on the computer?

4 A. If I'm searching for -- if that's in my
5 search warrant of what I need to look for, then yes,
6 I would look for that. If that's what I'm asked to
7 look for.

8 Q. Now, the identifiers that we talked
9 about, identifiers that you said also contained
10 Mr. Castaneda's information, what exactly, what
11 identifiers did you actually find?

12 Look at your images and go through
13 exactly what images you found.

14 A. I found one image that contained three
15 identification cards. One was his Nevada
16 identification card. The other was a Rebel card. A
17 University of Nevada Las Vegas card. And his faculty
18 staff ID card. And another one was the Social
19 Security card with the name Anthony Castaneda.

20 Q. Now, on those three can you tell what the
21 creation date is on those?

22 A. The file created date on those was 12-01
23 of '08.

24 Q. What about the written date?

25 A. Last written date was 4-25 of '06, time

1 12-01-08, time 02:57:27 a.m. The last written date 96
2 was 4-25-06, time 11:03:36 a.m.

3 Q. When you say the last written date, I
4 thought that was just one date. What do you mean the
5 last written date?

6 A. The last written date is basically when
7 it was put on the actual computer.

8 Q. So it's kind of the written date, it's
9 not the last written date?

10 A. They just list it as the last written
11 date.

12 MS. MONROE: All right. That's all I
13 have. I'll pass the witness.

14 THE COURT: Any other questions?

RE-CROSS-EXAMINATION

15 BY MR. GELLER:

16 Q. I just wanted you to reconcile, maybe the
17 created date are misnomers because the dates that you
18 just gave me or you gave us, it sounds to me like the
19 created date is more recent in time than the written
20 date?
21

22 A. Correct.

23 Q. So would you say those are just misnomers
24 because that's kind of confusing?
25

1 A. The last written date, if it's different 97
2 than the file created date, means that that file was
3 copied or moved. So in this case I'm investigating a
4 thumb drive. So when I see that date, that's exactly
5 what it tells me. If I see a date that's way before
6 the created date, that just tells me, okay, that file
7 was definitely moved from another computer to this.
8 Q. So when I see the word created, I could
9 probably input copied or moved to ease my
10 understanding?
11 A. Written would be copied and moved.
12 Created would be that's when that was created on that
13 thumb drive, on that device, whatever the device is.
14 MR. GELLER: Thank you. No further
15 questions.
16 MS. MONROE: Nothing.
17 THE COURT: Thank you very much.
18
19 (Witness excused)
20
21 Did you talk to your witnesses
22 about when you want to resume on Thursday?
23 MS. MONROE: Let me talk to them real
24 quick.
25

1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP 99
2 COUNTY OF CLARK, STATE OF NEVADA
3

4 STATE OF NEVADA,
5 Plaintiff,
6 vs.
7 ANTHONY CASTANEDA,
8 Defendant.
9

Case No. 11F03995X
ATTEST RE: NRS 239B.030

10
11 STATE OF NEVADA }
12 COUNTY OF CLARK } SS
13

14 I, Gerri De Lucca, a Certified Shorthand
15 Reporter within and for the County of Clark and the
16 State of Nevada, do hereby certify:
17

18 That REPORTER'S TRANSCRIPT OF PROCEEDINGS
19 was reported in open court pursuant to NRS 3.360
20 regarding the above proceedings in Las Vegas Justice
21 Court, 200 Lewis Avenue, Las Vegas, Nevada.

22 That said TRANSCRIPT:
23 X Does not contain the Social Security
24 number of any person.
25 _____ Contains the Social Security number
of a person.

1 (Discussion off the record.) 98
2
3 THE COURT: These are the more
4 significant witnesses. I thought he was supposed to
5 be the easy one.
6 MS. MONROE: He was.
7 THE COURT: I suggest we start at 1.
8 Okay, thank you.
9 MS. MONROE: Thank you, your Honor.
10
11 (Preliminary hearing continued to
12 Thursday, April 14, 2011 at 1:00 p.m.)
13
14
15 ATTEST: Full, true and accurate transcript of
16 proceedings. *Gerri De Lucca*
17 GERRI DE LUCCA, C.C.R. NO. 82
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1
2 ATTEST: I further certify that I am not interested
3 in the events of this action.
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Gerri De Lucca
GERRI DE LUCCA, C.C.R. NO. 82

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CASE NO. C272657
DEPT. NO. 12

ORIGINAL

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,
Plaintiff,
vs.
ANTHONY CASTANEDA,
Defendant.

Case No. 11F03995X
VOLUME II

REPORTER'S TRANSCRIPT
OF
CONTINUATION OF PRELIMINARY HEARING

BEFORE THE HONORABLE DIANA L. SULLIVAN
JUSTICE OF THE PEACE

TAKEN ON THURSDAY, APRIL 14, 2011
AT 1:00 P.M.

APPEARANCES:

For the State: VICKI J. MONROE
Deputy District Attorney
For the Defendant: WARREN J. GELLER
Deputy Public Defender

Reported by: Gerri De Lucca, C.C.R. #82
Official Court Reporter

EXHIBITS

Marked Admitted

State's Exhibit 6:
State's Exhibit 7:
State's Exhibit 8:
State's Exhibit 10:
State's Exhibit 11:
State's Exhibit 14:

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Ann L. Sullivan
CLERK OF THE COURT

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LAS VEGAS, NEVADA, THURSDAY, APRIL 14, 2011

THE COURT: This is the date and time
scheduled for the continued preliminary hearing of
Anthony Castaneda, 11F03995.

Miss Monroe, are you ready to
proceed today?

MS. MONROE: Yes, your Honor.

THE COURT: Mr. Geller, are you ready to
proceed today?

MR. GELLER: Yes, Judge.

THE COURT: Miss Monroe, I think you were
on your next witness.

MS. MONROE: I am, your Honor. Detective
Paul Ehlers, who's right outside.

THE CLERK: Please have a seat.

Please state your first and your
last name and spell both for the record.

THE WITNESS: My first name is Paul,
P-a-u-l, last name is Ehlers, E-h-l-e-r-s.

THE COURT: Thank you.

You can proceed.

MS. MONROE: Thank you, your Honor.

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46

1 PAUL EHLERS, having been first duly sworn to 5
2 testify to the truth, the whole truth, and nothing
3 but the truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MONROE:

6 Q. Is it Detective Ehlers?

7 A. Yes, ma'am.

8 Q. Where are you presently employed?

9 A. I'm employed with the Las Vegas
10 Metropolitan Police Department.

11 Q. And how long have you been employed with
12 Metro?

13 A. A little over 19 and a half years.

14 Q. And what unit are you presently assigned

15 to?

16 A. I'm assigned to LVMPD's computer
17 forensics lab.

18 Q. And how long have you been assigned to
19 the computer forensic lab?

20 A. Almost two years now.

21 Q. So in March of 2010 you were assigned to
22 the computer forensic lab?

23 A. Yes, I was.

24 Q. Can you tell us a little bit about as an
25

1 A. No, I wasn't. 7
2 Q. Who was the person who obtained the
3 search warrant?

4 A. That would have been Detective Shannon
5 Tooley, I believe, that was in charge of that
6 investigation.

7 Q. And what unit was she assigned to back in
8 March of 2010?

9 A. She was assigned to the crimes units,
10 youth and family, but specifically the I.C.A.C.,
11 Internet Crimes Against Children's task force.

12 Q. When a search warrant is obtained and a
13 member from I.C.A.C. or anybody in Metro is going to
14 go out there and they want your services, what is
15 your role there?

16 A. It could be a myriad of reasons, but
17 usually our request to be on scene would be to assist
18 if there's going to be digital media, to assist
19 whether we're going to assist with the collection of
20 it, evaluation, or what the case actually may be, but
21 something usually dealing with electronic storage
22 devices that they're going to want some extra keys
23 along with that.

24 Q. Besides yourself did anyone else go from
25 the forensic lab with you to that location?

1 employee working in the computer forensic lab, what
2 kind of jobs you do, what your assignments are? 6

3 A. Mostly the job is forensically looking at
4 digital stored media. When I say digital stored
5 media from a digital storage type device; computer,
6 cameras, cellphones, some type of digital device
7 that's going to store information really is what our
8 unit looks at and assists in the investigations from
9 our police department and/or other agencies.

10 Q. And how many are presently in the unit
11 that you're assigned to?

12 A. I think we have with the sergeant nine
13 personnel assigned right now.

14 Q. And are there also investigators that you
15 work with?

16 A. Yes. I mean we work closely with most
17 units within our agency, whether it be homicide,
18 I.C.A.C., sexual assault, pretty much almost the
19 whole detective bureau.

20 Q. On March 7 of 2010, did you go to 2205
21 Beverly Way in Las Vegas, Clark County, Nevada due to
22 a search warrant?

23 A. Yes.

24 Q. Were you the person responsible for
25 obtaining that search warrant?

1 A. As I recall, yes. 8

2 Q. And who would that have been, if you
3 remember?

4 A. I know Detective Vince Ramirez was there.
5 I believe Detective Steve Foya (phonetic), myself,
6 and I'm not sure if the sergeant or how many more
7 were there.

8 Q. Do you brief before you make entry into a
9 residence; in other words, do you know what it is
10 you're looking for or why you're going to that
11 particular residence?

12 A. Usually, if we're going to be part of the
13 team, we'll try to attend a briefing, if that's going
14 to be the case, or if we're going to be part of the
15 actual entry and assisting team. Just being sworn
16 police officers, if they need extra bodies to assist
17 with that, we will.

18 Q. From Detective Tooley, what was your
19 understanding that you were going to look for once
20 entry was made into the residence on Beverly Way?

21 A. From my understanding of that
22 investigation, it had to deal with possession of what
23 was illegally child pornography, and the search
24 warrant had requested to search the residence for
25 digital type storage devices that may contain images.

1 Q. Once you made entry or once entry was 9
2 made into that residence, did you then go about
3 trying to determine whether or not there was child
4 porn on any digital storage units?

5 A. To some degree I believe on that incident
6 Detective Ramirez had looked at an additional hard
7 drive and found some material on a preview. Whether
8 all the devices I do remember that we looked at, I
9 believe it was a laptop computer from the son of the
10 defendant I see here.

11 It was a college-type laptop and a
12 lot of times we'll do that to do a quick preview if
13 we don't believe there's going to be material that
14 may be contained on that, just so that we're not
15 taking usually a subject's entire houseful of
16 electronic-type storage devices.

17 So in that incidence I do remember
18 some items were previewed. Normally, at that point,
19 if items are found, it's up to the detective to
20 determine what items are going to be taken for
21 evidence or evaluation pertaining to that search
22 warrant.

23 Q. Now, you mentioned Mr. Castaneda. Did
24 you come into contact with Mr. Castaneda at the
25 residence?

1 A. Brief contact. I didn't speak 10
2 specifically with him as far as the investigation
3 went. I do recall him being there, yes.

4 Q. For the record, can you identify who
5 you're referring to when you say that you know that
6 he was present at the residence?

7 A. Yes. The individual I learned to be
8 known as Mr. Castaneda, and he's seated directly here
9 at the defendant's.

10 Q. Describe what he's wearing so the --

11 A. He's wearing a blue jail shirt, has
12 glasses on.

13 MS. MONROE: May the record reflect the
14 identification of the defendant?

15 THE COURT: Yes.

16 BY MS. MONROE:

17 Q. When you go in to do a preview, and we
18 heard Detective Ramirez talk about how you go about
19 previewing, do you preview every computer that you
20 find, if that's indeed what you're looking at?

21 A. Usually, not. Again, it depends on the
22 circumstances of the situation in the case, how much
23 media is found, whether someone has a collection of
24 5,000, let's say, CDs or DVDs, time conducive, we
25 would be there for weeks if we were going to preview

1 everything.

2 So normally the situation will
3 occur that primary items are going to be looked at.
4 If some evidence is found related to the
5 investigation, it's usually up to the investigator,
6 are we going to continue to search more or are we
7 going to take what we believe may contain additional
8 that is within the warrant, take those devices and
9 then examine them further, usually at a later date.

10 Q. You said that Detective Ramirez in your
11 memory he had found, he had previewed something and
12 found some child porn on it; is that correct?

13 A. Yes.

14 Q. Did you preview anything that you found,
15 what you suspected to be child porn?

16 A. I did not.

17 Q. Do you know how many items were
18 ultimately taken from the residence at 2205 Beverly
19 Way?

20 A. No, I don't know exactly the amount
21 because I wasn't the one that was actually impounding
22 them.

23 Q. At some point did you receive a request
24 to look at or analyze items that were related to
25 items that would have been taken from the Beverly Way

1 address?

2 A. Yes, I did.

3 Q. How would that request have come to you?

4 A. That request had come in with an
5 additional -- or, excuse me, that request had come in
6 with a request for service, then additionally for
7 forensic evaluation on certain digital devices that
8 were requested.

9 It comes into the unit, it's
10 processed through the supervisor. Eventually
11 assigned to a detective, who will then usually pull
12 the evidence and start the investigation of the
13 forensic eval.

14 Q. Now, how many items did you look at
15 pursuant to that request to analyze the items that
16 had been taken from the Beverly Way residence?

17 A. I'm not sure offhand. I do have copies
18 of my reports, if I can refer to those --

19 Q. If you can refer to those to refresh your
20 recollection, but let us know when you're referring
21 to them so we'll know that you're looking at your
22 report.

23 A. Okay. I'm referring to a Las Vegas
24 Metropolitan Police Department computer forensic lab
25 examiner's report dated 7-22 of 2010, and completed

13
1 by myself, Detective Ehlers.

2 Q. I think if you refer to page 2, it might
3 say -- I'm going to assume this is pretty complex
4 stuff when we're talking about different items that
5 you're referring to?

6 A. Yes. There was a section where I put
7 Media Examined, and this is going to usually be all
8 the media I actually looked at in reference to the
9 investigation. It may not be what ended up in a
10 final report as containing evidence or not, but it's
11 everything that I was requested to look at in
12 reference to it.

13 Q. And the report that you generated, is
14 that report part of the business records or is that
15 your common practice to generate a report once you
16 examine certain items?

17 A. Yes, it is.

18 Q. If you could refer to page 2 of your
19 report where it says Media Examined, would that tell
20 us, would you be able to tell from that what the
21 different items were that you would have examined
22 from the residence at 2205 Beverly Way?

23 A. Yes, I could.

24 Q. Could you describe those for us?

25 A. Yes. Evidence No. Item 1, which I titled

15
1 A. I think probably.

2 Q. Okay, then let's do that.

3 What would be another item, if
4 indeed you took one?

5 A. Evidence item that I titled No. 2, and
6 this was a Fujitsu 100 gigabyte notebook hard drive,
7 and this was removed from an HP notebook computer.

8 Q. And were there any other items?

9 A. There were. I had pulled and looked at a
10 few other items. Evidence No. 3 was also a Fujitsu
11 notebook hard drive which was removed from a Dell
12 notebook.

13 Item No. 4, Evidence Item 4 was a
14 Fujitsu three and a half inch computer hard drive.

15 Item 5 was a Hitachi. Evidence
16 No. 5, three and a half inch hard drive.

17 Items 7, 8, and 9, which were 17
18 CD and DVD disks.

19 An additional Evidence Item
20 No. 08, which was an Ivation USB flash drive.

21 So that was the total amount of
22 evidence items that I actually forensically looked
23 at.

24 Q. Can you walk us through what you did as
25 you were looking at these different items, what

14
1 as that, was a Seagate 320 gigabyte hard drive which
2 had been removed from a shuttle desktop.

