IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY CASTANEDA) No. 64515
)
Appellant,)
)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
)

APPELLANT'S REPLY BRIEF

(Appeal from Judgment of Conviction)

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ANTHONY CASTANEDA Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 64515

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I. The trial Court violated the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and the Nevada Constitution by excluding expert rebuttal testimony.

Det. Ehlers' opinions at trial differed significantly from those offered by Det. Ramirez at the preliminary hearing, and were never provided to the defense in any form prior to trial. On these facts, there is a world of difference between Ramirez's opinion at the preliminary hearing that the remnant images had simply been "deleted" by unspecified means, and Ehlers' repeated opinions that deliberate human interaction had placed the files in the unallocated space. (I 42; VI 1141, 1148, 1190). These new opinions were crucial to the State's theory of the case because the State used this evidence to prove willfulness and intent on Castaneda's part. Ehlers' opinion that the

remnant images resulted solely from intentional human deletions could not have been more prejudicial, and could not have been more tailor-made to the State's theory of the case. These opinions formed a key component of the State's case and were used as substantive evidence of guilt. (VII 1469; 1704-05).

NRS 174.234(2)(a) requires both parties to provide the other side with written notice of "the substance" of expert testimony. Subsection (3)(b) provides that "[t]he court shall prohibit the party from introducing that information in evidence or shall prohibit the expert witness from testifying if the court determines that the party acted in bad faith by not timely disclosing that information pursuant to subsection 2." Here, unnoticed expert testimony ambushed the defense and was allowed to go largely unchallenged as a result of the Court's exclusion of a defense expert. This Court has recognized the significance of the defendant's right to discredit the State's witnesses:

> . . . [T]he district court must be cognizant that defendants have the constitutional right to discredit their accuser, and this right 'can be but limitedly circumscribed.' *Therefore, to protect this constitutional right, there is a strong presumption to allow the testimony of even late-disclosed witnesses, and evidence should be admitted when it goes to the heart of the case*. However, the district court must also balance this right against 'not only the waste of judicial time factor ... but must take particular care not to permit annoying, harassing, humiliating and purely prejudicial attacks unrelated to credibility.'

Sampson v. State, 121 Nev. 820, 827-828, 122 P.3d 1255, 1260 (2005)

(internal citations omitted). This evidence met *Sampson*'s criteria for admission: Leon Mare would have directly contradicted Ehlers' claims regarding the mechanisms that placed the remnant files in unallocated space, and would have provided jurors with far more detailed and grounded analyses of significant definitions at issue in the case. (II 303-11). This testimony went directly to Ehlers' credibility, would not have wasted judicial time, and would not have amounted to "annoying, harassing, humiliating" or "prejudicial" evidence. *Id.*

This Court must reject the State's contention that vigorous cross-examination is an acceptable substitute for the sworn testimony of a defense expert. (Answering Brief, 10). "Although the trial judge noted in denying the request that the defense had had two opportunities to cross-examine Kooshian, this Court has recognized that cross-examination is 'an inadequate substitute for surrebuttal.'" *Lickey v. State*, 108 Nev. 191, 195, 827 P.2d 824, 826 (1992), *citing Cox v. State*, 805 P.2d 374 (Alaska App. 1991). Because a key witness offered previously undisclosed opinions to comport with the State's theory of the case, the trial Court should have found a violation of NRS 174.234's discovery requirements and should have permitted the defense to call an expert in response to the new evidence. By permitting the State to sandbag the defense with highly prejudicial last-minute changes to

the substance of a witness's expert testimony, the trial Court failed to validate the Legislature's requirement that the State produce the "substance" of expert testimony to the defense prior to trial. The purpose of requiring the State to disclose evidence is to promote "the fair and efficient administration of criminal justice by providing the defendant with enough information to make an informed decision as to plea; by minimizing the undesirable effect of surprise at trial; and by otherwise contributing to an accurate determination of the issue of guilt or innocence." *United States v. Euceda-Hernandez*, 768 F.2d 1307, 1312 (11th Cir. 1985). Here, the State failed to disclose the substance of significant expert testimony prior to trial, and the Court's exclusion of the defense expert crippled the defense and violated the Fifth, Sixth, and Fourteenth Amendments and the Nevada Constitution.