3 Q. Can you tell me what a shuttle desktop
4 is?

5 A. A shuttle desk is just when you think of
6 a larger desktop computer operating system, it's
7 usually going to be bigger to contain large mother
8 board and other items, and a shuttle is usually a
9 scaled down or smaller version usually for
10 constraints, I would say maybe a foot in length,
11 four inches high, but a smaller compact type more
12 computer system.

13 Q. Now, I'm going to go through each item
14 that you examined, but let's start with that shuttle
15 desktop.

16 Can you go through exactly what it
17 was that you did and then anything that you were able
18 to pull down from that, if indeed you were, that you
19 believed to be child porn?

20 A. In reference to that specific item --

21 Q. I'm going to stick with item 1 at this
22 point, then we'll go to item 2.

23 You tell me which is easier, is it
24 easier to just go through all three items up front
25 and then describe what you pulled off of them?

16
1 exactly you did, and then go through what you found
2 that you believed to be child porn, if anything?

3 A. In this case, as in normal procedure,
4 what I did in this case was pull the evidentiary
5 items from the evidence vault, transported them back
6 to our forensics lab. I then check and make sure if
7 I have open devices, photograph them, depending on
8 not, each detective, whether they're going to
9 accomplish that, which I did, and then I'm going to
10 obtain a forensic bit for bit copy of the digital
11 material on these devices.

12 In the forensic community,
13 normally what we do is we're going to copy the actual
14 evidence item in exact pretty much duplicate copy,
15 bit for bit on it, and then evaluate and work on
16 that, so that we're saving the integrity of the
17 actual evidentiary item.

18 In this case I did look at these
19 items and had made copies of most of them. The DVDs
20 and CDs are a little different. I didn't make
21 copies. I did preview them forensically, determined
22 that they did not appear to contain any material
23 related to the case, and in that instance I just
24 repackaged them back up and they were going to be
25 returned to the vault.

1 The other items, which I did then 17
2 image and evaluate, were placed into a computer
3 software program that I use forensically to look at
4 the actual material or each area of that actual
5 evidence item.

6 Q. Once you were able to do your preview,
7 because you downloaded everything, what findings did
8 you make?

9 A. I found basically on three of the items,
10 I found what I believed to be suspected material that
11 is related to the investigation in the case in
12 reference to the search warrant, pretty much at that
13 time being pictures, photographs, digital depictions
14 of what I believed to be child pornography.

15 Additionally, I obtained
16 information related to the drive structure, so to
17 speak, the operating systems they were placed on, or
18 if they had them on these digital storage devices,
19 maybe some additional information to determine who
20 the owner may or may not be, as well as just looking
21 overall in reference to the actual investigation of
22 the search warrant, what we would be looking for.

23 Q. Out of the various media that you
24 examined, are you able to say which ones contained
25 what you believed to be material to the investigation

1 additional information from the detectives that are 19
2 doing the investigation, if they have it, as to who
3 may be involved in reference to this.

4 Some basic information, as I also
5 did in this case, because we're going to look at the
6 user profile and the user accounts that are actually
7 on that operating system of a computer. So I did do
8 that on two of these devices, that being items 1 and
9 2, which were desktop and notebook computer hard
10 drives. Item 3 doesn't have an operating system, so
11 I do have that information from items 1 and 2.

12 Q. What was that information; who was the
13 person you identified?

14 A. If I could refer to the report. Usually
15 understanding the structure and user accounts,
16 there's usually five or six that are going to come
17 with the most basic operating systems.

18 Q. Okay, refer to your report, if that would
19 help you, but if you could let me know what page
20 you're on.

21 A. Starting off on page 4 here about the
22 third paragraph there's going to be -- actually, you
23 can go a paragraph up there, the second paragraph,
24 this is Evidence Item No. 1, so the Seagate hard
25 drive removed from the shuttle computer system, I

1 for the possession of child porn? 18

2 A. I do, and these were annotated as items
3 01, and, again, this was a Seagate hard drive from
4 the shuttle desktop. Evidence Item 2, which was a
5 Fujitsu hard drive from an HP notebook. And then
6 also the Evidence No. Item 8, which was an Imation
7 USB flash drive.

8 Q. Do you know if that was the same flash
9 drive that Detective Ramirez previewed or looked at
10 or he analyzed or would that have been a different
11 flash drive?

12 A. No, this was the same flash drive, and I
13 then learned as being assigned this case in the
14 investigation, that -- how that had pertained or that
15 item specifically in reference to the investigation
16 as reading the search warrant, which I obtained when
17 I was requested to do this exam.

18 Q. Let's start with you said you were able
19 to look to see if you could determine who the owner
20 or the person who had the computer, who the computer
21 belonged to, when you were doing your investigation.

22 What information were you able to
23 obtain as to the owner or the person who registered
24 the computer?

25 A. Well, normally at the scene we'll take

1 identified it as having eight user accounts, and 20
2 they're numbered 1 through 8 there.

3 Q. So when you say user accounts, you'll
4 have to educate me on that. What do you mean by
5 that?

6 A. User accounts, as I kind of explained,
7 there are going to be numerous operating systems,
8 usually can have several accounts; an administrator
9 account, a guest account. Depending on the operating
10 system, depending on the software that's going to be
11 installed on it, and what type of computer system
12 you're using, it may vary, but usually at least an
13 administrator, a guest, possibly a few others, and
14 then user generated accounts.

15 So if you get a computer and you
16 want to log on to it, a lot of times or in most times
17 people will enter their information or a name as such
18 to set up an account for them to access and use
19 components within that actual system.

20 Q. Were you able to determine who the
21 registered owner was on item No. 1, the shuttle, the
22 Seagate shuttle system, the desktop?

23 A. Referring to my report, it showed, and
24 this would be information that had been entered then
25 by a user, showed it was set up entering the name of

the owner as Tony Castaneda.

Q. Did you also determine when there was an install date of certain programs onto that computer?

A. In reference to the initial operating system, yes, I did for all other components. It just depends. We have to ask specifically on that, but for this operating system, which was a Microsoft Windows XP Service Pack 3 operating system, it showed to have an install date that was put in of 12-10 of 2008.

Q. Now, you said you identified eight user profiles. What were those eight?

A. Those eight are listed in the report. One being administrator, two was a guest, three was a help assistant, four was a support, five was Tony, T-o-n-y, six was The underscored Girls, seven was AspNet, A-s-p-n-e-t, and eight was the name of Craig C-r-a-i-g.

Q. Were any of those accounts that just basically come with the computer?

A. I can tell you this, the administrator which was the first; the guest, second; the help assistant, No. 3; support, No. 4; and AspNet, No. 7 are, depending again on the operating system, but these were automatically basically generated accounts

that that user had logged into that operating system on that computer that many number of times.

Q. What else did you learn about the Tony account?

A. That it last showed a log-on date of 4-7 of 2010. That it was password protected. Additionally, normally will take, and I did in this case, the time zone settings which were set for Pacific Standard Time.

Q. You also mentioned in your report bookmarks were located under the Tony account file path. What do you mean by that?

A. What I mean by that, and this is going to refer to an additional portion of the report, in this case it's contained within a CD disk, but I used in this instance a software program titled FTK Forensic Tool Kit, and within that it enables me to look at the actual drive, so the evidence drive, the image copy that we had made, to actually look at it without making any alterations, changes, and actually go through it.

What I mentioned, as I speak further, and within the reports here, bookmarks are going to be specific items that are located that the investigator or in this case the examiner feels are

that are built into that operating system.

Q. Were you able to tell if any of those four or five, I guess, that you talked about, the first four, No. 7, had any of those been logged into or are you able to determine that?

A. Yes, I am by referring to my report, also remembering none of those accounts had been logged into.

Q. So what does that mean when they haven't been logged into?

A. That no one had logged in using those accounts and had any interaction with the machine or any of the data.

Q. The other accounts that you mentioned, Tony, and The underscored Girls, and Craig, were you able to see if any of those had been logged into or were active?

A. Yes, I was.

Q. And which one -- which of those accounts or all of them were active, based on your forensic examination?

A. They had been logged into; specifically, the Tony account appeared to be the active account, and actually referring to our report it shows that it had been 2,532 log-on account. So that would mean

pertinent to that investigation, and is probably going to put aside to place in a report. These bookmarks are actually generated and placed within that forensic program.

Q. Did you do anything else -- you also mentioned that you did identify the owner. Were you able to identify from any of the files or any emails or anything in the computer itself that the -- that it was belonging or connected to a Tony or an Anthony Castaneda?

A. There were a few other files that were located, which normally a forensic examiner or in this case myself also did was to look and see if there was other information to kind of corroborate or see if it could lead us to who actually owns the accounts and who had been using that account.

Q. Did you find any information as to who owned it or was using it?

A. I had seen a few items that did pertain to Anthony Castaneda, and my belief was that that user account titled Tony did belong to Anthony Castaneda.

Q. Do you remember what items that you located that referred to Anthony Castaneda?

A. Overall, not exactly, depending on which

1 specific item. I do remember a copy of a driver's 25
2 license. I believe a birth certificate. I had
3 marked and pulled out a few other, I believe a resumé
4 document, and a few other smaller inactivity objects
5 that may have contained that name that I would have
6 identified.

7 Q. Was that pretty much when you looked at
8 the Seagate shuttle system that you were able to
9 determine at least at that point?

10 A. Pretty much in the general information
11 that I would have obtained preliminarily to look at
12 it as in this type of investigation. Then I began to
13 look at the graphics as that was kind of the center
14 of this investigation to begin with and began
15 processing those items.

16 Q. We still have Item No. 2. Do you want to
17 go to the graphics in Item No. 1 or go into Item No.
18 2 just to discuss what you looked at on there?

19 A. It might be better if we go through each
20 item, because within this forensic program I would
21 bookmark those and it would automatically tell me
22 where those items had come from, which evidentiary
23 item they actually came from.

24 Q. So as to item No. 2, the Fujitsu hundred
25 gigabytes from the HP notebook, can you kind of walk

1 was Peggy, P-e-g-g-y, nine was Allie, A-l-l-i-e, 10 27
2 was The underscore Girls, and 11 was Mariah,
3 M-a-r-i-a-h.

4 Q. Now, did you find that as in the first
5 one that there were some built-in accounts that had
6 been put there by the computer like they were in the
7 other computer we talked about?

8 A. Yes, I did.

9 Q. And then were you able to see if any of
10 those had been logged into?

11 A. I did. And as listed in my report, the
12 first five accounts were built-in accounts assigned
13 by the operating system, and only the No. 1 had a
14 log-on account of two, and the other four showed they
15 had not been logged into.

16 Q. Now, we had the Tony account, which we
17 had on the first computer as well. Were you able --
18 what did you learn about the Tony account on this
19 particular computer?

20 A. Pretty much the same information as I had
21 seen on the first hard drive that I examined, but,
22 again, information that I believed identified Anthony
23 Castaneda as the owner.

24 And, also, additionally then upon
25 processing this I did find evidentiary or items I

1 us through kind of the same way we just did with Item 26
2 No. 1, the Seagate shuttle?

3 A. Yes, I could.

4 This item had a Microsoft Windows
5 XP Service Pack 3 operating system that showed an
6 install date of 9-10 of 2006. It showed the
7 registered owner was Tony Castaneda. The registered
8 organization had been left blank.

9 Q. What is the registered organization?

10 A. It's a spot that can be filled out when
11 the operating system is initially installed and
12 booted up.

13 Q. Okay, if you could continue.

14 A. The computer name is listed as Network
15 dash Master 1, the number 1. The time zone is shown
16 to be set at Pacific Standard Time. And then I look
17 at the, again, the user folder structure, and in this
18 case found actually 11 user accounts within this
19 operating system.

20 Q. And can you tell us what those accounts
21 were?

22 A. Yes. No. 1 was administrator, two was
23 guest, No. 3 was support, four was AspNet,
24 A-s-p-n-e-t, five was help assistant, No. 6 was the
25 name Tony, T-o-n-y, seven was admin, a-d-m-i-n, eight

1 suspected of being evidentiary related to the 28
2 investigation also.

3 Q. And where were those items that you
4 believed were the evidentiary value, what account
5 were they in?

6 A. On both items 1 and 2, these items that I
7 then further bookmarked were -- all came from the
8 Tony user account.

9 Q. Can you go through the graphics
10 processing, so can you walk us through the graphics
11 processing and what that was and what it showed in
12 this case?

13 A. In reference to the graphics processing,
14 which enables us through our forensic software, some
15 items will automatically be filtered out or that we
16 can filter out, and these would be smaller icons that
17 are associated with the operating system as such, but
18 in general and in this case we processed several
19 hundred thousand, I think closer to a million,
20 million and a half photographs, or what we call
21 digital images.

22 In reference to that I would be
23 looking for, as I did in this case, anything that may
24 be related or which I suspected of being child
25 pornography.

Q. What did you find?

A. I did find what I suspected to be child pornography. I specifically identified and bookmarked 404 images that I suspected of being possible child pornography. These had come from all three of those items then.

And understanding that some of these may be duplicates of others as in sometimes if a picture is downloaded, let's say, onto a computer system, it may make a thumbnail, it may be placed in temporary Internet cache storage-type area, and it may be specifically then held or downloaded, that specific item, to, let's say, a users folder where they would wish to store or keep that type of item.

So in reference to this, sometimes the same graphic may show up several times on the same operating system.

Q. And you said all three items. Are you talking about the two computers and the flash drive?

A. That is correct.

Q. And I think you said all of these were in the Tony file?

A. Yes.

Q. You didn't find them under the Allie file or under the Mariah file or any of those other files?

images, but your report also says a total of 207 explicit images of child pornography were identified.

So did you go from that 404 down to 207?

A. I didn't necessarily go down, but that 207 is going to depict usually the doubles, so to speak, that are in there, so it will make it a little clearer understanding or count of actually the number as opposed to what may have been additionally placed as thumbnail or in cache-type items.

Q. Now, you mentioned, I don't know if you mentioned there was -- you said password protected on the first computer. Was that the Tony account that was password protected?

A. Yes, that's correct.

Q. What about the second, Item No. 2, the second computer, was there also password protection on that one as well?

A. If I may refer to my report.

Q. I can direct you to page 5, after No. 11, Mariah, if you go to the second paragraph.

A. Yes, it is, and in that in reference to the Tony account and that file path, that account was password protected.

Q. Could you walk me through, Dr. Ehlers, if

A. No, I did not.

Q. Now, you said that there were 404 images of suspected, of what you believed to be child pornography. Did you at some point determine a certain number that you believed was child pornography?

A. Yes and no. Within this operating system of the forensic operating system I used, Forensic Tool Kit, it does have a known file filter system to which is basically hooked up -- or, excuse me, not hooked up directly, but has information pertaining to some graphics and whether or not they've been identified from a file system.

I did show a hit on 48 of those graphics that I processed as being known child pornography identified by ICE and Department of Homeland Security.