II. The prosecutor violated the Fifth, Sixth, and Fourteenth Amendments and the Nevada Constitution by committing misconduct.

Prosecutors have limits and obligations that don't apply to other lawyers. *Berger v. United States*, 295 U.S. 78, 88 (1935). This Court has noted that because criminal cases "involve constitutional issues," they require "heavy scrutinization of improper comments" by attorneys. *Lioce v. Cohen*, 149 P.3d 916, 929 (Nev. 2006). The State's repeated emphases that the defense had offered "no evidence" of Hines' misrepresentations (VII 1469-

70), "no evidence" of a conspiracy to frame Castaneda (VII 1480), and "no evidence" of the defense theory regarding a computer virus (VIII 1568-69), constitute highly prejudicial instances of misconduct. Coupled with the use of misleading PowerPoint slides, this Court must find reversible error based on burden-shifting.

The State also committed clear misconduct in vouching for Det. Ehlers, misstating multiple evidentiary terms, mischaracterizing the defense theory of the case, misstating the evidence, and urging jurors to analyze the photographs in violation of a pre-trial stipulation that the images, in fact, constituted child pornography. (VIII 1569, 1581-82, 1558-59, 1570, 1586, 1588-89). Significantly, the prosecutor also denigrated defense counsel and implied to jurors that defense counsel's objections were improper and inappropriate, even after the Court sustained the defense objection to this misconduct. (VIII 1560, 1565, 1574).

Because of these repeated acts of misconduct, the Court should have granted a mistrial under Article I, Section 3 of the Nevada Constitution and under the Fifth and Sixth Amendments. *Rudin v. State*, 120 Nev. 121, 86 P.3d 572, 587 (2004); *Hylton v. Eighth Judicial District Court*, 103 Nev. 418, 421, 743 P.2d 622 (1987); *Arizona v. Washington*, 434 U.S. 497, 505 (1978). This Court should find that this is a case where the State's cumulative

misconduct seriously affected the integrity or public reputation of the judicial proceedings. *Gaxiola v. State*, 119 P.3d 1225 (2005). The State owed Castaneda a duty to act as an "unprejudiced, impartial, and nonpartisan" public official "bent only on seeing justice done and the law vindicated in accordance with the rules of law." *State v. Rodriguez*, 31 Nev. 342, 346, 102 P. 863 (1909). Error is harmless if without reservation, the verdict would have been the same in the absence of error. *Witherow v. State*, 104 Nev. 721, 724, 765 P.2d 1153, 1156 (1988). Because the State's misconduct tainted this trial and the verdicts, this Court must reverse.

III. The State failed to prove Castaneda's guilt beyond a reasonable doubt.

Detective Ramirez admitted that automated programs can access files without human involvement, including virus protection programs, and that there is no way of knowing whether a file on a flash drive was accessed by a human user or by an automated program. (V 1022-23). This evidence, alone, constitutes reasonable doubt and offers grounds for reversal. But Ramirez also admitted that users can download large files without knowledge of individual file contents, and Ehlers admitted that viruses can similarly download image files without a user's knowledge. (V 1014, VI 1128-29).

In this case, the evidence reveals that automated programs accessed these

images in a fashion that was highly inconsistent with human activity. The evidence revealed that multiple images were accessed near-simultaneously on different computers, consistent with activity by an automated program. (VI 1134. 1138-40). In upholding similar convictions, other courts rely on far more compelling evidence than is present in the instant case:

> There is ample evidence that Bass used two software programs, "History Kill" and "Window Washer," in an attempt to remove child pornography from the computer. Bass admitted he had used both "History–Kill" and "Window Washer" to delete child pornography because "he didn't want his mother to see those images...." ROA, Vol. II at 54. Both programs were installed on the computer when it was searched. Therefore, this case does not differ significantly from Tucker. In both cases, there was sufficient evidence of knowing possession of child pornography.