Q. So that's what you focused on, the 48 images that were known child pornography?

A. Not necessarily. I actually took all of those items. That was kind of just an additional showing that these items had previously been identified or known to be child or contraband and child pornography.

Q. You said that you had bookmarked 404

you go to the Tony account, what the pathway would have been to get to where these child porn photos were; in other words, did you just look at Tony and pull up the child porn or did you have to go through several different ways to get it?

A. Actually, again, understanding that all of these items were found under that user's account, what that means is that user had been logged into that operating system when those items were placed within that storage area or onto the computer, so to speak.

I can't say specifically. I can say that I would have to look at each item that would be in question to determine the original path or all of that path. Normally, it would begin with the user, forward slash Tony. Usually the forward slash documents and settings, because of the operating system, automatically logs it into that location.

And then from there you can determine where to place them. Most of these items were then found within the forward slash My Documents. Several were found from downloads. A couple, I believe, were found from the temporary Internet storage area, but, again, leading initially back to being the actual user of Tony of conducting

1 that. 33

2 Q. So you had to get onto the Tony account,

3 past the password protection, and that was where all

4 of the child porn was found?

5 A. That's correct.

6 Q. Now, after you were able to do that and

7 you located that, what was the next thing that you

8 did in relation to this case once you completed your

9 analysis and bookmarked or identified what you

10 believed to be child porn?

11 A. At that time, and upon completion I would

12 repackage the evidentiary items, return them to the

13 evidence vault, prepare reports in reference to the

14 investigation that I had done on this, and then

15 presented them back to the investigating unit or

16 whoever had requested us to actually perform that

17 evaluation.

18 Q. When you looked at the flash drive, and

19 we hadn't talked about that, I think Detective

20 Ramirez did, but you said you also looked at it?

21 A. That is correct.

22 Q. Did you identify child porn on that as

23 well?

24 A. Yes.

25 Q. Now, are you able to determine if that

1 flash drive is -- and I'm going to use the word 34

2 connected, I know that's not the computer word for

3 it, but can it be related back to the two computers

4 that you looked at?

5 A. In general it would determine or depend

6 on which operating system, a myriad of things, but in

7 this case I was able to determine that that specific

8 USB thumb flash drive, that digital storage device

9 had actually been inserted, known to be at least

10 once, within each of those computer operating

11 systems, that being the Evidence Item 1, the shuttle

12 desktop, and also Evidence Item 2, the HP laptop.

13 Q. And I may not have asked you as to

14 item 2, but were you also able to determine items

15 that identified a Tony or an Anthony Castaneda --

16 A. Yes, I did.

17 Q. -- being on that item as well?

18 A. Yes, I did.

19 Q. Now, you have, I think, some photos of

20 some thumbnails up there or your report of the child

21 porn that you downloaded; is that correct?

22 A. That I had identified and bookmarked,

23 yes.

24 Q. And you have pictures up there, little

25 pictures that correspond, and so if I showed you some

1 other photographs, would you be able to tell me if 35

2 they were what you show as having come off of those

3 two computers or the thumb drives, if that's where it

4 came from?

5 A. Yes.

6 MS. MONROE: Can I approach, your Honor?

7 THE COURT: Yes.

8 BY MS. MONROE:

9 Q. Showing you what's been marked as State's

10 Proposed Exhibit No. 6. I have it listed as under

11 EURO-002, it appears.

12 Do you have that on your group of

13 photographs that you would have downloaded from the

14 computers?

15 A. I believe it to be. I'd have to search

16 through.

17 Q. Could you look and see if you can find

18 EURO-002.

19 A. Yes.

20 Q. So it is EURO-002.jpg?

21 A. That is the last, that's what the actual

22 item, or I should say the graphic, and this depicts

23 actually six separate pictures or digital images

24 within, basically, a one, but it's broken down into

25 six different kind of pictures, and that has or was

1 shown to be titled as, yes, EURO, E-U-R-O, dash 36

2 002.jpg, and that is the acronym for a jpg, a type of

3 image photograph.

4 Q. And this image was one of the ones you

5 downloaded from the computer that was taken from 2205

6 Beverly Way and you identified as belonging to Tony

7 or Anthony Castaneda?

8 A. Yes, that is true.

9 Q. Can you for the record describe to me

10 whether or not in your opinion this is child

11 pornography?

12 A. I bookmarked this, and I would suspect

13 this is child pornography.

14 Q. What do you base that on?

15 A. One experience I had in reference to

16 viewing these type of graphics and working these

17 investigations, additionally, speaking with the

18 additional members within my unit, but this does

19 appear to depict a prepubescent girl child under the

20 age of 16 engaged in sexual acts and/or positions

21 with what appears to be an adult male in at least

22 four of the pictures.

23 MR. GELLER: Just for the record, I just

24 ask the Court, being the fact finder, to make the

25 determination rather than the opinion of the witness

1 with respect to the age of the people depicted. 37
 2 THE COURT: That's fine.
 3 MS. MONROE: At this time I move to admit
 4 State's Proposed Exhibit No. 6.
 5 THE COURT: Any objection?
 6 MR. GELLER: No, Judge.
 7 THE COURT: 6 will be admitted.
 8
 9 (State's Exhibit 6
 10 admitted into evidence.)
 11
 12 BY MS. MONROE:
 13 Q. Looking at State's Proposed Exhibit No. 7
 14 new-01. See if you can find that.
 15 A. Yes, I do.
 16 Q. And is that seven images contained in
 17 that file name of new-05 -- new-01, I'm sorry?
 18 A. Yes, it is.
 19 Q. Is that under new-05 or new-01?
 20 A. This is depicted from new, and this is
 21 all in lower case dash 01.jpg.
 22 MS. MONROE: Your Honor, for the record
 23 I'm going to have to amend or move to amend this
 24 count. I'm on Count 7. So there are --
 25 THE WITNESS: And just so we can

1 does that appear to be some fluid on her face? 39
 2 A. It does appear to be, yes.
 3 MS. MONROE: Your Honor, at this time I
 4 would move to admit State's Proposed Exhibit No. 7.
 5 Any objection?
 6 MR. GELLER: No, Judge.
 7 THE COURT: 7 will be admitted.
 8
 9 (State's Exhibit 7
 10 admitted into evidence.)
 11
 12 BY MS. MONROE:
 13 Q. State's Exhibit No. 10 looks like new
 14 dash --
 15 THE COURT: Now you're showing him
 16 Exhibit 10?
 17 MS. MONROE: Yes. I believe 8 was
 18 admitted because I don't have that in my stack of
 19 unadmitted.
 20 THE COURT: Let me look.
 21
 22 (Sotto voce discussion between
 23 the Court and the clerk.)
 24
 25 It was admitted.

1 understand, excuse me, your Honor, that is also 38
 2 identified, so this graphic file was contained twice,
 3 but titled two separately. It appears to also be
 4 titled as new, lower case, n-e-w, dash 05.jpg.
 5 MS. MONROE: Your Honor, I think then I
 6 need to amend to add the .jpg. It looks like we have
 7 it under new-05.
 8 BY MS. MONROE:
 9 Q. What is contained in State's Proposed
 10 Exhibit No. 7?
 11 A. This is seven separate type digital
 12 images. It depicts what appears to be two young
 13 females under the age of 16, definitely, and in at
 14 least three of the images there appears to be an
 15 adult male, naked, engaging in sexual activity.
 16 MR. GELLER: Standing objection with
 17 respect to any speculation as to their ages as to all
 18 the counts so I don't have to keep interrupting.
 19 THE COURT: Okay.
 20 MS. MONROE: You can go ahead.
 21 THE WITNESS: Additionally, the child
 22 and/or children, both of them here engaged in
 23 sexually provocative and sexual actions.
 24 BY MS. MONROE:
 25 Q. And then the one with the little girl,

1 MS. MONROE: I have the envelope with 40
 2 what I was told was not admitted.
 3 THE WITNESS: Yes, I am seeing that. I
 4 show depicted under that same title and name from
 5 both items 1 and 2, just to clarify.
 6 BY MS. MONROE:
 7 Q. And the file name new-43, is it also
 8 .jpg?
 9 A. That is correct.
 10 Q. And what is depicted in State's Proposed
 11 Exhibit No. 10?
 12 A. Digital image appears to be a young
 13 female performing fellatio on an adult penis.
 14 MS. MONROE: At this time I move to admit
 15 State's Proposed Exhibit 10.
 16 THE COURT: Any objection?
 17 MR. GELLER: No, Judge.
 18 THE COURT: 10 will be admitted.
 19
 20 (State's Exhibit 10
 21 admitted into evidence.)
 22
 23 BY MS. MONROE:
 24 Q. When you say young female, are you
 25 talking about a child under the age of 16?

1 A. It appears to be, yes. 41
 2 Q. Now, I've also shown you State's Proposed
 3 Exhibit No. 11. I believe it's listed as new-44.
 4 Have you been able to find that
 5 one?
 6 A. Yes, I have. And, again, this item or
 7 digital image was found on both items 1 and 2.
 8 Q. Is it also listed under new-47.jpg?
 9 A. I do not see it listed as that.
 10 MS. MONROE: Your Honor, I think I would
 11 move to amend it to be new-44.jpg. I'm on Count 11.
 12 THE COURT: Well, that's listed in
 13 Count 15. I don't know how you want to do this. I
 14 don't know if you want to amend Count 11 or just keep
 15 Count 15.
 16 MS. MONROE: No, then I'll keep -- let's
 17 see. I think that's the description, so, yes, that
 18 would be Count 14. So it's Exhibit 11, but it goes
 19 to 14.
 20 THE COURT: No, new-44 --
 21 MS. MONROE: Yes.
 22 THE COURT: -- goes to Count 15 on the
 23 Amended Criminal Complaint.
 24 MS. MONROE: Correct, but it's marked as
 25 State's Exhibit No. 11, so -- and you've described --

1 MR. GELLER: No objection. 43
 2 THE COURT: It will be admitted.
 3
 4 (State's Exhibit 14
 5 admitted into evidence.)
 6
 7 THE COURT: What exhibit is he looking
 8 at?
 9 MS. MONROE: He's looking at State's
 10 Proposed Exhibit No. 15, which I believe goes to
 11 Count 14.
 12 THE COURT: Thank you.
 13 MS. MONROE: Your Honor, at this time I
 14 think we're going to hold off on State's Proposed
 15 Exhibit No. 15, and I will pass the witness for
 16 Mr. Geller.
 17 THE WITNESS: I do recall seeing that
 18 previously in reference to this case; specifically,
 19 its title, I would have to go through this, your
 20 Honor.
 21 MS. MONROE: I'm going to go through this
 22 while he's doing his cross.
 23 THE COURT: Because I have a question,
 24 but I'll wait until Mr. Geller, because I have still
 25 Count 8, Exhibit 8, let's put it this way, not laid a

1 I would move to admit State's Proposed Exhibit 11 as 42
 2 it pertains to Count 15.
 3 THE COURT: Any objection?
 4 MR. GELLER: No, Judge.
 5 THE COURT: Exhibit 11 will be admitted.
 6
 7 (State's Exhibit 11
 8 admitted into evidence.)
 9
 10 BY MS. MONROE:
 11 Q. State's Proposed Exhibit No. 14, what is
 12 the image file name for that one?
 13 A. The actual image file name is listed as
 14 new-33.jpg.
 15 MS. MONROE: And I'm assuming, your
 16 Honor, I think at this point we're at Count 13.
 17 BY MS. MONROE:
 18 Q. And can you describe for me what's
 19 contained in State's Proposed Exhibit No. 14?
 20 A. Yes. Again, a digital image appears to
 21 be a photograph of two young girls, very young, under
 22 16, and they are licking, performing sexual act on
 23 what looks to be a male penis.
 24 MS. MONROE: Your Honor, at this time I
 25 moved to admit State's Proposed Exhibit No. 14.

1 foundation for, so -- or not -- I shouldn't say not 44
 2 laid a foundation for, but not through -- it didn't
 3 come in through Detective Ramirez' flash drive. So
 4 that's Exhibit 8, new-35. So I don't know if we need
 5 to ask him about it now.
 6 MS. MONROE: I will so that we can
 7 correct that.
 8 THE COURT: Those are just my notes.
 9 It's so confusing.
 10 BY MS. MONROE:
 11 Q. Showing you what's been marked as State's
 12 Proposed Exhibit No. 8, may have been marked, but
 13 let's go through it again. It looks like new-35 or
 14 new-38. 35 I think you said.
 15 A. Yes.
 16 Q. What is that file name listed as image
 17 file name?
 18 A. As lower case, the word new, n-e-w, dash
 19 35.jpg.
 20 MS. MONROE: I'll need to amend at this
 21 time to make it .jpg as well.
 22 BY MS. MONROE:
 23 Q. Can you describe for me what this image
 24 shows?
 25 A. This image, digital image, again,

45
1 photograph appears to depict a young female child
2 engaged in a lewd and sexual act of performing
3 fellatio on an adult male penis, as well as inserting
4 an object into the vaginal area.

5 Q. And who's doing the inserting based on
6 this photograph?

7 A. It's cut off a bit, but it does appear
8 that the female child is handling it.

9 Q. The female has her hand on the
10 item that's being inserted into her vaginal -- or up
11 close to her vagina area?

12 A. That's correct.

13 MS. MONROE: I would move to admit
14 State's Proposed Exhibit 8.

15 THE COURT: 8 will come in.

16
17 (State's Exhibit 8
18 admitted into evidence.)

19
20 THE COURT: That image was pulled off one
21 of the two computers that you forensically analyzed?

22 THE WITNESS: Actually, I bookmarked it,
23 your Honor, and this was found on both of those
24 items, items 1 and 2, the shuttle, as well as the
25 laptop.

47
1 the, I believe, the changing papers, were contained
2 on the hard drives.

3 MS. MONROE: Okay, thank you.

4 THE COURT: You'll pass him for now?

5 MS. MONROE: Yes, that's correct.

6 THE COURT: Mr. Geller,

7 cross-examination.

8 MR. GELLER: Thank you.

9
10 CROSS-EXAMINATION

11 BY MR. GELLER:

12 Q. Detective, what is required to log into
13 the Tony user profile on each of the devices you
14 testified about?

15 A. I'm not sure I understand. As to what,
16 the procedure or password?

17 Q. Suppose I wanted to log into
18 Mr. Castaneda's profile, the profile you identified
19 as Tony on the computer, and I wanted to add images
20 to it, what would I need to do?

21 A. You need to turn the operating computer
22 system on. At that time basically a screen, a log-in
23 screen would appear in reference to which account,
24 user account you wanted to log into. It should show
25 the account Tony. You would then select and pick

46
1 BY MS. MONROE:

2 Q. Did you see the items on the thumb drive
3 itself, the flash drive, you saw the photographs?

4 A. Yes, I did.

5 Q. Were all of the photographs on that flash
6 drive that Detective Ramirez examined and then you
7 examined as well, were all of those photos also
8 contained on either one or both of the computers that
9 you did the forensic analysis on?

10 A. When we say all of the photographs, all
11 of the --

12 Q. The child porn.

13 A. Suspected child pornography?

14 Q. Yes.

15 A. Yes, I do believe that all of the items
16 that were on that flash drive were contained on
17 either one or both of the other items, that being the
18 desktop shuttle computer system and the laptop.

19 Now, whether or not it
20 specifically was or only that amount, I don't
21 believe. I believe there's difference of some is
22 located or some additional different ones were
23 located on those items 1 and 2, the hard drive, the
24 desktop, and laptop hard drive, but I do believe that
25 those depicted images and at least that pertain to

48
1 that Tony. If a password was placed on it, then it
2 would prompt you to enter a password and again press
3 enter.

4 Q. So, if I understand you correctly, other
5 than physically turning the computer on and selecting
6 the particular profile one would need, the only
7 information you need is the password in order to log
8 in and write files to that account; is that correct?

9 A. That's correct.

10 Q. Did you see any indication on any of the
11 Tony accounts that anyone else may have potentially
12 logged into those accounts other than Mr. Castaneda?

13 A. I'm not sure if I understand. To see if
14 anyone else -- there is an invalid log-in account
15 which is shown, I believe, on one of these systems,
16 and I'd have to refer to the actual report. It may
17 not be in my written report, it may be in the digital
18 copy, but I do recall that there was one invalid
19 log-on account, and this could be where from a
20 mistype or an actual put in wrong number and it will
21 prompt you again to enter it. I do remember one of
22 those devices, either item 1 or 2, as having only a
23 one mislog-in account.

24 Q. During the course of your investigation,
25 did you come to learn that other people resided in

1 this home other than Mr. Castaneda, the defendant? 49
2 A. Not specifically. Only as I recalled
3 that being there the day the search warrant was
4 served, I believe it was Mr. Castaneda's son was
5 staying there, and I don't believe he had been there
6 for more than a month or two. Again, I'm not
7 positive, but that's the only information that I knew
8 of.

9 Q. Did your investigation lead you to the
10 point where you're able to exclude the possibility
11 that somebody else logged into the Tony account and
12 placed those images there; can you exclude that
13 possibility?

14 A. In reference to which device?

15 Q. Actually, all of the devices.

16 A. I don't think that I could exclude that
17 that's a possibility. Again, I don't know who did
18 this. I didn't personally see it. All I'm able to
19 testify and ascertain to is actual where that account
20 activity had occurred.

21 Q. And I'll cut to the chase. Suppose I had
22 access to Mr. Castaneda's house and I wanted to put
23 porn under his account. Could I take a flash drive,
24 if I had his password, type in his password, plug it
25 in, and put the pornography on his account; would I

1 A. That is correct. 51

2 Q. So in effect, if I understand what you're
3 saying, is if someone were to put it on his account,
4 they would have had to put the thumb drive in on
5 multiple separate dates?

6 A. Well, again, depicting, again, quite
7 understanding, I don't want to misconstrue or
8 misunderstand this. If items were specifically on a
9 thumb drive and placed onto the computer, as I
10 believe in this situation investigation did occur,
11 what I'm saying is, is that I believe there's other
12 evidentiary information that, of course, I, as the
13 investigator looked at, to say that that specifically
14 didn't occur.

15 And the reason being is because I
16 was finding numerous other items that I suspected of
17 being child pornography which were either downloaded
18 via websites and/or had different dates, meaning that
19 they had been added to a device at a different time
20 than the one insertion, let's say, of a thumb drive.

21 Does that make sense?

22 Q. I believe so.

23 Now, with respect to the
24 difference in the dates, I saw you thumbing through a
25 packet of paper that appears to be about

1 be physically capable of doing that if I was armed 50
2 with the flash drive and the password?

3 A. Yes, I believe, yes.

4 Q. And you cannot, your investigation cannot
5 exclude the possibility that someone else did that;
6 is that correct?

7 A. In reference to that specific incident, I
8 would have to say no, of just someone taking a
9 specific one item flash drive and transferring items
10 onto each of those devices. Again, understanding
11 that I don't know the specific counts being charged,
12 and items that I have looked at, I would have to
13 again refer to the report in detail.

14 What I can say is in reference to
15 the numerous bookmarks that I located and found, it
16 does not appear or did not occur from a one time
17 transfer of these items; in other words, several of
18 those items had different dates and times where they
19 would have been added, and this is not indicative of
20 what actually occurred there. So specifically just
21 on that, I would say no. Again, with each item and
22 the 15 counts or such, I don't know.

23 Q. So, if I understand what your testimony
24 is, what you're saying is that the individual images
25 may have been added to each device at separate times?

1 three-quarters of an inch thick up at the witness 52
2 stand; is that correct?

3 A. Yes.

4 Q. Now, are all the dates with respect to
5 when the file was created, accessed, and written, are
6 those dates contained on the paperwork you had at the
7 witness stand?

8 A. Yes, they are. In reference to this
9 forensic program that I used, again, FTK, it does
10 depict Windows files, then it will give you created,
11 modified, and accessed dates in general with that
12 actual image or file, and understanding that the
13 image actually is a file.

14 Q. Correct.

15 You made reference to the fact
16 that the clocks on these devices were set to Pacific
17 Standard Time; is that correct?

18 A. At the time that -- I made copies of
19 them, so at the time, basically, that they were
20 impounded or taken during the search warrant, those
21 systems were set to Pacific Standard Time, which was
22 matching local time, yes.

23 Q. Now, the file paths that contained the
24 pornography on each of the three devices you
25 discovered, were the file paths identical?

1 A. I understand file path. I just want to 53
2 clarify, I don't think that they -- everything within
3 this file path folder structure, so to speak, was
4 exactly identical, but at least the naming
5 convention, which would have been at least the first
6 three or four almost up to the pictures themselves
7 then, did contain the same type file path.

8 Q. So starting at My Documents, would that
9 have been the largest folder, narrowing all the way
10 down into the last folder being Girls with a few
11 folders in between; is that an accurate depiction?

12 A. Yes.

13 Q. You found that file structure to be
14 identical on all the devices that you examined?

15 A. Yes, I did.

16 Q. Now, with respect to the access dates
17 with respect to each file, does accessing a
18 particular file eliminate a record of any previous
19 access dates?

20 A. The file system will be updated with the
21 last access date. So is it being replaced with
22 previous ones, then yes, it is. What causes it could
23 be a myriad of reasons though.

24 Q. Does the operating system that you
25 observed in this case, the Windows operating system,

1 determine why it may have acted one way or another or 55
2 changed.

3 In general though a created date
4 would be a date that that file was actually created,
5 saved on, changed, saved, placed from a different
6 folder, a different folder within that operating
7 system.

8 Additional or different external
9 media device where it was transferred over to this
10 operating system could show a created date, but,
11 basically, a date that it was created and placed into
12 that computer system, that operating system.

13 Q. How is a created date different than a
14 written date?

15 A. Well, it determines -- I'm not quite
16 understanding the question.

17 Q. I'll elaborate.

18 A. Please.

19 Q. The witness who testified on Tuesday gave
20 us written dates that predated the creation date, and
21 I was hoping that you could elaborate on how that is
22 possible.

23 A. That might be a modified date, which we
24 refer to at times as a written date, just depending
25 which operating system. There is a classic case, for

1 keep an access log that details each and every time a 54
2 particular file was opened or otherwise modified?

3 A. Not each and every time, no, it would
4 not.

5 Q. In what circumstances is there a record
6 made when the file is opened or modified?

7 A. Basically, within those three instances
8 of at least the Microsoft operating system, and in
9 this case the XP with Service Pack 3, would be those
10 three dates at least of the created, modified, and
11 accessed.

12 Q. And we heard some testimony on Tuesday
13 from a member of your team testifying about what each
14 of those dates means, and it was a little bit
15 unclear, at least with respect to me, so could you
16 please briefly explain what each of those dates
17 represents; a created, a modified, and an accessed?

18 A. I can, understanding just in general
19 terms, especially we in the forensic community have
20 problems with validating or ensuring specific file
21 date times, and that is being mostly because of
22 various reasons of what does it.

23 I can explain what those times
24 mean. I'd have to look at a specific file. Maybe
25 additional files that are around that timeframe to

1 example, which happens, if you were to Google and 56
2 look at it, you could see there's a lot of questions
3 in reference to this, how can a modified or a written
4 to date or a change date be earlier than a created
5 date.

6 The explanation can be this.
7 There could be a myriad of reasons, whether it came
8 from a zip file, was transferred at once in reference
9 to a bunch of files. It may have been saved, but
10 they're placed in a zip folder that could retain the
11 previous or created or modified date.

12 But in general just on an
13 operating system and asking a question of why that
14 date would differ would be simply that that item was
15 placed on into a computer system where via, as an
16 example, let's say an external storage device, so an
17 external hard drive, thumb drive, whatever, was
18 placed into a computer system, it will retain the
19 modified or written to date, but it will update,
20 because it is being placed into this operating system
21 as a new file, and so it will get a created date.

22 As an example, these files were
23 from 2006, 1-1 of 2006. I transfer it via an
24 external device into an operating system, Microsoft
25 operating system, and put copy over and save to my

1 desktop. It will show a created date, and that date, 57
 2 let's say, is 1-1 of 2007. It will show a created
 3 date of 1-1-2007, but still showing a modified date
 4 of 1-1-2006. Does that answer the question?
 5 Q. I believe so.
 6 MR. GELLER: Before I forget, I just did
 7 want to make a record. He had the packet of paper,
 8 that's something I don't have yet, but that's
 9 something I would request in discovery. It may be
 10 subject to redaction with respect to thumbnails that
 11 contain child pornography, but I do believe the
 12 documents that detective has lists all those dates on
 13 it. Rather than painstakingly going through each and
 14 every one on the record, I just request that in
 15 discovery subject to any redactions required by law.
 16 BY MR. GELLER:
 17 Q. You mentioned that there were some DVDs
 18 and CDs located in the residence?
 19 A. Yes.
 20 Q. And you were not able to locate potential
 21 child pornography on any of those disks?
 22 A. The ones that were requested from that
 23 search warrant for me to look at, and, again, I don't
 24 know if that was all of them, but I believe it was
 25 17, I could refer to my report to clarify it, but

1 those that I did look at did not. 58
 2 Q. You mention the installation of the
 3 operating system on the shuttle computer was December
 4 of 2008?
 5 A. I'd have to refer to the report.
 6 Q. Please do.
 7 A. Yes, I showed a date of 12-10 of 2008 for
 8 that operating system.
 9 Q. Is 12-10-2008 the date that the operating
 10 system was registered with Microsoft or the date it
 11 was actually installed on the computer?
 12 A. That would have been an install date on
 13 that system.
 14 Q. So you have some pictures that have a
 15 created date that predate that installation?
 16 When I say you have, you
 17 discovered some photographs that predate the
 18 installation date on that computer?
 19 A. I'd have to refer to those specifically,
 20 but I would -- I do recall, I believe, some from '09;
 21 '08, and possibly '07, so that's about the best I can
 22 remember.
 23 Q. During the course of your analysis of
 24 these devices, did you notice any indication that
 25 there was any encrypted information on these

1 computers? 59
 2 A. It's kind of hard to answer whether or
 3 not that was operating system encryption, additional
 4 file encryption, specific container encryption. I
 5 think I would need to clarify.
 6 Q. Did you see anything on the computer that
 7 suggested the possibility of encrypted photographs on
 8 the hard drive?
 9 A. Not that I recall, no.
 10 Q. Had you seen evidence of encryption, is
 11 that something you might have noted in your reports?
 12 A. If it would have pertained to the
 13 investigation and what we might have been looking
 14 for, yes. Within the computer operating system as in
 15 this case Microsoft XP, several items are
 16 automatically encrypted, so to speak, registry
 17 values, different items that may be needed, PSF
 18 files, so to speak.
 19 There's encryption where you can
 20 have separate containers placed, depending again what
 21 operating system, to put things inside different
 22 third-party programs that you can use to specifically
 23 encrypt files or other things also. So there's a
 24 just a very myriad, and it could be a few things as
 25 well as entire folders, user accounts and everything,

1 so . . . 60
 2 Q. Just to clarify, in this case you didn't
 3 flag anything as something that could potentially be
 4 encrypted child pornography?
 5 A. I did not.
 6 Q. And had you seen something that would
 7 lead you to the possibility that there might be
 8 encrypted child pornography, you would have flagged
 9 that and made some sort of a record of it in your
 10 report; is that fair to say?
 11 A. Yes.
 12 Q. There's no such record in any of your
 13 reports?
 14 A. No, there's not.
 15 Q. You made reference during direct
 16 examination to temporary Internet files?
 17 A. Yes.
 18 Q. Which particular devices did you examine
 19 the temporary Internet files on?
 20 A. I believe I looked at both, understanding
 21 not the thumb drive, that USB Item No. 8, because it
 22 didn't have an operating system within it, but I
 23 believe I did look at items 1 and 2 in reference to
 24 the temporary Internet history, and I did find some
 25 information. I'd have to refer specifically to the

1 reports to determine where they came from. 61
 2 Q. If you would.
 3 A. I did annotate in my report that I did
 4 recover and bookmark eight additional items from Item
 5 No. 1 which, would have been the shuttle desktop that
 6 I suspected of possibly being related to the
 7 investigation, so to speak.
 8 Q. What was the nature of those items?
 9 A. These items had come from the ID 5
 10 contact folder, temporary Internet history
 11 information, which would show the user's activity,
 12 recent activity in reference to looking at the
 13 Internet.
 14 And in that I looked at several
 15 sexual sites or, excuse me, sexual websites that had
 16 been looked at and entered, and several of those
 17 websites the term young, y-o-u-n-g, had been entered,
 18 and these sites were bookmarked, which will come up
 19 when you look at them, but which depict basically
 20 pornographic sexual activity sites.
 21 Q. Did you follow up on the sites to see
 22 whether or not you were dealing with young
 23 postpubescent women or girls?
 24 A. I'm not understanding how to follow up on
 25 that site.

1 A. Again, I don't know if it was exactly 63
 2 those or within, again, that 207 or 404 that I had
 3 bookmarked.
 4 Q. So some of the images that you had in
 5 that packet of paper that I previously referenced
 6 would have potentially come from Internet websites
 7 that you found that correspond to the Internet
 8 browsing history on the computers you examined?
 9 A. On item 1, that is correct. Didn't
 10 possibly come, it did come.
 11 Q. How were you able to definitively tell
 12 those images came from that particular website?
 13 A. Because the file path. It shows that
 14 they are downloaded and that they're being stored in
 15 the temporary Internet cache showing that that's
 16 actually where these items had been retrieved from.
 17 Q. Did you make a record of the date those
 18 files were downloaded from those pornography
 19 websites?
 20 A. I believe that date will be contained
 21 within that FTK report of when they were. It should
 22 show on those files also of when created as of such.
 23 Q. And the FTK report, what does that stand
 24 for?
 25 A. Forensic Tool Kit.

1 Q. You determined that there are some 62
 2 searches made with the search criteria young on
 3 sexual websites; is that correct?
 4 A. Yes.
 5 Q. Did you do any follow-up investigation to
 6 determine whether or not the person may have been
 7 searching for just young postpubescent women versus
 8 prepubescent girls?
 9 A. I don't think specifically in reference
 10 to that. I had been alerted and looked at the
 11 temporarily Internet files, basically because some of
 12 the suspected child pornography that I had found and
 13 located and bookmarked had come from temporary
 14 Internet files.
 15 Again, this may have not shown as
 16 this last looking at it, but it generated more to me
 17 than to actually look at those sites to determine or
 18 not, but yes, I did find what I believed to be child
 19 pornography located within the temporary Internet
 20 path showing that a user had accessed a website and
 21 downloaded these graphic files, which I suspected of
 22 being child pornography, from the web.
 23 Q. When you say these, are you referring to
 24 the exhibits that were introduced by the State during
 25 your direct examination?