U.S. v. Bass, 411 F.3d 1198, 1202 (10th Cir. 2005). This Court must hold the State to its burden of proving the element of intent beyond a reasonable doubt:

> It is also true that 'a defendant may be convicted [of possessing child pornography] only upon a showing that he knew that the [disks] contained an unlawful visual depiction.' *See id.* Therefore, to possess the images in the cache, the defendant must, at a minimum, know that the unlawful images are stored on a disk or other tangible material in his possession.

U.S. v. Romm 455 F.3d 990, 1000 (9th Cir. 2006). In light of compelling evidence that automated programs accessed these images, that multiple individuals accessed these computers, and that the State's witnesses offered inconsistent and evolving versions of how they came into possession of the

flash drive, this Court must conclude that the State failed to prove beyond a reasonable doubt that Castaneda knowingly and intentionally possessed these images.

The State references *State v. Zana* for support of the State's position that searches including the word "young" allow for the "reasonable inference" that images of child pornography sexually gratified Castaneda and that he intentionally and willfully possessed them. (Answering Brief, 24). This argument unreasonably stretches the logic of *Zana* beyond the realm of legitimate inference:

> Evidence that he inappropriately touched young girls suggests contact with young girls sexually gratified Zana. It is reasonable to then infer that he did not possess pornographic photographs of young females accidentally, but rather knowingly and willfully downloaded the photographs to satisfy the sexual desires his inappropriate touching evidences. Therefore, evidence of Zana's lewd behavior was admissible to prove the knowing and willful element of the pornography charge.

Zana v. State, 125 Nev. 541, 549, 216 P.3d 244, 249 - 250 (2009). In *Zana*, the State was permitted to introduce evidence of acts of lewdness to counteract the defense theory of accidental or mistaken possession of child pornography. *Id.*

Here, Det. Ehlers testified regarding the use of the word "young" in several searches. (VI 1186). However, the mere use of this word should not be deemed evidence of intent to procure or possess child pornography. Ehlers

admitted that the words "young" and "teen" and "cheerleader" are popular search terms on multiple legal, adult pornography sites. (VI 1194). Unlike the acts of lewdness at issue in *Zana*, the use of the term "young" in pornography site searches is an entirely legal and common act that usually results in images of youthful actresses and models, not children. In fact, Det. Tooley admitted that a popular type of legal, adult pornography contains images of young women who are over eighteen, but appear younger than eighteen. (VI 1288). These women sometimes dress like cheerleaders and parochial schoolgirls to look younger. (VI 1288). Users who search for this type of legal pornography peruse websites like "Barely Legal," and often use "teen" or "young" as a search term to find this type of legal pornography. (VI 1287-88). As Det. Ehlers admitted, there was no evidence that terms like "child" or "prepubescent" had ever been used as search terms on these systems. (VI 1192). Thus, this Court must reject the State's suggestion that the use of the term "young" paralleled the acts of lewdness in *Zana*.

In sum, this Court should find that the State failed to present sufficient evidence to sustain these convictions:

> Instead, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See Johnson v. Louisiana, 406 U.S., at 362. This familiar standard gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and

to draw reasonable inferences from basic facts to ultimate facts. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). "[T]he standard must be applied with explicit reference to the substantive elements of the criminal offense as defined by state law." *Brown v. Farwell*, 525 F.3d 787, 794 (9th Cir. Nev. 2008). Because the evidence did not prove beyond a reasonable doubt that Castaneda knowingly and intentionally committed these offenses, this Court must reverse.