1 Q. Is that the -- 64
 2 A. Forensic software program that's used,
 3 that we use in reference to conducting the
 4 examination.
 5 Q. Is the FTK report the large packet I made
 6 reference to?
 7 A. Basically, yes and no. It's on,
 8 understanding this, I placed it onto a DVD disk just
 9 because it was going to contain quite a bit of
 10 material, but, yes those images were at least one of
 11 the bookmarks that were contained within that report.
 12 MR. GELLER: Judge, just for the record,
 13 again, I realize that this will be in District Court,
 14 but I want to make a discovery request for that
 15 report so I can examine the specific dates that these
 16 websites may have been accessed and photos
 17 downloaded.
 18 MS. MONROE: Your Honor, as long as the
 19 pictures, the child porn can be deleted, that's the
 20 only issue; otherwise, I can see if we can delete the
 21 photos, because I cannot turn those over because
 22 that's child porn. Mr. Geller would be in possession
 23 of child porn, but I will see what I can do as far as
 24 seeing if we can do something to get the reports
 25 minus the child pornography.

1 MR. GELLER: I'm not interest in the 65
2 image. I just request the file name. That would be
3 sufficient.
4 BY MR. GELLER:
5 Q. You mentioned the Fujitsu 40 gigabyte
6 drive did not have an operating system associated
7 with it; is that correct?
8 A. I don't recall that.
9 Q. Item No. 3, was that the Fujitsu 40
10 gigabyte hard drive that came from the Dell notebook?
11 A. The Fujitsu two and a half inch HDD hard
12 drive, 40 gigabyte from the Dell notebook.
13 Q. Did you testify that that did not have an
14 operating system installed on it?
15 A. I don't know. IF I could refer to my
16 report.
17 Q. Please do.
18 A. No, I had never stated that, and it does
19 not appear that my report states that.
20 Q. What operating system is on that?
21 A. That I do not know offhand. It will be
22 in the report though, the FTK report.
23 Q. That's that one I previously requested?
24 A. Correct.
25 Q. Were you able to determine during your

1 Q. Were you able to collect evidence that 67
2 suggested there was a particular computer that was
3 his primary work station, based on, perhaps, the
4 number of log-ins, for example?
5 A. I believe items 1 and 2, which were the
6 items that were registered to him, again, these
7 evidentiary items. As to which specifically older or
8 primarily used more, I did not make a determination
9 on that.
10 Q. Would that information be contained in
11 the previous image FTK report?
12 A. It may be. If not, it is information
13 that could be obtained from that image or from the
14 actual evidentiary item.
15 Q. Would it suffice to say offhand you don't
16 know the number of log-ins on any particular device
17 offhand?
18 A. I did annotate the log-ins for the Tony
19 account. I believe some of the other primary
20 accounts, I believe I have log-in accounts for those
21 items 1 and 2.
22 Q. With respect to the shuttle, do you have
23 any information pertaining to that?
24 A. I do in reference to the report.
25 Again, that's the first four

1 analysis if there was a network in place at the house 66
2 where the different computers could communicate with
3 one another?
4 A. I didn't specifically, and I think that
5 would better be asked with the Detective Tooley and
6 possibly Detective Ramirez that were out there
7 handling the primary on that. I do recall that there
8 was at least Internet connection. Whether or not
9 there was a wireless router, I'm not positive.
10 Q. Do you know if there were any active
11 network shares on these computers?
12 A. In reference to items 1 and 2?
13 Q. Correct.
14 A. I would have to refer to see. Again,
15 there was -- I believe I saw one network. Whether or
16 not there was additional programs for network
17 sharing, I do not recall.
18 Q. Did you see any neighborhood network
19 share points or any of that?
20 A. Not specifically, no.
21 Q. Were you able to determine during your
22 investigation which computer, if any, was
23 Mr. Castaneda's personal work station?
24 A. I'm not quite sure if I understand
25 personal work station.

1 accounts had not been logged into. I show that that 68
2 Tony account had a log-in account of 2,532 times.
3 Q. Is that on the shuttle computer?
4 A. That is correct.
5 Q. Do you know how many were on the HP?
6 A. That would have been item 2, the HP
7 laptop. I have the log-in accounts for those.
8 Tony's was listed. Are you specifically asking for
9 the Tony account?
10 Q. Please.
11 A. 1,182.
12 Q. And without going through them all, you
13 have information with respect to the log-ins on the
14 other accounts; is that correct?
15 A. Yes, I do.
16 Q. That's kept on the report that you have
17 there in your hand?
18 A. Yes, it is.
19 Q. And which report is that?
20 A. That is my forensic report.
21 MR. GELLER: I pass the witness.
22 THE COURT: Redirect.
23 MS. MONROE: Yes.
24
25

REDIRECT EXAMINATION

69

BY MS. MONROE:

Q. If I may approach again as to State's Proposed Exhibit 15.

A. I have -- would you look at what I'm showing you. Let me know if that appears to be the image, State's Proposed Exhibit 15.

A. Yes, it does.

Q. Can you tell me what that exhibit shows?

A. I can. This exhibit appears to be a young girl, maybe 10 to 13, 14, or younger, in a sexual act, appears to be naked, appears to be one or two naked males in the picture. Additionally, it appears that she is performing fellatio on or a sexual act with her mouth on a male penis, and it appears to be ejaculating onto her.

Q. Is the female in this photograph an Asian female?

A. Yes.

Q. And you said she appears to be under the age of 16?

A. Yes.

Q. Does there also appear on the abdominal area the words CP real?

A. Yes. It's appears to be an image emblem

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A. In this location where it was found, unallocated and carved, carved basically means it was taken out. It may not be a full item or a stored item within it, within the operating system, within the file system.

Unallocated space is going to be kind of an area of the storage device or hardware that is open to be written to, kind of that available free space, so to speak of. It's not unpartitioned space, so it's part of the actual operating system and file system.

In reference to this being recovered from there, it means that it was viewed or was upon that computer at one time and was possibly or probably deleted, or as in this case, it was being downloaded from a website, did not completely download, so that all of the files, information being file header, signature, kind of the entire item of it was not transferred over and then placed into this unallocated area, which is basically free space it can be written to later. Happens a lot while downloading items where you don't get the whole thing.

Carving it or investigators are able to then go in and carve partial pictures, so to

placed from that, possibly a website, and there's a star or an asterisk, the initials CP, and then underneath the word real, r-e-a-l.

Q. Have you seen those on other photographs?

A. I have.

Q. And what does the CP stand for?

A. Child pornography in the context usually and especially as this one that it would be referred to.

Q. And what is the image file name on this particular exhibit?

A. On this one, and at least initially on just finding it in this one location, this was from item 2, but this is from unallocated space, and it's a carved image and is listed as a carved name via the forensic program .jpeg, j-p-e-g, so I don't know how you'd want to refer to it.

Q. Can you see if you can find it anywhere else under the new?

A. New-38 is what I have it listed as or I'll just amend it to the language that we have in there.

A. I'm not seeing it.

Q. You said it's a carved image. Can you explain to me what you mean by that?

70

speaking, so when we use and initially look at our forensic program, we're going to carve all graphics out of here. We're going to get graphics, maybe sometimes they're a half a page of a download that you will actually see come onto a computer or an item that had not fully having its entire structure, file structure, header, signature, as such, all into it.

So basically that's where it means carved, it was obtained from this area and it existed within this computer operating system, or I should say better the storage device at one time, but it's not actively in a file system now so it's not going to have a file name and/or actual name at all, and it may not even have a complete signature, as in this case it is identified as having enough attributes to identify it as a jpeg, j-p-e-g.

Q. Was this found in the Tony file?

A. No, this was not.

Q. But it was found on, I think you said, computer No. 2.

A. This was item No. 2, so, yes, the HP laptop it would have been, and this was from -- it's listed as in the file path of being NTFS unallocated space. NTFS being New Technology File System. Just

72

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1 a type of file system that Microsoft uses.

2 MS. MONROE: Your Honor, I'm going to

3 have to move to probably change the image file name;

4 obviously, new-38-jpg isn't the one. I guess what I

5 would move to amend it is to unnamedfile.jpg, and

6 then the description, and I move to admit State's

7 Proposed Exhibit No. 15.

8 THE COURT: So any objection to the

9 admission of 15?

10 MR. GELLER: No, Judge.

11 THE COURT: We'll save your amendment,

12 because we're going to need to go through some

13 amendments afterward. So that's noted about

14 amendment to Count 14.

15 BY MS. MONROE:

16 Q. Let me ask you this, Detective Ehlers,

17 possession of child porn is illegal, correct?

18 A. Yes.

19 Q. If it's on your computer, then you're

20 possessing child porn?

21 A. Technically, yes.

22 Q. Now, you found this child porn on three

23 different items, two computers, and a flash drive

24 that all had identifiers that related to somebody by

25 the name of Anthony Castaneda?

74

1 A. Correct.

2 Q. And would you say that the majority --

3 well, let me ask you this. Under the Tony file how

4 many images of child porn did you actually identify;

5 did you list that number?

6 A. Well, from both devices it would have

7 been the 404 or 207, it depends on whether we're

8 counting doubles or not in thumbnails, but that

9 information had come from the actual Tony user

10 account.

11 Q. Was there other porn on the computers?

12 A. Yes, there was.

13 Q. Was there adult porn the computers?

14 A. Yes.

15 Q. Was there bestiality on the computers?

16 A. Yes, there was.

17 Q. Where were those files located?

18 A. These files were also located, the

19 majority of it, within the Tony user account also,

20 and, actually, within the adult folder, even some of

21 the girlpics, yes.

22 Q. The adult folder, was that one of the

23 file names or is that one of the folders that was

24 under Tony's?

25 A. That was one of the folders under Tony's

75

1 account, yes.

2 Q. And it was adultpics?

3 A. Adult and girlpics, we did, within some

4 of these graphics that were recovered that we had

5 listed, I believe within the 15 charged here,

6 additionally, within the 404 that I had identified

7 from those items, items 1, 2, and 8, within that same

8 sub-folder category, same area, so to speak, was

9 just, yes, a voluminous amount of pornography.

10 Q. And when you have No. 6 on the exhibit

11 No. 1, the underslash girls, did you go into that

12 file at all to see what was in there?

13 A. I did look at it. I did not find any

14 pornography there.

15 Q. So the only pornography other than this

16 unallocated space that we've talked about or the

17 Internet kind of that free floating porn was

18 basically the child porn was found under the Tony

19 files?

20 A. Yes. Only the child porn or suspected

21 child porn that I had found in going through, and

22 this was pretty much through all of those items, was

23 only located in the Tony account. Again, voluminous

24 amounts of bestiality, other type of pornography,

25 videos, also was located in the same accounts.

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1 Whether or not there was any other

2 porn at all on the computer, I can't say there was,

3 as I recall, not a large amount under any other

4 accounts though.

5 Q. So child porn, adult porn, bestiality

6 found under the Tony files?

7 A. That's correct.

8 Q. And on the thumbnails?

9 A. Yes.

10 MS. MONROE: I'll pass the witness, your

11 Honor.

12 THE COURT: Do you have any followup?

13

14 RECROSS-EXAMINATION

15 BY MR. GELLER:

16 Q. Just someone who's sophisticated in the

17 use and operation of computers, what efforts could

18 they take to conceal such things as contraband such

19 as child pornography on their hard drive?

20 A. There's a myriad of ways of doing it,

21 log-in storage, encrypting, hiding files in different

22 locations.

23 Q. Did you see any evidence in the computers

24 that you examined that whoever put that child

25 pornography there made any efforts to conceal the

1 pornography on these computers?

2 A. No, not specifically.

3 MR. GELLER: Pass the witness.

4 THE COURT: Thank you very much,
5 Detective.

6 (Witness excused)

7 Next witness.

8
9 MS. MONROE: Your Honor, the State calls
10 Shannon Tooley.

11 THE CLERK: Please have a seat.

12 Please state your first and your
13 last name and spell both for the record.

14 THE WITNESS: Shannon, S-h-a-n-n-o-n,
15 Tooley, T-o-o-l-e-y.

16 THE COURT: Thank you.

17 You can proceed.
18
19
20
21
22
23
24
25

77

1 A. No, I do not.

2 Q. Would that be the two detectives that
3 we've had testify previously, Detective Ramirez and
4 Detective Ehlers; is that their assignment?

5 A. Yes, it is.

6 Q. At some point did you come into or become
7 involved in an investigation of a person by the name
8 of Anthony Castaneda?

9 A. Yes.

10 Q. How was it that you became involved in an
11 investigation involving that person?

12 A. I received a call from a Tami Hines
13 wishing to report that she had a thumb drive that she
14 had obtained from Castaneda's residence and the thumb
15 drive contained child porn.

16 Q. And what day did you get that call?

17 A. I believe it was February 8, 2010.

18 Q. And did you go meet Miss Hines at some
19 point?

20 A. Yes, I did.

21 Q. And did she turn over that thumb drive or
22 flash drive to you?

23 A. Yes, she did.

24 Q. What did you do with this flash drive
25 once she turned it over to you?

79

1 SHANNON TOOLEY, having been first duly
2 sworn to testify to the truth, the whole truth, and
3 nothing but the truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MONROE:

6 Q. Is it Detective Tooley?

7 A. Yes, ma'am.

8 Q. And what is your present assignment or
9 who are you employed by?

10 A. I'm employed by the Las Vegas
11 Metropolitan Police Department. I'm a detective
12 assigned to Internet crimes against children detail.

13 Q. How long have you been with Metro?

14 A. 12 years.

15 Q. How long have you been with the Internet
16 crimes against children?

17 A. Approximately three and a half years.

18 Q. And what is your position with the
19 Internet crimes against children division of Metro?

20 A. I'm assigned as a detective to
21 investigate crimes involving child pornography and
22 the luring of children over the Internet.

23 Q. Do you do the actual forensic analysis of
24 the computers themselves?
25

78

1 A. I took it back to my office and gave it
2 to our -- well, I put it in a secure location in my
3 office and I obtained a search warrant.

4 Q. And did you take a taped statement from
5 Miss Hines?

6 A. Yes, I did.

7 Q. And after you had received the
8 information from her, was that also part of the basis
9 for obtaining the search warrant on the flash drive?

10 A. Yes.

11 Q. And did you get a search warrant for the
12 flash drive?

13 A. Yes.

14 Q. Once you obtained the search warrant for
15 the flash drive what was done then?

16 A. I provided a copy of the search warrant
17 to Detective Ramirez and the thumb drive to him as
18 well to do a forensic exam on it.

19 Q. Now, did Miss Hines mention to you when
20 it was that she discovered the thumb drive containing
21 images of child porn, the day that she actually
22 looked at that?

23 A. The day she discovered it was February 6,
24 I believe, 2010. She said that she found it when she
25 was unpacking from moving into her new residence from

80

1 Castaneda's residence. On February 7 she said she 81
2 inserted the thumb drive into a computer and
3 discovered the images.

4 Q. Did she tell you how long she had
5 resided -- did she tell you how she got the thumb
6 drive?

7 A. She said she -- it just -- when they were
8 packing they must have accidentally picked it up,
9 when they were unpacking from moving from Castaneda's
10 residence to their new one.

11 Q. Did she tell you how long she had lived
12 with Mr. Castaneda?

13 A. I believe she said it was from
14 November 2009 to February 3, 2010.

15 Q. Now, after Detective Ramirez examined the
16 thumb drive, did he come back to you with
17 information?

18 A. Yes. He provided me a report.

19 Q. And did you also see any of the images of
20 suspected child porn at that time from the flash
21 drive?

22 A. In the report that he gave me, yes, I
23 did.

24 Q. So in the report does he actually include
25 pictures so that you can look at those particular

1 Q. Now, do you also then go about background 83
2 checks to get photos to see who it is that you're
3 looking for based on your -- as part of your
4 investigation?

5 A. We generally check SCOPE, DMV. We'll use
6 other avenues like LexisNexis, Crime Web, anything we
7 can obtain information about a person or persons
8 living at that residence.

9 Q. Did you have information as to who lived
10 at that residence through any of those other systems,
11 other than Anthony Castaneda?

12 A. I believe so.

13 Q. You believe so what?

14 A. That there was other information showing
15 he lived at that address.

16 Q. My question is did any of that
17 information show that anybody else was listed as
18 living at that address?

19 A. Not at that time.

20 Q. At some point you said you got a search
21 warrant to go to 2205 Beverly Way to conduct your
22 search warrant. What were you looking for?

23 A. We were looking for items such as
24 computers or digital storage devices or printed
25 materials that would show evidence of child sexual

1 pictures? 82

2 A. Yes.

3 Q. Once you saw the pictures did you have a
4 belief that this was suspected child pornography?

5 A. Yes, I did.

6 Q. Once you had that belief, what was the
7 next step that you did in your investigation?

8 A. I did a background check on
9 Mr. Castaneda, did administrative subpoenas to
10 determine who actually had power at the residence,
11 who all lived at the residence, and from there I went
12 and got a search warrant based on the information on
13 the thumb drive for the residence.

14 Q. Now, the residence, was that the
15 residence located at 2205 Beverly Way in Las Vegas
16 Clark County, Nevada?

17 A. That's correct.

18 Q. And when you did the administrative
19 subpoena, what companies or what company did you
20 serve that administrative subpoena on?

21 A. I believe it was Nevada Power.

22 Q. And the name that came back as the person
23 who had power in their name at that residence was
24 what?

25 A. Anthony Castaneda.

1 solicitation. 84

2 Q. What day was it that you served the
3 search warrant on that residence?

4 A. I believe it was in April. I could refer
5 to my notes to get the exact date.

6 Q. Could you look to see what date it was?

7 A. April 5, 2010.

8 Q. And who was present at the time that the
9 search warrant was served from your unit?

10 A. From my unit, my sergeant, Troy Barrett.
11 Detective Ramirez was present, Detective Lora Cody
12 was present, Detective John Carpenter. We had an FBI
13 agent there as well. I believe there was some
14 additional persons from the computer forensic team.
15 I'm not sure exactly who. It would be in my
16 officer's report and the search warrant.

17 Q. Let me ask you this. What was your role
18 when you got to the residence, and what was the role
19 of all these other people that were present at the
20 time?

21 A. My role was mainly to interview any
22 persons at the residence. We have persons assigned
23 to search through the residence, and then persons
24 assigned to conduct previews on the computers.

25 Q. Now, your role was to interview anybody

1 that was present at the residence? 85
2 A. Correct.
3 Q. Was there anybody present at the
4 residence when you arrived there with the search
5 warrant?
6 A. Yes.
7 Q. Who was present?
8 A. Anthony Castaneda was present, as well as
9 his son.
10 Q. And, for the record, do you see Anthony
11 Castaneda here in court?
12 A. Yes.
13 Q. Describe where he's located in the
14 courtroom and a article of clothing he's wearing so
15 the Court will know who you're referring to.
16 A. Mr. Castaneda is wearing a blue shirt.
17 He has glasses on. He's seated at the desk to your
18 right.
19 MS. MONROE: May the record reflect the
20 identification of the defendant?
21 THE COURT: Yes.
22 BY MS. MONROE:
23 Q. You said that Mr. Castaneda, the
24 defendant, was present and then his son was present
25 as well?

1 A. Yes, I did. 87
2 Q. Was that from a card or from memory?
3 A. It was from a card.
4 Q. And you went through the rights that were
5 on that card, you actually read that card to him?
6 A. Yes, I did.
7 Q. Do you have him sign anything after you
8 give him his rights?
9 A. No.
10 Q. Was it all on tape when you gave him his
11 rights?
12 A. Yes.
13 Q. Did he knowledge that he understood his
14 rights?
15 A. Yes, he did.
16 Q. Did he continue to agree to speak to you
17 after he acknowledged that he understood his rights?
18 A. Yes.
19 Q. Can you tell us what some of the exchange
20 was between you and Mr. Castaneda as far as why you
21 were there and anything regarding child porn that he
22 discussed with you?
23 A. The conversation, we explained to him we
24 had a search warrant for his residence for digital
25 items for child porn. I talked about a thumb drive

1 A. Correct. 86
2 Q. Did you conduct an interview with his
3 son?
4 A. I didn't conduct a full interview with
5 him. My partner spoke with him, John Carpenter.
6 Q. And then who did you interview?
7 A. I interviewed Anthony Castaneda.
8 Q. And how long after you arrived at the
9 residence did you interview Mr. Castaneda,
10 approximately?
11 A. 20 minutes maybe, maybe less.
12 Q. Do you look around the house at all
13 before you do your interview with Mr. Castaneda?
14 A. I do a walk-through, yes.
15 Q. After you do your walk-through, where did
16 you conduct your interview with Mr. Castaneda?
17 A. In my unmarked vehicle outside his
18 residence.
19 Q. Did you ask him if he would be willing to
20 talk to you?
21 A. Yes, I did.
22 Q. Did he agree to talk to you?
23 A. Yes.
24 Q. After you arrived at your car did you
25 Mirandize him?

1 that we had. I ask him questions regarding does he 88
2 ever transfer any documents to thumb drives, such as
3 IDs or anything like that. He said he does do that.
4 He said that he -- I asked him
5 what type of work he does. He said he's very
6 knowledgeable about computers. He works at Networks.
7 I asked him at some point has he ever downloaded any
8 child pornography. He said no. I said has he ever
9 downloaded adult pornography. Yes.
10 At some point I asked him is there
11 any way to think of how child pornography could get
12 on his computer. He had said that the only thing he
13 could think of is that he near sites, which means he
14 goes and copies a website and views it later. That's
15 the only way he could think of something possibly
16 could have gotten onto his computer. He said he
17 would be unaware if that was the case.
18 He had also stated or described
19 that he has downloaded pictures of girls who are
20 young looking, but he believes them to be of adult
21 age.
22 Q. Let me ask you this, Detective Tooley.
23 Did he tell you how long he had
24 lived in the house, the residence at 2205 Beverly
25 Way.

1 A. Approximately a year, I believe. 89
 2 Q. Did he mention when his son had moved in
 3 with him?
 4 A. He said a few weeks, two or three weeks
 5 ago prior to us executing the search warrant.
 6 Q. Did you discuss with him Tami Hines and
 7 her turning over a thumb drive, the flash drive to
 8 you? Did you tell him that Tami Hines had turned
 9 over this flash drive?
 10 A. I can't remember if I actually said Tami
 11 did. I asked who lived in his residence prior to,
 12 who had recently lived with him or if anybody had
 13 lived with him.
 14 Q. And who did he say had lived with him in
 15 the past?
 16 A. He had said Tami had, Tami, her husband,
 17 and her children had stayed with him.
 18 Q. Did he tell you about how long they had
 19 stayed with him?
 20 A. A few months I believe he said.
 21 Q. Did you ever mention the fact that a
 22 flash drive was turned over with his identifying
 23 information on it as well as child porn?
 24 A. Yes.
 25 Q. What did he say when you told him about

1 A. He said -- I asked him that question. We 91
 2 actually concluded the interview at one point. I was
 3 reiterating after I turned off the recorder. I said,
 4 you're saying you have never downloaded any child
 5 porn. He said, well, I never said never.
 6 So I asked him if I could turn
 7 back on the recorder so we can clarify that. I
 8 turned it back on. He said that he's gone through it
 9 when he's gone through different sites, he may have
 10 come across child porn, and once again said girls
 11 looking young, but believed to be of adult age.
 12 Q. Now, at some point did Detective Ramirez
 13 come in and was there a discussion regarding some of
 14 the photos that had been found during the preview of
 15 the computers?
 16 A. When we walked back into the house,
 17 Anthony Castaneda and I walked back into the house at
 18 the conclusion of the interview. Detective Ramirez
 19 had shown -- Anthony was standing behind him and
 20 said, these are some of the photos we found on your
 21 computer, and they were images of prepubescent
 22 children engaged in sexual acts with lewd display of
 23 their genitals, and Anthony Castaneda said something
 24 to the effect, oh, those are kids, and that I'm
 25 sorry.

1 that? 90
 2 A. He said he didn't -- he wouldn't know how
 3 child porn would have got onto it.
 4 Q. I believe you also said that -- did he
 5 tell you who had access to his computers?
 6 A. He said everyone uses his computers. He
 7 said when the kids were staying there, Tami's
 8 children, they would use both laptops, and then he
 9 later said they used both computers that were located
 10 in the main room.
 11 Q. Do you know how many computers there were
 12 in that residence?
 13 I don't know if you did a
 14 walk-through enough to determine how many computers
 15 were in the residence.
 16 A. I definitely recall a total of four, one
 17 of which laptop belonged to his son. There was two
 18 in the -- I call it the main room. It's the family
 19 room. One on each wall, the north wall, the south
 20 wall, one located in the east bedroom, and those are
 21 the only computers I can recall. There may have been
 22 additional ones, but I can't recall which ones they
 23 were.
 24 Q. Now, you said he denied he had ever
 25 downloaded child porn?

1 Q. Now, were you the person who actually 92
 2 impounded any evidence from that residence?
 3 A. I took custody of the evidence, yes.
 4 Q. What items did you actually take custody
 5 of and impound?
 6 A. I took custody of the shuttle computer
 7 and two laptop computers, and then I believe there
 8 was some other digital media that we took custody of
 9 as well.
 10 Q. Did you put those in a secure location or
 11 lock them into the evidence vault?
 12 A. Yes.
 13 Q. At some point did you request that a
 14 forensic analysis be done on those items?
 15 A. Yes, I did.
 16 Q. Did you get a report from those items?
 17 A. Yes, I did.
 18 Q. And based on that report what did you
 19 learn about the contents of some of the computers
 20 that had been removed from the residence?
 21 A. That the shuttle computer that was found
 22 in the family room of the house located on the north
 23 wall and the laptop that was located in the east
 24 bedroom both contained child pornographic images on
 25 them.

93

1 Q. Now, whose bedroom was the east bedroom?

2 A. That was just a spare bedroom.

3 Q. Did it appear to be an office?

4 A. There wasn't really anything in it. I

5 think there was desk, if I recall. Like a small --

6 not like what you're sitting at, but just like a

7 little table type thing.

8 Q. And then there was what we called a

9 shuttle computer, and to your understanding there was

10 child pornography located on those?

11 A. Correct.

12 Q. And were you familiar with the fact that

13 they came under a file called the Tony file?

14 A. Yes, according to the report that I

15 received.

16 Q. So any information that you got about

17 what was on the computers would have come from the

18 reports of the people that would have done the

19 forensic analysis?

20 A. Correct.

21 Q. After you received that information did

22 you arrest the defendant that day?

23 A. No, I did not.

24 Q. At some point did you submit for an

25 arrest warrant on him?

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1 foundation as to how she would be able to exclude

2 that possibility.

3 THE COURT: I agree.

4 BY MS. MONROE:

5 Q. Well, you heard what his objection was.

6 Are you familiar enough with

7 computers that you believe you could answer that?

8 A. I'm not an expert.

9 MS. MONROE: I'll pass the witness at

10 this time.

11 THE COURT: Cross-examination.

12

13 CROSS-EXAMINATION

14 BY MR. GELLER:

15 Q. Detective Tooley, were any photographs

16 taken of the interior of the defendant's home?

17 A. Yes.

18 MR. GELLER: For the record, I request

19 all photographs that were taken, copies of those.

20 BY MR. GELLER:

21 Q. You informed -- you said on direct

22 testimony that you informed Mr. Castaneda that he did

23 not have to speak with you?

24 A. Correct.

25 Q. And he went ahead and cooperated with you

94

1 A. Yes, I did.

2 MS. MONROE: Court's indulgence, your

3 Honor.

4 BY MS. MONROE:

5 Q. And he said that if there was any child

6 porn on his computer, it would have been because he

7 had been surfing through adult porn sites and if he

8 was downloading, that might have been how child porn

9 could have downloaded onto his computer?

10 A. Yes, he said something to the effect if

11 he saw a picture that was interesting, he would

12 download it, not necessarily that it was child

13 pornographic.

14 Q. Are you familiar with adult porn sites

15 and child porn sites?

16 A. Yes, ma'am.

17 Q. Is it possible to be surfing adult porn

18 and download child porn by accident?

19 MR. GELLER: I would object and ask that

20 if the State's going to offer her as an expert to lay

21 a little foundation as how she knows the inner

22 workings of the Internet and computer systems.

23 Obviously, lot of times cookies

24 and things get downloaded onto one's computer without

25 their knowledge, and so I ask to establish a

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1 and agreed to get in the vehicle with you; is that

2 right?

3 A. Yes.

4 Q. You had a taped conversation. About how

5 long would you say that conversation was?

6 A. It was quite lengthy. I couldn't -- I

7 don't recall. Just based off the transcript I would

8 say more than 40 minutes.

9 Q. And I used the term tape. Was this

10 digitally recorded?

11 A. Yes, it was digitally recorded.

12 Q. At some point you made the decision to

13 turn off the recording device; is that correct?

14 A. That's correct.

15 Q. After having turned off the recording

16 device, you continued to engage Mr. Castaneda in

17 conversation; is that correct?

18 A. Correct.

19 Q. At some point later you decided to turn

20 the recording device back on?

21 A. Correct.

22 Q. At no point in time leading up to the

23 point where you turn the recording device off were

24 you concerned you were about to run out of space,

25 correct?

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1 A. No.

2 Q. You turned the recording device off for

3 another reason?

4 A. I thought the interview was concluded.

5 Q. Then after you voluntarily turn the

6 recording device on, you reinitiated a conversation

7 with the defendant?

8 A. Correct.

9 Q. During the course of your investigation,

10 did you come to learn that Miss Hines had been

11 evicted by Mr. Castaneda a few days prior to her

12 turning over this information to the police?

13 A. I have no knowledge she was evicted.

14 Q. She did not offer that information to

15 you?

16 A. No.

17 Q. Did Mr. Castaneda at any point in time

18 point that out to you?

19 A. No, he didn't.

20 Q. You mentioned that during the course of

21 the execution of the warrant your purpose was to

22 explore evidence of possible child exploitation?