IV. The Court violated Castaneda's due process and fair trial rights by admitting other bad acts without satisfying *Petrocelli v. State.*

"A presumption of inadmissibility attaches to all prior bad act evidence." *Ledbetter v. State*, 129 P. 3d 671, 677 (Nev. 2006) (quoting *Rosky v. State*, 111 P.3d 690, 697 (2005)). As acknowledged in the Opening Brief, trial counsel did not initially object to the redacted interview's references to 56 uncharged images during argument on the defense motion to exclude references to uncharged images. (Opening Brief, 36-37; III 517, 546, 551). In light of the fact that the State had not yet decided whether to even introduce the interview, defense counsel explicitly said, "*At this time* we don't have a general objection to the as redacted transcript." (III 551) (emphasis added). Contrary to the State's assertion that the Opening Brief conflates two unrelated issues, the defense provided the full background of pre-trial

discussions on the issue of additional uncharged images in the interests of full disclosure. The Opening Brief does not assert that the Court's initial ruling on the defense motion included the transcript's reference to 56 uncharged images.

However, the defense position and the Court's analysis in excluding references to other uncharged images apply equally to Det. Tooley's references during the interview with Castaneda. The State contends that Tooley's statements do not constitute bad acts. (Answering Brief, 30). In a trial for fifteen counts of possession of child pornography, the assertion that a defendant had committed additional uncharged crimes through the possession of 56 additional uncharged images of child pornography certainly constitutes "other bad acts" evidence, and the Court erred in failing to hold a *Petrocelli* hearing and in failing to offer a limiting instruction. This Court has noted that "[i]n evaluating whether the probative value of the evidence is substantially outweighed by the danger of prejudice, we reiterate that evidence of prior bad acts may unduly influence the jury and result in a conviction based on the accused's propensity to commit a crime rather than on the State's ability to prove all the elements of the crime." *Walker v. State,* 116 Nev. 442, 447 (2000). Here, this Court must find reversible error in the admission of this highly inflammatory evidence, particularly in the absence of a limiting

instruction.

V. The Court erred in rejecting proposed defense Jury Instructions.

Contrary to the State's claim that the Opening Brief lacks legal authority regarding Instruction 12 (Answering Brief, 33), the brief includes general citations to relevant legal authority regarding the provision of appropriate jury instructions (Opening Brief, 40). Although no Nevada case has specifically addressed the applicability of this instruction to cases involving images copied to a computer over which the defendant has some degree of control, as noted in the Opening Brief, this Court has emphasized that trial courts should exercise diligence in insuring that jury instructions fit the facts of the case: "[j]urors . . . should be provided with applicable legal principles by accurate, clear, and complete *instructions specifically tailored to the facts and circumstances of the case.*" *Crawford v. State* 121 Nev. 744, 754, 121 P.3d 582, 588 (2005) (emphasis added). Because this instruction suggested liability could be inferred from mere constructive possession, the Court erred in providing the instruction where the facts revealed that numerous individuals had accessed Castaneda's computers. Similarly, under *Crawford*, the Court should have provided the proposed instructions regarding search warrants, specific intent, and evidence capable of two different interpretations. (II 253-54; 255-58). These instructions clarified areas of

potential confusion for the jury, and had particular applicability to the facts of this case. *Id.*

VI. The Court erred in denying dismissal of Counts II-XV.

Because the State proved only one act of digital possession on the day the computers were seized, this Court should reverse the trial Court's denial of the defense motion to dismiss Counts II through XV. These images existed on the same computer network on the date detectives executed the search warrant and seized the computers; the State failed to prove that Castaneda "possessed" the images on any other date or in any other form. In *People v. Hertzig*, the defendant was convicted of ten counts of possession of child pornography under Section 311.11(a) of California's Penal Code. The convictions arose from possession of thirty videos of child pornography found on a laptop computer seized from the defendant's residence. However, the Court of Appeal agreed with the defense that the defendant had only committed one crime of possession of contraband, and reversed nine of the ten counts because "[the defendant's] possession of multiple video images on his computer constituted a single count of possession." *People v. Hertzig*, 156 Cal. App. 4th 398, 400-40, 404 (2007).

Although the State suggests that the presence of the word "any" in NRS 200.730 requires multiple convictions (Answering Brief, 38), the California

statute at the time *Hertzig* was decided also contained the word "any":

> Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD–ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years, knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison, or a county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the fine and imprisonment.

West's Ann. Cal. Penal Code § 311.11 (2006). In evaluating *Hertzig*, another California appellate court agreed with the premise that possession of multiple images at the same time did not warrant multiple convictions. *People v. Manfredi,* 169 Cal. App. 4th 622, 629-630, 86 Cal. Rptr. 3d 810, 816 (Cal. App. 5th 2008). Similarly, this Court should find that simultaneous digital possession of several images warrants only a single conviction.

Further, the State's theory leads to absurd results and renders this statute unconstitutionally vague under the due process clauses of the Fifth and Fourteenth Amendments.

> "'Vagueness may invalidate a criminal law for either of two independent reasons," *Chicago v. Morales*, 527 U.S. 41, 56, 119 S. Ct. 1849, 144 L.Ed.2d 67 (1999): (1) if it 'fails to provide a person of ordinary intelligence fair notice of what is prohibited'; or (2) if it 'is so

> standardless that it authorizes or encourages seriously discriminatory enforcement.'"

State v. Castaneda, 245 P.3d 550, 553 (Nev. 2010), *quoting Holder v. Humanitarian Law Project*, 561 U.S. 1, 130 S. Ct. 2705, 2718 (2010). Here, no reasonable person could anticipate one felony charge based on a single video containing thousands of images, yet multiple felony charges from a single act of simultaneous possession of several digital images. Because this statute fails to provide fair notice of the prohibited acts, and because the statute authorizes discriminatory enforcement, this Court must deem this statute unconstitutionally vague.

The State argues in part that the Nevada Legislature's "strong stance" against child pornography warrants rejection of the constitutional challenge to the State's interpretation of NRS 200.730. (Answering Brief, 40). However, the public policy underlying a statute, regardless of how noble the intent, cannot trump the requirement that all statutes satisfy constitutional due process requirements. In the *Manfredi* decision, the California appellate court rejected the government's policy-based argument that the Legislature intended stricter scrutiny of this type of crime:

> While we agree that a depiction of child pornography is capable of being reproduced innumerable times, each individual who is in possession of that piece of child pornography is subject to prosecution. Each separate person who possesses the same depiction of child pornography is subject to prosecution, whether that is one person or

> one million people; each time the child pornography falls into the hands of an individual, a prosecution is authorized. Thus, although there is the possibility of a "revictimization" based on the same matter, each possession of that matter is subject to a new prosecution on each separate occasion and with each separate possessor. In addition, there are numerous statutes punishing all of the various aspects associated with child pornography.

People v. Manfredi, 169 Cal. App. 4th at 629. For the same reasons, this Court should reject the State's contention that the statute should be applied in a manner that creates multiple crimes for a single act of possession by one individual. As in California, Nevada's statutes authorize multiple prosecutions against each individual who possesses these images, and Nevada's statues punish all aspects of the creation, dissemination, and transmission of child pornography. NRS 200.700-200.760. Because the State's position results in an absurd and unconstitutionally vague interpretation of the statute, this Court must reverse all but one conviction for an act of simultaneous digital possession of a group of images. *Wilson v. State*, 121 Nev. 345, 114 P.3d 285 (2005).

VII. The Court erred in denying dismissal based on witness perjury.

"It is established that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." *Riley v. State*, 93 Nev. 461, 462, 567 P.2d 475, 476

(1977). The State contends that Hines' misrepresentations are not material to the case and did not warrant dismissal. The State's position ignores the facts that Hines' allegations gave rise to these charges in the first place, and that Hines' initial descriptions resulted in a bindover based on perjured testimony. Hines' version of how the drive was discovered pinpointed Castaneda as the sole suspect and resulted in the loss of potential evidence from Hines' and Landeau's computers. Thus, the perjury in this case was material and the resulting convictions fundamentally unfair.