23 A. Correct.

24 Q. Aside from photographs discovered on

25 these computers, did you discover any other evidence

teenagers?

1 A. Yes. I'm sorry, I had them confused.

2 With the older teenagers, yes.

3 Q. Did your investigation lead you to learn

4 that that took place in Clark County, that other

5 incident?

6 A. Yes, I was aware of the other incident.

7 Q. You mentioned that this search and

8 interview with Mr. Castaneda took place in

9 February 2010; is that correct?

10 A. At the residence was in April.

11 Q. I'm sorry, April 2010?

12 A. Yes.

13 Q. Mr Castaneda was ultimately arrested

14 approximately one year later?

15 A. Correct.

16 Q. At any point in time from April 2010 to

17 the date of his arrest, did you have any indication

18 that Mr. Castaneda attempted to flee the

19 jurisdiction?

20 A. No, I had knowledge that Tami Hines had

21 contacted me and said that he was out of the country.

22 Q. Were you able to confirm that?

23 A. No.

24 Q. Do you know if any investigation was done

25

1 of child exploitation?

2 A. Besides the thumb drive as well?

3 Q. That's correct.

4 A. No.

5 Q. Did you come to learn during the course

6 of your investigation that minors had resided in the

7 house for some time?

8 A. For a few months, yes.

9 Q. Did you do any followup to confirm those

10 minors were in no way molested or --

11 A. Yes, the children were interviewed. The

12 two younger children were interviewed.

13 Q. And were you able to exclude the

14 possibility that they had been molested or otherwise

15 exploited by Mr. Castaneda or otherwise?

16 A. Based off the information provided by

17 another detective, yes.

18 Q. You --

19 A. Reference Mr. Castaneda.

20 Q. Did they indicate that there was

21 exploitation otherwise?

22 A. I'd have to refer to my notes. There was

23 a separate case involving these children completely

24 unrelated to Mr. Castaneda.

25 Q. Was that with respect to the older

100

1 to see whether or not Mr. Castaneda had left the

2 country?

3 A. No, because at the time it wasn't

4 relevant to my investigation.

5 Q. Around what time did you come by that

6 information?

7 A. I really don't know. Could have been a

8 few months ago. Prior to arresting him.

9 Q. Would there have been a notation in one

10 of Metro's databases to the effect that she had

11 reported that to police?

12 A. If it would be, it would be in my case

13 notes, but I don't recall if I put it in there or

14 not.

15 Q. I may be referring to the wrong acronym,

16 but the case notes you discussed, is that something

17 called LRMS; does that sound correct?

18 A. Yes.

19 Q. What does LRMS stand for?

20 A. It's Law Review Management System, I

21 think.

22 Q. Would it stand to reason that when she

23 called to report that, that would have explained --

24 A. Not necessarily.

25 Q. What reason would there be to omit

1 putting that in the IRMS system?

2 A. I didn't feel it was pertinent at the
3 time or I wrote it down on a sticky note because I
4 wasn't in my office and it didn't get in there.

5 Q. Have you discarded any information from
6 your file pertaining to this investigation?

7 A. No.

8 MR. GELLER: Judge, just for the record,
9 I would request a copy of the IRMS notes and actual
10 physical file because the witness testified it's
11 possibility that it was just written down on a sticky
12 note or some other source that wasn't digitized.

13 MS. MONROE: I don't know what he means
14 by the other file.

15 MR. GELLER: Physical paper file.
16 There's -- the detective testified there's an IRMS
17 digital file that manages notes and progress for the
18 case. In addition she mentioned there's a
19 possibility of a sticky note and a physical file such
20 as a manila file like this one.

21 THE WITNESS: There's no sticky note in
22 my file. You asked what would be a reason as to.
23 That would be a reason. There's no sticky note in my
24 file reference that. I just -- some cases I'm
25 usually pretty good with people calling me. I just

1 information.

2 Q. Did the FBI take custody of any of the
3 evidence?

4 A. No.

5 Q. Did the FBI examine any of that
6 evidence --

7 A. No.

8 Q. -- at the scene?

9 The federal authorities didn't
10 pursue prosecution?

11 A. Not at this time, no.

12 MR. GELLER: Court's indulgence.

13 BY MR. GELLER:

14 Q. During the course of your investigation
15 did you come to learn that also Mr. Castaneda's
16 nieces had resided at the residence prior to his
17 interview with you?

18 A. Mr. Castaneda told me that during the
19 interview.

20 Q. Were you able to independently
21 corroborate that?

22 A. No, I didn't follow up on that.

23 Q. Suffice it to say you didn't find any
24 photographs depicting any of the minors?

25 A. There was no indication of any of the

1 happened to remember that. She said he was in Puerto
2 Rico. And I said, well, that's okay, I don't have
3 any outstanding warrants for him right now is what I
4 told her.

5 BY MR. GELLER:

6 Q. Approximately how many times since
7 February of 2010 would you suspect Miss Hines had
8 contacted you?

9 A. Twice maybe.

10 Q. Do you have any knowledge whether she
11 contacted other members of law enforcement pertaining
12 to this case since she reported this in February of
13 2010?

14 A. If she did, it wasn't passed on to me.

15 Q. You made reference during direct
16 testimony that the FBI appeared at this residence
17 with respect to this investigation?

18 A. Correct.

19 Q. Do you remember the agent's name or
20 number?

21 A. It's in my officer's report, which is
22 included in the documents I provided for the
23 prosecution of this case. It would have been -- we
24 had the same people. We work on a task force, same
25 officers generally come out. I can get that

1 children that had lived there were molested by
2 Mr. Castaneda or photographed by Mr. Castaneda in a
3 sexual manner.

4 Q. Was there any evidence they were involved
5 in another manner other than sexual?

6 A. No. He had mentioned the girls took
7 pictures, clothed pictures to post on their websites,
8 stuff like that, so I just wanted to clarify.

9 MR. GELLER: Thank you.

10 I pass the witness.

11 THE COURT: Redirect?

12 MS. MONROE: No.

13 THE COURT: Thank you, Detective Tooley.

14 (Witness excused)

15 MS. MONROE: I have no other witnesses
16 and the State would rest.

17 THE COURT: You have some amendments
18 before you rest.

19 MS. MONROE: I do.

20 Count 3 was the first one I had.
21 I think we had b7p, but I think the testimony was
22 JPS.

23 THE COURT: Any objection?

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1 MR. GELLER: No objection.

2 THE COURT: So, basically, the file name

3 on line 13 will be amended to .jpg instead of and in

4 lieu of bmp.

5 MS. MONROE: I think that on Count 7 it

6 was new-05.jpg. I don't have it written, but most of

7 them had jpg's on them.

8 THE COURT: Count 7, yes, there was

9 testimony that it was new-05.jpg.

10 Any objection to that amendment?

11 MR. GELLER: No, Judge.

12 THE COURT: That will be amended.

13 MS. MONROE: Count 9, I believe -- well,

14 I think on Count 8, new-35 would also be .jpg. There

15 may have been one that wasn't a jpg.

16 THE COURT: Count 8?

17 Count 8 there was testimony that

18 the file name was new-35.jpg.

19 Any objection to that amendment on

20 line 9 of page 4?

21 MR. GELLER: No, Judge.

22 THE COURT: That amendment will be

23 allowed.

24 MS. MONROE: Count 9, GIRL69.jpg.

25 THE COURT: There was testimony that

107

1 under Count 12.

2 Any objection to that amendment?

3 MR. GELLER: No, Judge.

4 MS. MONROE: I apologize. I was going to

5 ask for a transcript so I could go through it.

6 Count 13, I'm not sure if it was

7 small caps new.

8 THE COURT: He didn't specify.

9 MS. MONROE: Then probably new dash 33.

10 THE COURT: .jpg. I don't know that that

11 needs an amendment. There was no testimony as to

12 whether it was all caps or not.

13 MS. MONROE: I think when he said all

14 caps, I think Count 14, I think I need to probably

15 put image file name untitledfile.jpg. That's about

16 the best I could come up with as to what that would

17 have been.

18 THE COURT: The description of the image

19 in Count 14 was -- is accurate. Probably

20 unnamedfile.jpg, and a carved image, he referred to

21 it as a carved image.

22 Any objection to that amendment?

23 MR. GELLER: No, Judge.

24 THE COURT: Count 14.

25 MS. MONROE: So we're going to put carved

106

1 Exhibit 9 was entitled all caps G-I-R-L 69.jpg.

2 Any objection to that amendment?

3 MR. GELLER: No, Judge.

4 THE COURT: Count 9, line 16 will be

5 amended to reflect that change.

6 MS. MONROE: Count 10 I have new-43.

7 Again, I'm going to think it was jpg.

8 THE COURT: Count 10 there was testimony

9 that the file name was new-43.jpg.

10 Any objection to that amendment?

11 MR. GELLER: No, Judge.

12 THE COURT: That amendment will be

13 allowed on page 4, line 24 of Count 10.

14 MS. MONROE: I believe Count 11 was fine.

15 I believe Count 12 was fine.

16 I believe Count 13 --

17 THE COURT: Count 11 you need an

18 amendment. All caps. The word new, capital N-E-W

19 dash 47.jpg.

20 Any objection to amendment of

21 line 5 on page 5 under Count 11?

22 MR. GELLER: No, Judge, no objection.

23 THE COURT: Count 12. Testimony, I

24 believe, of Detective Ramirez was that it was all

25 caps EURO, E-U-R-O dash 001.jpg on line 12 of page 5

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1 image?

2 THE COURT: I think you should refer to

3 it as carved image unnamedfile.jpg. He

4 differentiated it, but the description as analyzed in

5 Count 14 is the correct description of the photo.

6 MS. MONROE: Count 15, I believe that one

7 was fine.

8 THE COURT: Yes.

9 MS. MONROE: So those were the amendments

10 that I would make based on the testimony the last

11 couple days.

12 THE COURT: I had a question though on

13 Count 15, and I don't know that it matters, but on

14 Count 15, the last sentence says: This image is part

15 of the NCMEC identified series, see baby.

16 I looked at the photo. The photo

17 didn't reference -- there did appear to be some

18 redacted information on the photo, but it didn't say

19 anything like that.

20 MS. MONROE: The reason I had put that in

21 there, those are identified victims and for purposes

22 of if there would be a conviction down the road, we

23 could actually put in a letter from the known child

24 victim, if indeed they wanted to be identified as a

25 speaker.

So I don't know -- it's not necessary to my charge. It was really just to put the defense on notice there is -- we do know the name of that victim. It's located on a couple of the counts.

Count 13, one of the prepubescent children is a part of the NCMC series under IM.

THE COURT: Mr. Geller, do you have a problem with those sentences being left in these counts for, I guess, notifying purposes?

MR. GELLER: My preference would be to acknowledge that Miss Monroe saying if we were to come to a sentencing on the issue, that I'm on notice there was an identified victim.

My preference would be to not have that language given to the jury in a criminal information because I don't think it's necessary and arguably could be a little bit prejudicial when read to the jury.

Maybe identify this particular person as not virtual kiddy porn or anything like that. There's a real life human. So I don't think it's necessary, but I will at this point acknowledge that I've been put on notice that there's an identified victim associated with that photo.

Count 15.

MS. MONROE: I think those were the only two that I had.

Just though that the defense is on notice that --

THE COURT: He acknowledged that.

MS. MONROE: -- we would certainly possibly get letters from the victim because they are a known victim.

MR. GELLER: Acknowledged as to Count 13.

THE COURT: Okay. With all of those amendments, do you rest?

MS. MONROE: Yes, I do.

THE COURT: Mr. Geller, any witnesses or evidence from the defense?

MR. GELLER: No, Judge. I've informed Mr. Castaneda he does have a right to testify at a preliminary hearing; however, it's not in our defense strategy for him to do so at this point, so he's not going to exercise that right, though he may do so at trial.

THE COURT: You rest then?

MR. GELLER: I do, Judge.

THE COURT: Argument by Miss Monroe.

MS. MONROE: I'll reserve.

MS. MONROE: Your Honor, I think that's fair.

THE COURT: I didn't hear any testimony to any of that.

MS. MONROE: There wasn't, and I didn't because it wasn't really pertinent to -- but we had to put that in there. When I was talking to Detective Tooley she said these are identified victims and they can actually present statements or letters to the Court if there's a conviction based on a picture of theirs.

So it was really done just as a this is a victim. So I don't know that it's -- certainly, there was no testimony to it. It was done more just to put the defense on notice that if there would be a sentencing or there would be a conviction, it might be that the State might obtain a letter, if we can gather that from the named victim.

And I do know that one of the victims at that trial is going -- that case has not yet resolved, so that victim probably would not be available.

THE COURT: As a matter of procedure then and lack of evidence, I'm going to strike the last sentence of Count 13 and the last sentence of

THE COURT: Argument by Mr. Geller.

MR. GELLER: Judge, I think Miss Monroe mentioned and I'll mention it too, this preliminary hearing was extremely long. I think we've gone in excess of two and a half hours today in addition to several hours on Tuesday.

In light of the sheer volume, I'm going to submit it today. I do want to state on the record it's not because I'm necessarily agreeing that there's probable cause as to each and every count, but I may be challenging probable cause as to a particular count by way of a writ of habeas corpus in District Court, and I'm going to have to review what I anticipate will be a very large transcript in order to do that first. So I would submit it for today, Judge.

THE COURT: All right. Then what I'm going to do is, all the counts are the same, so I'm not going to read them count by count.

I do find that there is marginal evidence to believe that all counts have been established by the burden as required at the preliminary hearing. So that is 1 through 15. That there is marginal evidence; i.e., probable cause to believe that Counts 1 through 15 have been committed

1 and that the main defendant herein, Anthony
2 Castaneda, committed said crimes.
3 I hereby order Mr. Castaneda to
4 answer to these charges in the Eighth Judicial
5 District Court on the day Stephanie's about to give
6 you.

7 THE CLERK: April 21 at 9 a.m., lower
8 level arraignment A.

9 MS. MONROE: Thank you.

10 THE COURT: Thank you.

11 MR. GELLER: Thank you very much.

12 ---ooo---

13 ATTEST: Full, true and accurate transcript of
14 proceedings.

15 *Gerri De Lucca*
16 GERRI DE LUCCA, C.C.R. NO. 82

1 ---ooo---
2 ATTEST: I further certify that I am not interested
3 in the events of this action.

4 *Gerri De Lucca*
5 GERRI DE LUCCA, C.C.R. NO. 82
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1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
2 COUNTY OF CLARK, STATE OF NEVADA

3
4 STATE OF NEVADA,

5 Plaintiff,

6 vs.

7 ANTHONY CASTANEDA,

8 Defendant.

Case No. 11F03995X

ATTEST RE: NRS 239B.030

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10
11 STATE OF NEVADA }
12 COUNTY OF CLARK } SS

13
14 I, Gerri De Lucca, a Certified Shorthand
15 Reporter within and for the County of Clark and the
16 State of Nevada, do hereby certify:

17 That REPORTER'S TRANSCRIPT OF PROCEEDINGS
18 was reported in open court pursuant to NRS 3.360
19 regarding the above proceedings in Las Vegas Justice
20 Court, 200 Lewis Avenue, Las Vegas, Nevada.

21 That said TRANSCRIPT:
22 X Does not contain the Social Security
23 number of any person.

24 _____ Contains the Social Security number
25 of a person.

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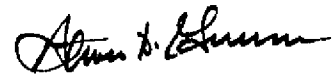
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CLERK OF THE COURT

1 **NOTC**
2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **VICTORIA VILLEGAS**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #002804**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

10 **THE STATE OF NEVADA,**

11 **Plaintiff,**

12 **-vs-**

13 **ANTHONY CASTANEDA,**
14 **#2799593**

15 **Defendant.**

CASE NO: C-11-272657-1

DEPT NO: V

16 **NOTICE OF WITNESSES AND/OR EXPERT WITNESSES**
17 **[NRS 174.234]**

18 **TO: ANTHONY CASTANEDA, Defendant; and**

19 **TO: WARREN GELLER, DPD, Counsel of Record:**

20 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the STATE
21 **OF NEVADA intends to call the following witnesses/expert witnesses in its case in chief:**

22 **BARRETT; LVMPD#04972**

23 **BRANDON; LVMPD#09631**

24 **BRISTETLOS, ALEX; FBI**

25 **CARPENTER; LVMPD#05003**

26 **CODY; LVMPD#07294**

27 **EHLERS, PAUL; LVMPD#04215; Will testify as an expert as to the forensic**
28 **examination of computers and/or electronic devices for the presense of child pornography.**

1 EHLERS; LVMPD#04215
2 GRUNINGER, ANDREW; FBI
3 HINES, TAMI; 5795 W. FLAMINGO RD. #167, LVN 89103
4 PARTRIDGE, SHAWNA; FBI
5 RAMIREZ, VINCENTE; LVMPD#04916; Will testify as an expert as to the forensic
6 examination of computers and/or electronic devices for the presense of child pornography.
7 RAMIREZ; LVMPD#04916
8 ROWE; LVMPD#03727
9 SHUMATE; LVMPD#08980
10 SMITH; LVMPD#03571
11 SOLOMON; LVMPD#08458
12 TAFOYA; LVMPD#04435
13 TOOLEY; LVMPD#06224

14 These witnesses are in addition to those witnesses endorsed on the Information and
15 any other witness for which a separate Notice has been filed. The substance of each expert
16 witness testimony and copy of all reports made by or at the direction of the expert witness
17 has been provided in discovery.

18 A copy of each expert witness curriculum vitae, if available, is attached hereto.

19 DAVID ROGER
20 DISTRICT ATTORNEY
21 Nevada Bar #002781

22 BY /s/ VICTORIA VILLEGAS
23 VICTORIA VILLEGAS
24 Chief Deputy District Attorney
25 Nevada Bar #002804
26
27
28

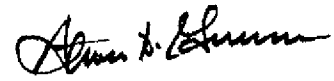
CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing, was made this 3rd day of November, 2011, by Electronic Filing to:

WARREN GELLER, DPD
Email: GELLERWJ@ClarkCountyNV.gov

/s/ HOWARD CONRAD
Secretary for the District Attorney's Office

hjc/SVU


CLERK OF THE COURT

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAMES R. SWEETIN
6 Chief Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 ANTHONY CASTANEDA,
14 #2799593

15 Defendant.

CASE NO: C-11-272657-1

DEPT NO: V

16 **SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES**
17 **[NRS 174.234]**

18 **TO: ANTHONY CASTANEDA, Defendant; and**

19 **TO: WARREN GELLER, DPD, Counsel of Record:**

20 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the STATE
21 **OF NEVADA** intends to call the following witnesses/expert witnesses in its case in chief:

22 *indicates additional witness(es) and/or modification(s)

23 BARRETT; LVMPD#04972

24 BRANDON; LVMPD#09631

25 *BUSTILLOS, ALEX; FBI

26 CARPENTER; LVMPD#05003

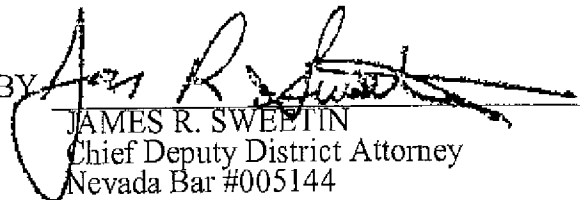
27 *CETYL, DR. SANDRA; SUNRISE HOSPITAL/SNCAC; Will testify as a medical
28 expert as to the ages of the subjects depicted in child pornography.

1 CODY; LVMPD#07294
2 *COR or Designee; CCDC
3 *COR or Designee; LVMPD COMMUNICATIONS
4 *COR or Designee; LVMPD RECORDS
5 *COR or Designee; NATIONAL CENTER FOR MISSING & EXPLOITED
6 CHILDREN
7 EHLERS, PAUL; LVMPD#04215; Will testify as an expert as to the forensic
8 examination of computers and/or electronic devices for the presense of child pornography.
9 GRUNINGER, ANDREW; FBI
10 HINES, TAMI; 5795 W. FLAMINGO RD. #167, LVN 89103
11 PARTRIDGE, SHAWNA; FBI
12 RAMIREZ, VINCENTE; LVMPD#04916; Will testify as an expert as to the forensic
13 examination of computers and/or electronic devices for the presense of child pornography.
14 ROWE; LVMPD#03727
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17 SOLOMON; LVMPD#08458
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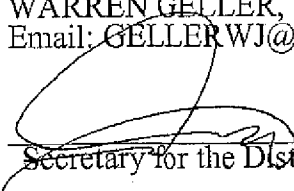
6 STEVEN B. WOLFSON
7 DISTRICT ATTORNEY
8 Nevada Bar #001565

9 BY 
10 JAMES R. SWEETIN
11 Chief Deputy District Attorney
12 Nevada Bar #005144

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19 **CERTIFICATE OF ELECTRONIC FILING**

20 I, HOWARD CONRAD, hereby certify that service of the above and foregoing, was
21 made this 2nd day of November, 2012, by Electronic Filing to:

22 WARREN GELLER, DPD
23 Email: GELLERWJ@ClarkCountyNV.gov

24 
25 Secretary for the District Attorney's Office

26
27 hjc/SVU
28

Sandra Cetl, M.D.
Sunrise Children's Hospital
3186 Maryland Parkway
Las Vegas, Nevada 89109
702-378-3931

Education:

University of Nevada, School of Medicine
Las Vegas, Nevada
Residency in Pediatrics
July 2007 – June 2010

University of Vermont, College of Medicine
Burlington, Vermont
M.D.
August 2002 – May 2007

University of California, Los Angeles
Los Angeles, California
B.S. in Neuroscience, cum laude
September 1997 – May 2001

Current Attending Responsibilities: September 2010 to current

- Sunrise Children's Hospital Child Abuse Pediatrician
 - Medical evaluations of patients with suspected physical abuse, sexual abuse and/ or neglect. Patients are seen in the ER setting as well as on the pediatric ward and PICU.
- Sunrise Children's Hospital SCAN call
 - Sole M.D. provider taking night call for suspected child sexual abuse medical evaluations in the ER.
- Sunrise Children's Hospital ER
 - 2-5 shifts per month in the pediatric ER, managing and treating patients levels 2-5.
- South Nevada Children's Assessment Center
 - Medical evaluations of patients with concerns of child sexual abuse.

Additional Work Experience:

Juvenile Diabetes Camp Physician August 2010

Job Title: Physician

Primary Responsibilities: Observation and management of insulin use during the 3 day camp. Children were aged 12- 17.

Planned Parenthood, Los Angeles August 2001 – May 2002

Job Title: Senior Program Manager

Primary Responsibilities: I was in charge of the all volunteers, teachers and coordinators. Duties ranged from the management of staff to reviewing and editing the curriculum as well as ensuring the program's educators were properly trained and prepared for the situations they would encounter.

Planned Parenthood, Los Angeles August 2000 – August 2001

Job Title: Reproductive Health Educator

Primary Responsibilities: I was responsible for educating inner city teens and young adults on topics including reproductive health, sexually transmitted diseases, the use of contraceptives and the possible social, economic and health consequences of various sexual choices.

University of California, Los Angeles 1997 – 2001

Title: Research Associate

Responsibilities: rodent husbandry, surgery, data collection, perfusions, histology and result analysis over the course of four consecutive years; the data from my efforts resulted in two publications in the Journal of Neuroscience.

Laura H. Corbit, Janice L. Muir, and Bernard W. Balleine. *The Role of the Nucleus Accumbens in Instrumental Conditioning: Evidence of a Functional Dissociation between Accumbens Core and Shell*. J. Neurosci., May 2001; 21: 3251 - 3260.

Laura H. Corbit and Bernard W. Balleine. *The Role of the Hippocampus in Instrumental Conditioning*. J. Neurosci., Jun 2000; 20: 4233 - 4239.

I was awarded 1st place in the annual UCLA Neuroscience Poster Session with a presentation titled *The Effects of Lesions in the Nucleus Accumbens on Instrumental Conditioning*. Additionally, I was responsible teaching presentations for undergraduate and graduate students regarding both the research completed and other topics in neuroscience.

Private Math and Science Tutor 1999 – 2003

I conducted weekly sessions for several junior high and high school students in subjects ranging from Algebra to Calculus and Life Sciences to Physics.

Care Extenders at UCLA – Santa Monica Hospital 1997 – 1999

I transported patients and aided in the care of patients in obstetrics, medical-surgical wards, and the emergency department.

Rockwell Aerospace and Defense and The California Museum of Science and Industry - Summer 1996

I was the primary instructor for an inner city program to promote the benefits of mathematics and science to fourth and fifth grade disadvantaged children.

Licensure and Certification:

PALS Current to May 2013

ACLS Current to May 2013

Nevada State Board of Medical Examiners Current to June 2013

Nevada State Board of Pharmacy current to 2013

Drug Enforcement Agency License current to 2013

Current Outreach and Committees:

CARES Committee (Child Abuse Case Review and Education Service) September 2010 – current

- Member of a multidisciplinary team where cases are presented by medical staff, CPS, Law Enforcement and District Attorneys when there are concerns of child physical abuse

Children's Assessment Center Case Review Team September 2010 -- present

- Member of a multidisciplinary team where cases are presented by medical staff, CPS, Law Enforcement, and District Attorneys where there are concerns of child sexual or physical abuse at the Southern Nevada Children's Assessment Center

Clark County Child Fatality Review Team Member and Core Voting Member September 2010 – current

Clark County Child Fatality Task Force Member October 2010 – current

Clark County Child Fatality Review Team Vice Chair July 2011 - current

Current Research Participation:

Currently approved for IRB participation in for a Multi-Center Prospective Research Project. Topic: the yield of medical screening of pediatric contacts- siblings and other children- in the home of an abused child.

Currently approved for IRB participation in a second Multi-Center Prospective Research Project. Topic: Risk perception of physically abused children and how to use a child's social history when evaluating injuries that may be due to physical abuse.

Presentations:**October 2011: Sexual Assault in the Adolescent Population**

- Power point presentation given at University of Nevada School of Medicine to Internal Medicine residents

May 2011: Sexually Transmitted Infections and Testing in Child Sexual Abuse

- Power point presentation given at Sunrise Children's Hospital for ER nurses training to become pediatric sexual abuse nurse examiners

March 2011: Adolescent Drug Overdose

- Regional conference in Las Vegas and Reno, Nevada on accidental overdose in the adolescent population
- Two 7 hour trainings on aspects of adolescent drug use and overdose

February 2011: Child Physical Abuse

- Power point presentation on skin manifestations of child physical abuse
- Attendees included hospital social workers and case managers

October 2010: Child Abuse and Neglect Prevention Conference

- Regional for South Western United States
- Provided a conference session on Adolescent Accidental Overdose
- Attendees included teachers, school nurses, social workers, attorneys, and psychology care workers

October 2010 Sexually Transmitted Infections in Child Sexual Abuse

- Power point presentation at the Southern Nevada Children's Assessment Center on sexually transmitted infections in sexually abused children.
- Attendees included law enforcement, CPS and DFS workers and staff

January 2010 University Medical Center Ward Teaching Senior

- Morning Report for residents and faculty including subjects such as burn management and seizure evaluation
- Morbidity and Mortality power point presentation for residents and faculty about evaluation and management of extravasation injuries
- Resident Lecture Power Points on variety of topics including Newborn screening, Non Accidental Trauma, Pediatric Brain Tumors, and Apparent Life Threatening Events

December 2010 Lied Clinic, Senior Resident

- Morbidity and Mortality power point presentation on consequences of RSV mismanagement

October 2009 University Medical Center NICU

- Power point presentation for residents and faculty in Glucose Metabolism of Neonates

September 2009 Endocrinology

- Power point presentation for residents and faculty on Short Stature

August 2009 Adolescent Medicine

- Noon Conference power point for residents and faculty on Chronic Pain Management

July 2009 Sunrise Hospital Ward Teaching Senior

- Morning Report presentations for residents and faculty on subjects including Abdominal Pain, Peritonsillar abscesses, and Kawasaki's Disease
- Resident Lecture Power Points on a variety of topics including Diabetes Management, Neonatal Fever, and Substance Overdose

January 2009 CPS, DFS, Child Haven Staff

- Presentation to staff on Medical Neglect and Newborn Screening

January 2009 Noon Conference

- Journal Club on Office Based Treatment and Outcomes for Febrile Infants With Clinically Diagnosed Bronchiolitis

August 2007 Noon Conference

- Journal Club on the Early Intervention and Outcome of Children with Failure to Thrive

Memberships:

- Helfer Society Member June 2011- current
- Created curriculum for Child Development resident rotation, August 2007
- ACGME Resident Forum Representative, 2008 – 2010

Professional Development:

- AAP Conference Nevada Chapter (Las Vegas, NV) August 2009
- Clark County School District Nursing Conference on many aspects of school nursing, including Child Maltreatment, August 2009
- Clark County School District Nursing Conference on various Genetic Disorders and Behavior Disorders, November 2009
- SANE P Training, June 2010
- International Association of Coroners and Medical Examiners Conference, June 2010
- Western States Child Sexual Abuse Conference (Las Vegas, NV) September 2010
- Shaken Baby Conference (Atlanta, GA) September 2010
- Child Abuse and Neglect Prevent Conference (Reno, NV) October 2010
- San Diego International Conference on Child and Family Maltreatment, January, 2011
- Ray E. Helfer Society Annual Meeting; (Amelia Island, FL) April 2011
- International Association of Coroners and Medical Examiners Conference (Las Vegas, NV) June 2011

Languages:

- Fluent in Serbo-Croatian
- Conversant in Medical Spanish

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

320

JAN 28 2013

BY

ANDREA DAVIS, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-11-272657-1

MOT
Motion
2180779



THE STATE OF NEVADA,

Plaintiff,

CASE NO. C272657X

DEPT. NO. V

ANTHONY CASTANEDA,

Defendant.

DATE: January 28, 2013

TIME: 9:00 a.m.

MOTION TO CONTINUE FIRM TRIAL DATE

COMES NOW the Defendant, ANTHONY CASTANEDA, by and through his attorney, ERIKA D. BALLOU, Deputy Public Defender, and respectfully moves this court for an order vacating the February 4, 2013 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 24th day of January, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By

ERIKA D. BALLOU, #8365
Deputy Public Defender

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