A conviction must be set aside if there is *any reasonable likelihood* that the false testimony could have affected the judgment of the jury. *United States v. Agurs*, 427 U.S. 97, 103, 96 S. Ct. 2392 (1976). "[A] government's assurances that false evidence was presented in good faith are little comfort to a criminal defendant wrongly convicted on the basis of such evidence. A conviction based in part on false evidence, even false evidence presented in good faith, hardly comports with fundamental fairness." *U.S. v. Young,* 17 F.3d 1201, 1203-04 (9th Cir. 1994). Where incontrovertible evidence exists that perjury was committed, this Court cannot have confidence in the verdicts in this case and must order reversal and dismissal.[1]

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[1] The State claims that the Opening Brief omitted specific citations to the record. However, on page 48 of the brief, the defense cited Volume I, page 191 of the Appellate Appendix, referencing the defense Motion to Dismiss.

VIII. The Court erred in refusing to conduct a hearing regarding a juror's perceived inattentiveness.

The State's extensive discussion of the dismissal of Juror Two highlights the trial Court's inconsistency in addressing potential juror problems. Although the Court questioned Juror Two and made a detailed record of the reasons for the dismissal, based on part on the Court's observations, the Court refused to similarly credit the defense attorney's observations of Juror Six and failed to conduct an adequate inquiry under *Viray v. State*, 121 Nev. 159 (2005). Although the State quibbles that "mere assertions" are not evidence, and that the defense attorney's representations were "speculative" (Answering Brief, 44-46), the contemporaneous observations of a trial attorney comprise the only method of seeking redress in this situation and an appropriate basis upon which to conduct further inquiry. This Court must find error in the trial Court's refusal to conduct this inquiry into whether Juror Six

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This Motion includes the following exhibits, fully reproduced in the Appellate Appendix: the Preliminary Hearing transcript containing Hines' testimony at pages 197-204, and the transcript of Hines' interview with Det. Tooley at pages 238-248. Page 48 of the Opening Brief also specifically cited Volume 1, page 29, containing page 10 of the preliminary hearing transcript, wherein Hines claimed she did not initially know who owned the flash drive. However, one citation was inadvertently omitted in the Opening Brief at page 49, line 4; that paragraph should have contained a citation to Volume IV, pages 898-899, where Hines admitted at trial that she lied under oath. Counsel regrets the omission.

fulfilled her obligations as a juror.

IX. Cumulative error warrants reversal of these convictions.

Although multiple discrete errors may not warrant reversal when reviewed individually, the cumulative effect of these errors on the trial as a whole warrants relief. *Daniel v. State*, 119 Nev. 498, 78 P.3d 890 (2003). A cumulative-error analysis "aggregates all the errors that individually have been found to be harmless, and therefore not reversible, and . . . analyzes whether their cumulative effect on the outcome of the trial is such that collectively they can no longer be determined to be harmless." *United States v. Rivera*, 900 F.2d 1462, 1470 (10th Cir. 1990) (en banc). Courts analyze cumulative error by conducting the same inquiry as for individual error: whether the defendant's substantial rights were affected. *United States v. Kartman*, 417 F.2d 893, 894 (9th Cir. 1969). Based on the cumulative error in this case, reversal is warranted.

CONCLUSION

Based on the foregoing argument and on the Opening Brief, incorporated by reference herein, this Court must reverse these convictions.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

This brief has been prepared in a proportionally spaced typeface using Times New Roman in 14 size font.

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

Proportionately spaced, has a typeface of 14 points or more and contains 4,374 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the

accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 2nd day of December, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 2nd day of December, 2014. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
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AUDREY M. CONWAY
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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

ANTHONY CASTANEDA
2205 Beverly Way
Las Vegas, NV 89104

BY */s/ Carrie M. Connolly*
Employee, Clark County Public Defender's Office